



TWEED
SHIRE COUNCIL

Mayor: Cr Warren Polglase

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

Agenda

Ordinary Council Meeting Tuesday 20 April 2010

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

- 1 **Minutes of the Ordinary and Confidential Council Meetings held Tuesday 16 March 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 16 March 2010 (ECM 14276659).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 16 March 2010 (ECM 14172827).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

2 Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

18 November 2008

PLANNING COMMITTEE

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

P 13 COMMITTEE DECISION:

**Cr W Polglase
Cr K Skinner**

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

Following various discussions and correspondence with the applicant throughout 2009, Council officers have most recently written to the applicant on 14 January 2010 requesting additional information to address previously unresolved issues, including updated engineering plans, the continuing reference to Gold Coast Council development controls, non-compliances with the BCA, waste collection details, deficiencies of the geotechnical report, outstanding environmental issues, and an amended bushfire risk assessment. A further report will be put to Council once these matters have been satisfactorily addressed by the applicant

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

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: Report to be prepared.

19 January 2010

MAYORAL MINUTE

a3 [MM] Mayoral Minute - Workshop/Briefing Sessions

19

Cr D Holdom

Cr K Milne

RESOLVED that a Workshop be scheduled on Business Ethics and Procurement Policies.

Current Status: Workshop to be scheduled.

20

Cr D Holdom

Cr K Milne

RESOLVED that a Workshop be scheduled on Solar Power Wind Turbines and alternative energy sources and the legislation in force.

Current Status: Workshop scheduled for 27 April 2010.

16 February 2010

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

88

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council:

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

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

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

90

Cr B Longland

Cr J van Lieshout

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

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

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

Current Status: Letter sent to landholders commencing negotiations.

33 [CNR-CM] Urban Sustainability Program “Improving Urban and Peri-Urban Bushland Sustainability in Tweed and Byron Shires” (Tweed Byron Bush Futures) Business Plan Approved

94

Cr D Holdom

Cr B Longland

RESOLVED that Council:-

1. Receives and notes the approval of the Tweed-Byron Bush Futures Business Plan by the NSW Environmental Trust.
2. Officers conduct an information workshop for Councillors and Executive Management outlining the contents of the Business Plan.

Current Status: Workshop scheduled for 4 May 2010.

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne

Cr K Skinner

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

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

ORDERS OF THE DAY IN COMMITTEE

7 [NOM-Cr K Milne] State Emergency Services (SES) Facility

NOTICE OF MOTION:

Reason for Confidentiality

*Confidential Nature of this Item: The Local Government Act 1993 Clause 10A(2)
(f) matters affecting the security of the council, councillors, council staff or council property*

C 16

That following the recent workshop from the State Emergency Service (SES) a report be brought forward by Council outlining the following:

1. Consideration of the need for an improved SES Control Centre identified by the SES, to the standard of the new Lismore Control Centre (\$1.5 million), and options for providing funding in Council's upcoming and future budgets for such a facility.
2. Options for enhancement of emergency infrastructure funds due to the high risk flooding category of the Tweed as outlined by the SES.
3. Any other emergency services infrastructure responsibilities under Council's jurisdiction.
4. Consideration of advertising the evacuation centres and evacuation routes on the Council website.

Current Status: Report to be prepared.

16 March 2010

MAYORAL MINUTE

4 [WR-CM] Workshop Requests

122

Cr D Holdom

Cr P Youngblutt

RESOLVED that the following Workshops be scheduled:

Current Status:

Affordable Housing - Workshop scheduled for 27 April 2010
Rural Land Zonings - Workshop scheduled for 14 April 2010
World Rally Championship - Workshop to be scheduled.

REPORTS FROM THE ACTING DIRECTOR PLANNING AND REGULATION

11 [PR-CM] Development Application DA08/1056 for a Conversion of an Existing Farm Shed to Rural Workers Dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay

140

AMENDMENT

Cr J van Lieshout

Cr W Polglase

RESOLVED that this item be deferred to allow for a workshop prior to being presented to another Council meeting.

Current Status: Workshop scheduled for 4 May 2010.

15 [PR-CM] Development Application DA05/0223.07 for an Amendment to Development Consent DA05/0223 for a Restaurant at Lot 1 DP 553728, No. 4 Wharf Street, Tweed Heads

145
AMENDMENT

Cr K Skinner
Cr P Youngblutt

RESOLVED that this item be deferred.

Current Status: Awaiting payment of notification fee before continuing to process this application.

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

a46 [TCS-CM] Code of Conduct and Conduct Review Committee/Sole Reviewer Policy

185
AMENDMENT

Cr K Milne
Cr J van Lieshout

RESOLVED that the item be deferred until a workshop is held on the Code of Conduct.

Current Status: Workshop scheduled for 27 April 2010.

ORDERS OF THE DAY

57 [NOM-Cr D Holdom] Affordable Housing

196
Cr D Holdom
Cr P Youngblutt

RESOLVED that Council officers, in conjunction with the resolution at Item 54 of 16 February 2010, undertake to investigate and report to the Council Affordable Housing Workshop on the model (as supplied) for Affordable Housing and the possible establishment of an Affordable Housing Committee by Tweed Shire Council, the report to include a full set of Draft Terms of Reference for such a committee.

Current Status: Workshop scheduled for 27 April 2010.

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MAYORAL MINUTE

3 [MM] Mayoral Minute for the period 06 March to 05 April 2010

Councillors,

COMMITTEE MEETINGS:

Attended by the Mayor

- 18 Mar 2010 - Murwillumbah Community Centre Committee Meeting, Murwillumbah Community Centre, Nullum Street
- 25 Mar 2010 - TEDC Board Meeting, TEDC Offices, Murwillumbah

INVITATIONS:

Attended by the Mayor

- 07 Mar 2010 - Kingscliff Triathlon – Amenities Hall, Marine Parade, Kingscliff – (also attended by Cr Dot Holdom)
- 09 Mar 2010 - Tweed Chamber of Commerce – Tweed Heads Bowls Club, Wharf St
- 10 Mar 2010 - 4CRB Radio Talkback with the Mayor – 4CRB, 8 Stevenson Court, Burleigh Heads
- 10 Mar 2010 - Business Focus Group – Salvation Army Meeting Room, Leisure Drive, Banora Point
- 12 Mar 2010 - The Re-Psychlers Op Shop Opening for On Track – 56 Recreation St, Tweed Heads
- 13 Mar 2010 - Caldera Institute Sustainable Community Development Launch – Tyalgum Hall
- 15 Mar 2010 - NAB Business / Economic Review – Twin Towns, Anzac Room
- 19 Mar 2010 - Sacred Heart Parish, Official Opening – St Josephs Primary School, 3 Greville Street, South Murwillumbah
- 20 Mar 2010 - Tweed River Canine Club, opening of Championship Dog Show – Murwillumbah Show Ground
- 21 Mar 2010 - Tweed Shire Senior Citizens Week – Aveo Mountain View Retirement Village, North Arm Road, Murwillumbah

Council Meeting held Tuesday 20 April 2010

- 21 Mar 2010 - Mark Thompson's Art Show and Church Fundraiser – Presbyterian Church, South Tweed
- 24 Mar 2010 - 4CRB Radio Talkback with the Mayor – 4CRB, 8 Stevenson Court, Burleigh Heads
- 24 Mar 2010 - Tweed District Water Supply Augmentation Project, meeting with the Aboriginal Community – Minjungbal Museum
- 24 Mar 2010 - Opus Launch – Signatures, Outrigger Twin Towns Resort, Wharf St, Tweed Heads
- 25 Mar 2010 - Cheque Presentation, Donations and Festival Funding Round 2 - Council Chambers, Murwillumbah Civic Centre, Tumbulgum Rd
- 27 Mar 2010 - Early Childhood Australia North Coast Region, Opening of Annual Conference – Mantra on Salt, Kingscliff
- 27 Mar 2010 - Tweed PCYC, Run with the Law, Torch Ceremony – Tweed Heads PCYC, Florence Street
- 28 Mar 2010 - Communities Alliance, Rally for Safety – Cudgen Leagues Football Ground (also attended by Cr Dot Holdom & Cr Barry Longland)
- 29 Mar 2010 - Tweed Heads South Rotary Club Meeting, Tweed Sports Club, Minjungbal Drive
- 30 Mar 2010 - Citizenship Ceremony, 22 new citizens – Tweed Heads Civic Centre, Cnr Wharf and Brett St
- 31 Mar 2010 - Wommin Bay Village, Kitchen Opening – McKissock Drive, Kingscliff
- 02 Apr 2010 - Murwillumbah Chamber of Commerce Breakfast – Murwillumbah Services Club

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

- 12 Mar 2010 - Sweetnam Park Upgrade, Official Opening – Kyogle Rd, Uki (attended by Cr Longland)
- 24 Mar 2010 - Twin Towns Friends Ballroom Dancing Exhibition – Community Hall, Heffron St, Sth Tweed Heads (attended by Cr Holdom)
- 01 Apr 2010 - Arts Northern Rivers dinner to farewell CEO Lois Randall, Ballina Gallery Café, Northern Rivers Community Gallery, 46 Cherry St – (attended by Cr van Lieshout)

Inability to Attend by or on behalf of the Mayor

- 09 Mar 2010 - Raine & Horne Grand Opening – Shop 1 / 75-77 Wharf St, Tweed Heads
 - 11 Mar 2010 - Biochar Community Presentation – Muwillumbah (attended by Cr Milne)
 - 18 Mar 2010 - SCU Evening of Insight into the new economy by Dr Doug McTaggart – Gold Coast Campus, Southern Cross Drive, Billinga
 - 24 Mar 2010 - Tweed Tourism Network Night, Currumbin Wildlife Sanctuary
 - 30 Mar 2010 - Westpac Community Treasurers' Awards – Signatures Restaurant, Twin Towns Resort, Wharf Street, Tweed Heads
-

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- NIL

Information on Conferences to be held

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

- 25-26 May 2010 - 3rd Victorian Sustainable Development Conference – Zinc, Federation Square, Melbourne
 - 12-13 Jul 2010 - Healthy Cities Conference – Stamford Plaza, Brisbane
-

SIGNING OF DOCUMENTS BY THE MAYOR:

- 11 Mar 2010 - Licence Agreement Berths 6,7,8,13 and 14, Southern Boat Harbour, Tweed Heads
 - 19 Mar 2010 - Transfer – Lot 1, DP1134067
 - 23 Mar 2010 - Loan Infrastructure Fund Loan Agreement – Banora Point Wastewater Treatment Plant
-

RECOMMENDATION:

That:-

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

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

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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4 [PR-CM] Development Application DA09/0385 for a Telecommunications Facility (30 Metre High Monopole and Associated Infrastructure) at Lot 17 DP 778719, No. 19 Meadow Place Uki

ORIGIN:

Development Assessment

FILE NO: DA09/0385 Pt1

SUMMARY OF REPORT:

Council at its meeting on 17 November 2009 considered the application for a telecommunications facility (30 metre high monopole and associated infrastructure) at No. 19 Meadow Place, Uki. At this meeting, Council resolved:

“That the application be deferred for presentation at a future Council meeting following the conduct of a public meeting by Optus in the Uki community in order to properly gauge community opinion on this proposal and report the outcome of that meeting to Council.”

Further to Council’s resolution, Optus organised a meeting with the Uki residents on Monday 7 December 2009 held at the Uki Hotel.

Following this meeting, the application was again reported to Council on 15 December 2009 for determination. However, Council resolved:

“That this item be deferred pending effective community consultation by the applicant to determine a more suitable site for the telecommunications tower”.

The applicant was advised of this resolution by letter dated 23 December 2009. Optus responded to this letter on 11 January 2010, stating that they consider the search for alternative sites for a mobile base station in the Uki area to be exhausted, and as such requests that DA09/0385 be determined.

Following this meeting, the application was again reported to Council on 16 February 2010 for determination. However, Council resolved that:

- “1. This matter be referred back to Optus to request public consultation within the next month.*
- 2. Optus seek a suitable site for telecommunication with full community cooperation.*
- 3. This matter be further considered at Council’s meeting to be held in April.”*

The applicant was advised of this resolution by letter dated 18 February 2010. Optus responded by letter dated 2 March 2010 of which is attached to this report.

The Council report has again been reproduced for Council's determination.

RECOMMENDATION:

That Development Application DA09/0385 for a telecommunications facility (30 metre high monopole and associated infrastructure) at Lot 17 DP 778719, No. 19 Meadow Place, Uki 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 S8479F, Sheets G1 – G4 prepared by Daly International dated 06/04/2009, except where varied by the conditions of this consent.**

[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**

[GEN0135]
- 4. Access to the site shall be upgraded to provide a bitumen seal from edge of the existing road carriageway of meadow Place to the property boundary.**

[GENNS01]
- 5. Erosion and Sediment Control shall be provided and maintained in accordance *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - “Code of Practice for Soil and Water Management on Construction Works”.**

[GENNS01]
- 6. The access track from the property boundary at Meadow Place to the Optus Compound shall be upgraded to provide a driveway of minimum standard to allow a 2 wheel drive vehicle access to the compound under all weather conditions.**

[GENNS01]
- 7. A Right of Carriageway shall be created over the existing property access road servicing the proposed Optus compound.**

[GENNS01]
- 8. An easement for electricity supply (minimum 2m wide) shall be created (as required) over the electricity infrastructure within Lot 17 DP 778719 servicing the proposed Optus compound.**

[GENNS01]
- 9. The monopole is to be painted mist green to blend with it's surrounds.**

[GENNS02]
- 10. At the commencement of building works and in perpetuity the leased area shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of ‘Planning for Bush Fire Protection 2006’ and the NSW Rural Fire Service’s document ‘Standards for asset protection zones’.**

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. 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]

12. Detailed design drawings for the proposed access road to the monopole site must be submitted for approval by Director Planning and Regulation. The location of native vegetation species must be indicated and named on the plans and measures to avoid or ameliorate impacts indicated. In particular, avoidance of the average 2m wide root plate for larger Brushbox (*Lophostemon confertus*) trees and avoidance of damage to the Strangler Fig (*Ficus watkinsiana*) roots must be demonstrated.

[PCCNS01]

13. A vegetation management plan must be submitted for approval by Director Planning and Regulation detailing compensatory works as an offset for loss of native species. Such works must include planting of a minimum of 30 native species and Camphor Laurel and other weed species control within a defined area no less than 1 hectare in area.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

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

- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

16. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

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

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

[PCW0255]

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

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

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

[PCW0985]

DURING CONSTRUCTION

18. All proposed works are to be carried out in accordance with the conditions of development consent, approved drawings and specifications.

[DUR0005]

19. 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]

20. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).
[DUR0375]
21. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.
[DUR0405]
22. 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]
23. 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]
24. 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.
Any damage to property (including pavement damage) is to be rectified by the Developer to the satisfaction of the General Manager.
[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

25. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).
[POC0205]
26. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.
[POC0805]

USE

27. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.
[USE0125]

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

[USE0175]

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

[USE0225]

30. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.

[USE1035]

31. Works must be completed by qualified bush regenerators in accordance with the approved vegetation management plan.

[USENS01]

REPORT:

Applicant: Optus Mobile Pty Ltd
Owner: Mr D Nelmes and Mrs C Timbs
Location: Lot 17 DP 778719, No. 19 Meadow Place Uki
Zoning: 1(a) Rural
Cost: \$200,000

BACKGROUND:

Council has received an application for the construction of a telecommunication facility at Lot 10 DP 778719, No. 19 Meadow Place Uki. The telecommunication facility will comprise of:

- A 30 metre high monopole with 6 panel antennas mounted on a circular headframe and 2 x 1.2 metre parabolic antennas at 26 metres.
- A prefabricated equipment shelter will be located at the base of the proposed monopole.
- A high security chain wire fence around the proposed compound;
- Ancillary and associated equipment including items such as safety equipment, amplifiers, diplexers, triplexers, mounts, feeders, cable trays, and other associated infrastructure which are all considered to be necessary to facilitate the safe operation of the authorised facilities.

Optus have stated that the purpose of siting a mobile tower in this location is that they have identified the need to improve digital mobile telephone coverage and to introduce the new Optus 3G mobile phone network to the areas of Uki, Dum Dum and rural surrounds.

The proposed site is located approximately 1.1 km north east of Uki Village on an elevated rural property. The subdivision pattern in this vicinity comprises of a mixture of small and large rural holdings used for both farming practices and residential occupation. The closest dwelling house to the facility is approximately 150 metres. The proposed location for the telecommunication facility is located amidst a dense plot of vegetation made up of predominantly camphor laurel trees with a number of native species. Access to the proposed site is achieved firstly via the existing driveway which leads to the existing residence on the property and secondly onto an existing dirt track.

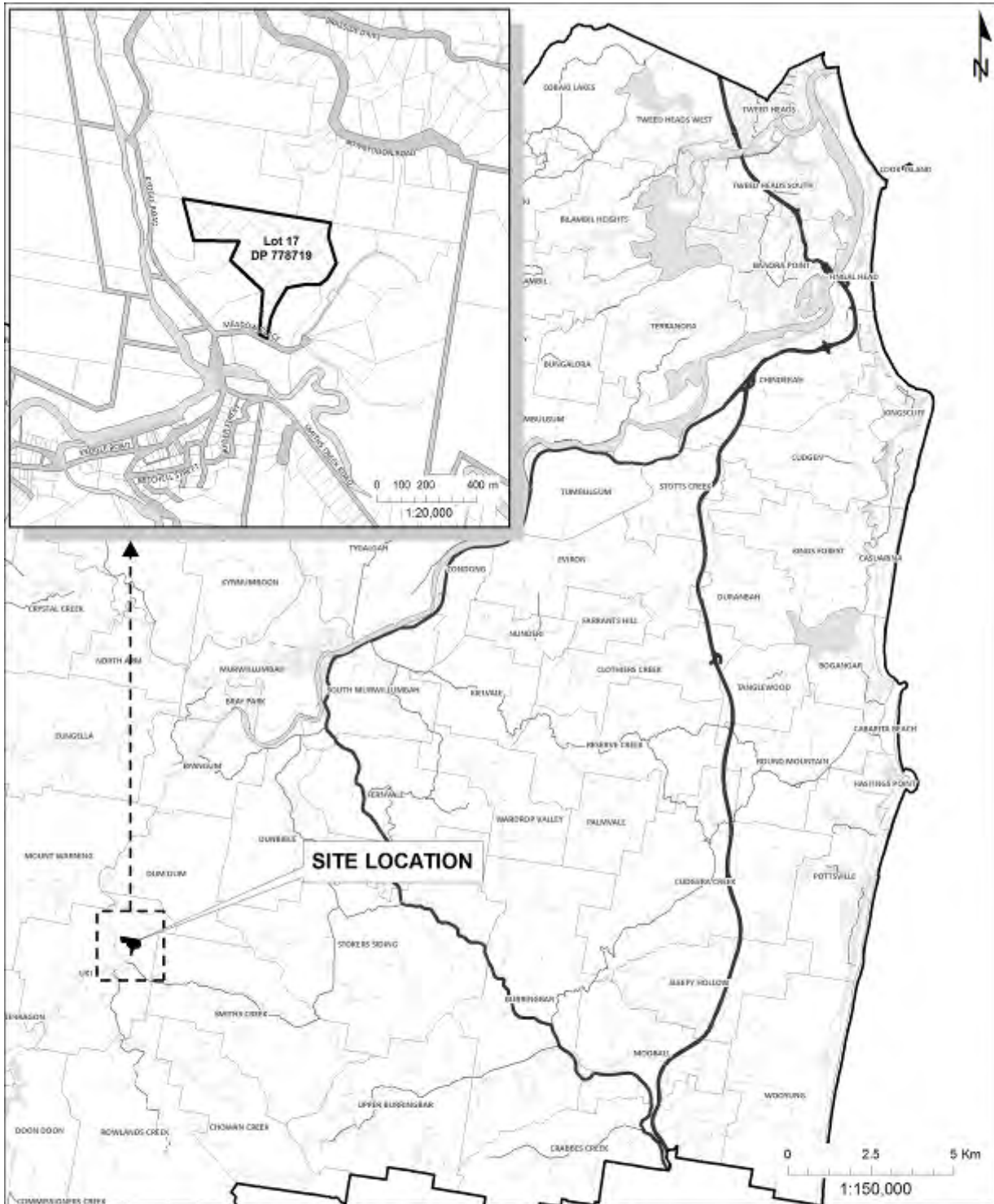
The applicants have stated that the proposed site was preferred as opposed to other locations in the Uki area for the following reasons:

- The elevated position of the site;
- The visual screening the existing tree cover affords;
- The Rural 1(a) zoning as opposed to an environmental protection zoning which incorporates a majority of the high points in Uki;
- The site is readily accessible;
- The availability of power at close range; and
- The lower ecological value of the site;

The application was advertised for a period of fourteen (14) days from Wednesday 22nd July 2009 to Wednesday 5th August 2009. During this period forty (40) submissions were received comprising of thirty four (34) objections and six (6) submissions in favour of the development. The most common issues raised were regarding the visual impact of the monopole, health concerns from electromagnetic energy generated from the facility and consideration of alternative locations. An assessment of the issues raised is summarised within the body of this report.

Following the assessment against the relevant heads of consideration, Council Officers consider that the proposed telecommunication facility will enhance the telecommunications services in Uki and the broader locality and therefore are recommending approval of the application. It is considered that the location and design of the proposal is suitable without causing any significant adverse impacts on the natural and built environments, the communications facility will also create a positive impact socially and economically by providing enhanced telecommunications coverage for the locality.

SITE DIAGRAM:



LOCALITY PLAN
Lot 17 DP 778719
No.19 Meadow Place, Uki

Filename: z:\usr\planning\msd\A4P_B&W SitePlan.mxd

Author: J.Batchelor - Planning Reforms Unit

Date Printed: 4 November, 2009

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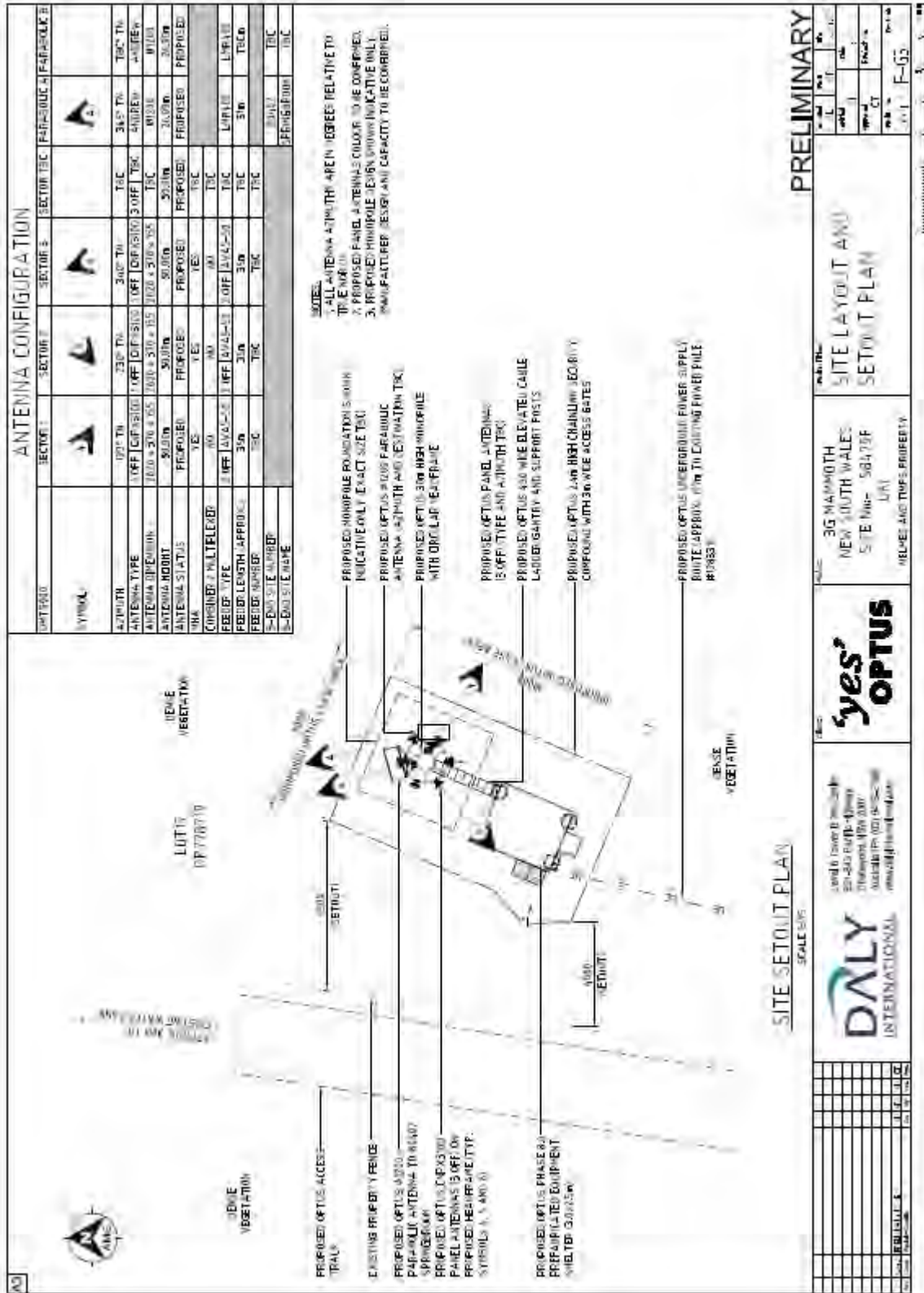
Call date 4 November 2009
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Coordinate System - MGA Zone 56
 Datum - GDA 84

DO NOT SCALE
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 3 Tamburlage Road
 Manildra NSW 2484
 PO Box 616
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 T: (02) 6670 2400 | 1500 292 672
 F: (02) 6670 2403
 W: www.tweed.nsw.gov.au
 E: planningreforms@tweed.nsw.gov.au





SITE SETOUT PLAN

SCALE: 1:500

Lot 17 (770019)

Lot 18 (770020)

Lot 19 (770021)

PRELIMINARY

3G MAMMOTH NEW SOUTH WALES SITE No. 58476F

UWA

RELAY AND TRNS. PROPERTY

DAILY INTERNATIONAL

Level 10, Tower 10, The Star
200-202 Corpus Street
Sydney NSW 2000
Australia (61) 2 9250 6000
www.dailyinternational.com

'yes' OPTUS

DATE: 11/04/10

TIME: 10:00 AM

SCALE: 1:500

PROJECT: 3G MAMMOTH NEW SOUTH WALES SITE No. 58476F

DRAWN: [Name]

CHECKED: [Name]

DATE: 11/04/10

TIME: 10:00 AM

SCALE: 1:500

PROJECT: 3G MAMMOTH NEW SOUTH WALES SITE No. 58476F

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

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The main objective of Clause 4 is:

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

The subject proposal seeks consent for the erection of a telecommunications facility comprising of a 30 metre high monopole and ancillary infrastructure. The proposal involves minor modification to the natural environment in the form of the removal of a small clump of camphor laurel trees. The remaining vegetation including native species will not be touched. It is considered that the proposed development will have minimal impact on the natural environment.

In terms of the developed character of the area the proposal will facilitate better technological availability for people in the area which could potentially enhance economic viability in the area.

The proposed development is therefore considered to be consistent with the aims of this plan.

Clause 5 - Ecologically Sustainable Development

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

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

Clause 8 Consent considerations

The subject land is zoned 1(a) Rural.

The primary objective of the 1(a) zone is to enable the ecologically sustainable development of land that is suitable primarily for agricultural and natural resource utilisation purposes and associated development and to protect rural character and amenity.

The proposal is consistent with the primary objective of the zone by aiding technological advancement in the rural area while not compromising the rural character and amenity of the area.

The proposed telecommunication facility is consistent with the secondary objective of the 1(a) zone by allowing development that is not suitable within an urban area due to the greater visual impact it generates and at the same time improving telecommunications in the locality. The proposed telecommunication facility is permissible with consent.

The other aims and objectives of this plan that are relevant have been considered and addressed within this report.

An assessment addressing relevant policies has been undertaken identifying that the development would not create an unacceptable cumulative impact on the community, locality or catchment.

Clause 11 - Zone objectives

Primary objectives

- *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 objectives

- *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 proposal is defined by the Tweed LEP 2000 as a Telecommunication Infrastructure (Facility). The proposal is considered permissible with development consent and is consistent with the objectives of the zone by aiding technological advancement in the rural area while not compromising the rural character and amenity of the area.

Clause 15 - Essential Services

Electricity supply is available from Meadow Place. Power is proposed to be supplied as an extension to this supply. The power supply is proposed to be run underground via a 2 metre easement.

Clause 16 - Height of Building

The proposed equipment shelter is single storey in height, with the associated tower being approximately 41m in height. Under the definition of storey within the Tweed LEP 2000 the tower can not be measured in storeys, however given the placement of the tower amongst vegetation of a comparable height and scale the proposal is considered consistent with the clause.

Clause 39A – Bushfire Protection

The site is identified as being prone to bush fire. The telecommunication facility is considered to comply with the clause due to the following:

- The development will not create a significant adverse impact on the implementation on bush fire control strategies. The telecommunication facility will assist bush fire control by providing communications.
- The facility will not increase the threat to the lives of residents, visitors or emergency service personnel (the facility does not house residents or visitors).
- The facility will be constructed of non-flammable material.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

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

Due to the site being heavily vegetated, it is considered that the development will not cause a loss of prime crop or pasture land.

SEPP (Infrastructure) 2007

The proposed development is classified under Division 21 as development that requires consent from Council. The SEPP stipulates:

‘Development for the purposes of telecommunications facilities, other than development in clause 114, may be carried out by any person with consent on any land.’

Hence the application is applying for consent to erect the telecommunications tower.

SEPP (Rural Lands) 2008

The land is within the 1(a) Rural Zone and the provisions of this SEPP apply to the proposed development.

The principles are stated and addressed as follows:

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (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,*
- (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,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (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,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

It is considered that the proposed development satisfies the rural planning principles as it will provide development on rural land that will contribute to the broader community needs by improving telecommunications in the locality.

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

N/A

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

Tweed Development Control Plan

A2-Site Access and Parking Code

Vehicular access to the site is proposed via Meadow Place. An existing driveway

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

N/A

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

Noise

Some level of noise will be generated during the construction phase for the proposed monopole. During the operation phase of the lifespan of the monopole noise associated with use of air conditioning plants servicing the equipment shelter will be generated. However, considering the distance to nearby dwellings is approximately 150 metres, no significant impacts are anticipated. If the development is approved appropriate conditions of consent can be utilised to address any subsequent noise issue associated with construction works and the use of the air- conditioning units.

Lighting

The application does not make mention of any security lighting to be used at the facility. It is considered that this issue can be addressed by appropriate conditions of consent.

Contamination

The issue of contamination has been considered in the SEE. The SEE states that the site is heavily vegetated and the site has not been used for any other uses. Council's mapping system shows that there are no cattle dip sites within 200m of the proposed facility. An examination of the available aerial photos and topographical maps for the site also do not indicate that the site was used for any potentially contaminating activity.

Radiofrequency Electro Magnetic Emissions (RF-EME Levels)

The Australian Government and the Australian Communications and Media Authority (ACMA) (Australia's regulator for broadcasting, the internet, radio-communications and telecommunications) published a Factsheet titled Mobile phone base stations and electromagnetic radiation (EME).

The following is an extract from the fact sheet;

*"ACMA has made mandatory EME exposure limits for installations such as broadcast towers and mobile phone base stations. The exposure limits set by ACMA were determined by the **Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)** based on recent scientific findings and the world's best practice. **These limits are many times below a level of exposure to EME** that is known to have adverse effects on the human body and are consistent with **World Health Organisation** guidelines.*

*ACMA has adopted a precautionary approach to the regulation of EME, ensuring that **exposure limits** to emissions from communications transmitters are stringent and **lower** than those levels that have been found to cause adverse health effects.*

Public exposure to emissions from radio-communications transmitters is generally many times less than the exposure limits required by the standards. ARPANSA conducted audits of base stations between 1997 and 1999, and again in 2003. The results show low EME levels were found in areas accessible to the public."

Radiofrequency Electro Magnetic Emissions (RF- EME) from the operation of the Base Station has been assessed and a report has been provided dated 24/04/09. This Report has been prepared in accordance with the requirements of The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and estimates the maximum cumulative EME levels (% of ACMA mandated exposure limit) produced by the site at ground level at the following distance from the antennas:

Distance from the antennas at 19 Meadow Place	Maximum Cumulative EME Level
0m to 50m	0.0051%
50m to 100m	0.0079%
100m to 200m	0.042%
200m to 300m	0.042%
300m to 400m	0.024%
400m to 500m	0.014%

The values of electromagnetic energy are given as percentages of the permitted limit. The results indicate that the **maximum estimated EME level is 0.042% of the ACMA mandated exposure limit at a distance of 202.67m**. The report demonstrates that the predicted emissions produced by the proposed facility are well within these standards. Therefore the operation of the Base Station is not expected to give rise to any RF- EME issue for the public.

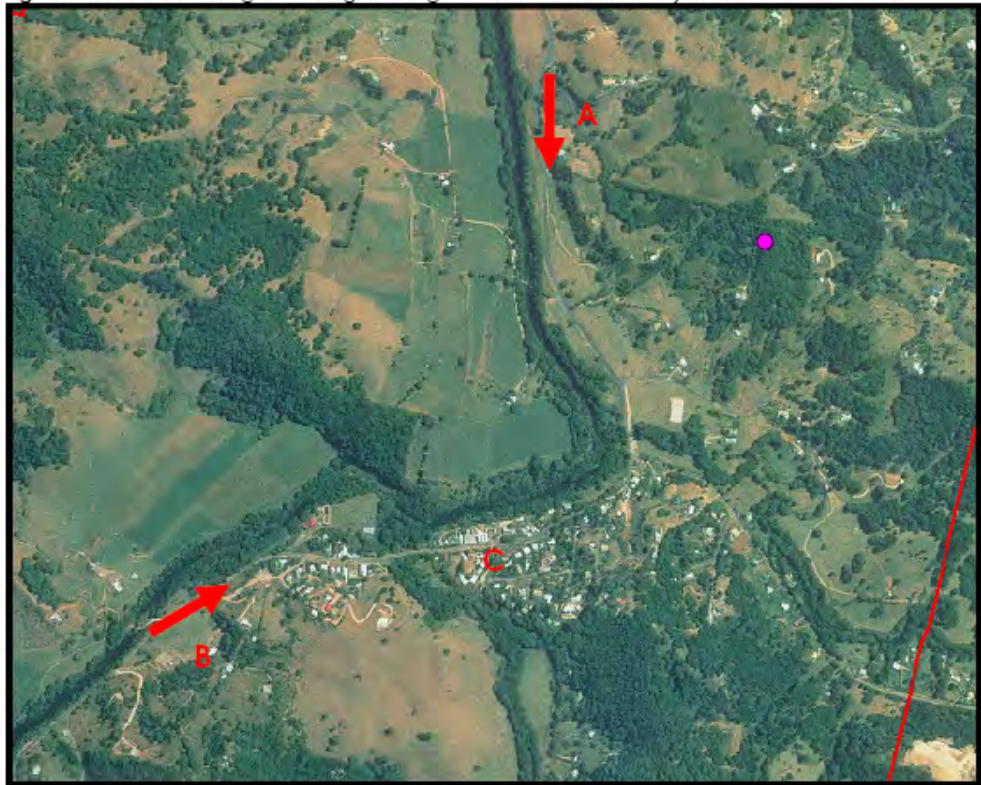
Visual Impact

The proposed monopole is 30 metres in height and located on the top of an existing hill, some level of screening is afforded to the development from existing mature tree species that are located on the hill top. The undulating and winding terrain also assists in mitigating numerous view sheds to the site. The proposed monopole is to be painted mist green as to blend with its surrounds. The monopole structure has a relatively small circumference and the type of headframe is in a compact circular form as to further reduce the visual impact.

The following is a response provided by the applicant regarding the potential impact of the main view sheds of concern with this proposal.

- *Figure 3 below depicts view sheds when exiting and entering Uki village.*

Figure 3. Viewsheds entering and exiting Uki Village. Pink dot denotes the subject site.



Source: <http://imagery.maps.nsw.gov.au/>

- *Entering Uki heading north east along Kyogle Road “B”, the proposed monopole will not be visible.*
- *Entry into Uki heading south along Kyogle Road “A”; the proposed monopole is also unlikely to be detected until just before/driving past 1361 Kyogle road (refer to photo 6 below). The driver’s attention would have to be towards the left of the vehicle to view the proposed monopole. The impact of this view shed will be mitigated by vegetation which will make detection by drivers passing by difficult.*

Photo 6. Photograph taken from 1361 Kyogle road looking north east towards cherry picker and proposed site (proposed site located 140m behind cherry picker). The orange arrow indicates location of cherry picker. Pink arrow indicates compensation (distance & angle) for approximate location.



- *Views from the main centre of the village area “C” (commercial/tourist area). The proposed site location is difficult to detect from the centre of the village because of the elevated terrain at the northern end of the village. It is not anticipated that the monopole would be visible from the central area of Uki Village.*
- *There is minimal to no detrimental effect when heading through Uki village along Kyogle Road due to the double factors of dense mature vegetation and sharply twisting roads/ undulating steep terrain that limits the “panoramic view sheds”. Panoramic view sheds are more common when driving through rural farmland largely cleared of the majority of vegetation combined with gently undulating terrain. The only area where varying degrees of view to the proposed monopole can be gained is at the end of Meadow Place. The figures below identify potentially 4 properties which may have Mount Warning and the proposed monopole in the same view shed.*



From the information submitted above by the applicants, it is conceded that the proposed monopole may have some visual impact in public areas and on some neighbouring private properties as it will not be completely invisible as the facility needs a clear line of sight for transmission. However, the main view sheds of concern's impact is considered to be minimal as the applicants have designed the facility to be amongst existing mature tree species and the monopole is to be painted mist green as to blend with its surrounds.

Consideration of Alternative Sites

The applicant provided the following analysis of alternative sites:

"When looking at alternative sites there is a limit as to how far the 3G mobile base station can be located from the targeted coverage area (in this case the township of Uki). Even though 3G coverage from a mobile station may reach many kilometres out from the actual base station the greater the distance from the base station the greater degradation the 3G signal suffers. Signal degradation leads to commonly experienced problems such as dropping out, poor connectivity, etc.

Alternative sites considered - (please refer to Map 1)

A telecommunications facility at this location would have been prominent from the main street of Uki.

Candidate 2 - Lot 2 DP 581366 No. 22-30 Aults Road Uki

Difficulties were encountered in sourcing power to this site. Additionally it was also anticipated that there would be difficulty in getting heavy machinery to the site (for construction) due to the steep gradient of the terrain.

Candidate 3 - Lot 53 DP 755754, Langes Road, Uki

Inability to obtain tenure approval from the property owner.

Candidate 4 - Water Treatment works, end of Old Convent Road, Uki

As per candidate 1.

Candidate 5 - Water Reservoir at end of Grants Road, Uki

Existing layout of area around water reservoir is problematic. There was difficulty in locating an appropriate area for the facility to be erected.

Candidate 6 - Lot 4 DP 43844 1359 Kyogle Road, Byangum NSW

Insufficient space left on property to appropriately accommodate the proposed facility. Furthermore, the existing house is already located in the prime area for any proposed telecommunications facility.

Candidate 7 - Property at end of Sunrise Place, Uki

As per candidate 3.

Candidate 8 - Working Quarry site off Smiths Creek Road, East of Uki

Site was discounted from a radiofrequency perspective because the 3G signal to Uki was blocked by terrain of a greater elevation to the west of the quarry. Basically, the main intended target of the 3G coverage, Uki Village, would have received no coverage from this location. Please see Figure 1 for a 3D illustration. Additionally the quarry is also a working quarry which also makes it difficult to secure an area that will not impede quarry activities now and in the future.

Candidate 9 - Site located around Mt Wollumbin

This site was very difficult to access by heavy machinery due to the steep terrain. It is also probable that the creation of a significant power easement (20m wide) requiring tree removal, would have been needed if this site had been progressed.

Candidate 10 - Lot 17 DP 778719, 19 Meadow Place, Uki

Candidate 10 is situated on elevated terrain outside the main Uki village area. This candidate has many attractive features for telecommunications facility siting including access, power and good vegetation cover.

Following critical evaluation of the above candidates, a preferred nominated candidate is then selected. This selection is based on a number of key issues including radiofrequency coverage; planning/environmental considerations; engineering criteria; and the availability of the site and associated construction costs (as outlined in greater detail in Section 2.2 above).

In this particular instance, the proposed candidate identified as Candidate 10 at Lot 17 DP 778719, 19 Meadow Place, Uki was considered as the optimum outcome to provide Optus 3G mobile and wireless broadband to the Uki area."

Council is satisfied with the applicant's analysis as detailed above and accordingly has recommended approval for the subject site based on appropriate conditions of consent.

Flora and Fauna

The site is mapped under the Tweed Vegetation Management Strategy 2004 as Camphor Laurel dominated vegetation of low ecological significance and low ecological sensitivity. A site visit confirmed that the area upon which the monopole is proposed is mainly cleared and surrounded by Camphor Laurel, declared a Noxious Weed in Tweed Shire in March 2009. Camphor Laurel trees up to 6m as well as 10 rainforest edge species saplings 1 to 2m will require removal to enable the monopole erection. In addition, some further minor removal of native and exotic vegetation is likely along the proposed access road.

The larger site is mapped as Steep Protected Land in part with slopes over eighteen degrees. Ecological value exists within the occasional large (greater than 40cm diameter at breast height) Brushbox and Strangler Fig trees on the lot at lower elevation and regeneration of native rainforest seedlings is occurring in the vicinity of these trees. Despite the dominance of Camphor Laurel, these regenerating species indicate that the hillside could be rehabilitated to Brushbox Open Forest with a rainforest understorey over a period of time if significant effort were to be expended. Such occurrences are greater than 50m from the proposed monopole site and thus potential fauna using these trees are unlikely to be affected by installation of the tower.

Wildlife Atlas records for the surrounding 5km radius include records of a number of threatened flora and fauna species and the site is likely to provide occasional forage habitat for some of these threatened species such as the Grey-headed Flying Fox, Rose-crowned Fruit Dove and Superb Fruit Dove. However, the habitat is unlikely to provide roost sites for these species such that they could be considered resident on site.

(c) Suitability of the site for the development

The existing vegetation will provide a visual screen to the subject proposal. The elevated nature of the hill top affords the desired level of coverage to the proposed telecommunication tower. The proposed telecommunication facility will provide for a greater/better telecommunications service for the locality. The site has been deemed to be suitable for the proposal.

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

The application was advertised for a period of fourteen (14) days from Wednesday 22nd July 2009 to Wednesday 5th August 2009. During this period forty (40) submissions were received comprising of thirty four (34) objections and six (6) submissions in favour of the development. In response to the various objecting submissions the following assessment of the common issues raised is summarised below.

Objection	Response
Health concerns from electromagnetic energy generated from the facility	This has been discussed previously in this report.
Devaluation of property prices	The consideration of property prices is not a Section 79C matter for consideration.
Increased Traffic	The facility will be unmanned and service vehicles are expected to attend the facility for maintenance purposes only on average four (4) times per year. Due to the limited amount of servicing, additional traffic on Meadow Place is not considered an issue.
Alternative sites	<p>Optus has a network of base stations throughout Australia and when an area is identified to have poor network coverage or capacity a new facility has to be located to fit into the existing network. Optus, where practicable will try and locate telecommunications equipment on existing structures or rooftops.</p> <p>A search of the area has revealed that due to the area being generally rural, there are no existing structures such as water towers that would be suitable to house a telecommunications facility.</p> <p>In choosing the proposed location for the monopole, the applicants also considered a number of alternative sites, attached to this report is a copy of the applicants assessment of Alternative Sites.</p>
Location/site unsuitable	A search of the area has revealed that there are no other telecommunications facilities in the area. In order to reduce the number of facilities in the area Telstra would normally co-locate, but there are no such towers in the area.
Lack of community consultation	It is not a statutory obligation for the applicants to undertake community consultation.
Visual impacts	This has been discussed previously in this report.

(e) Public interest

The submissions that have been received are noted, Council currently has no specific policies in relation to telecommunication tower development. The proposal is a permissible form of development in the 1(a) zone and therefore can be assessed by Council.

The visual impact on the adjoining landowners will be minimal as the applicants have designed the facility to be amongst existing mature tree species and the monopole is to be painted mist green as to blend with its surrounds.

The communities concerns in regard to health risks are acknowledged and have been considered. However, current research indicates that the potential for health implications from EME levels is minimal. In this instance Council relies on the relevant standards from ARPANSA and other authorities. Council's Environmental Health Officers deemed the submitted information and reporting on the potential health risks of the monopole to be consistent with outlined Australian standards. The proposed development is consistent with all relevant guidelines and proposed to be conducted in accordance with outlined Australian standards. The proposed telecommunication facility will provide for a greater/better telecommunications service for the locality.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed telecommunication facility will enhance telecommunications services in the locality. The location and design of the proposal is considered suitable without any significant adverse impacts on the natural and built environments, the communications facility will create a positive impact socially and economically by providing enhanced telecommunications coverage for the locality.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Applicant's assessment of alternative sites (ECM 8404297)
 2. Report prepared by Optus detailing the outcomes and discussion of meeting held 7 December 2009 (ECM 12232987)
 3. Optus' letter of response dated 11 January 2010 (ECM 12231966)
 4. Optus' letter of response dated 2 March 2010 (ECM 14521333)
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5 [PR-CM] Development Application DA09/0815 for a Four Storey Dwelling House, Inground Swimming Pool including SEPP1 Objection to Three Storey Height Limit at Lot 3 DP 1074375, No. 581 Piggabeen Road, Piggabeen

ORIGIN:

Building & Environmental Health

FILE NO: DA09/0815 Pt1

SUMMARY OF REPORT:

An application has been received to erect a new four storey dwelling house with double garage, in ground swimming pool on the subject property. The proposed dwelling house consists of three components, the first component is single storey and the second is two storeys. This third component is located in the area of downslope which is located at the northern side of the building platform; this has resulted in an undercroft area having a height exceeding 1.5m. Therefore the dwelling house by definition is four storey and exceeds the maximum mandatory height requirement of DCP A1 Part A by 2.96m. However the areas of non-compliance being the fourth storey and the height variation will only be visible and evident by the residents of the site as it is remote from any external parties and public place. Also the subject dwelling house is only likely to be visible from a kilometre away to the north on Piggabeen Road where even then it will be partially obscured by the existing vegetation.

The subject allotment is located on the southern side of Piggabeen Road and is subject to a three storey height limit under the provisions of part 5, clause 16 of the Tweed LEP 2000.

The allotment is vacant and has a fall to the north (front boundary) of approximately 8 to 18 degrees.

The proposal was notified and one objection was received which was taken into consideration in the assessment of this application.

After a comprehensive assessment of the application and taking into consideration the objection received it is considered that the variations to DCP Section A1 Part A and the objection to the SEPP 1 are justifiable for the reasons outlined in this report.

A response to the objection is included later in this report.

It is considered that the application is worthy of approval.

RECOMMENDATION:

That: -

- A. Council assumes the concurrence of the Director-General of the Department of Planning for the approval of the SEPP 1 objection to Clause 16 of Tweed Local Environmental Plan 2000 to vary the 3 storey height limit.**

- B. Development Application DA09/0815 for a four storey dwelling house, inground swimming pool including SEPP1 objection to three storey height limit at Lot 3 DP 1074375, No. 581 Piggabeen Road Piggabeen be approved subject to the following conditions: -**

GENERAL

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**

[GEN0015]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]
- 3. In respect of SEPP 44 Koala Habitat Protection the following conditions are imposed:**
 - i) Trees are to be retained and removed in accordance with map (plan) on the second page in the Ecological Assessment/Fuel Management Report prepared by the applicant and dated 10-3-2010. No other trees are to be removed.**
 - ii) Trees to be removed are to be flagged with orange tape and removed prior to construction works commencing.**
 - iii) Barriers are to be erected identifying trees to be retained as 'no-go zones'. These barriers are to be placed outside the critical root area (the drip-zone) prior to construction works commencing and are to remain for the period of the construction, including ancillary features.**
 - iv) Koala Protection Measures – Prior to construction works, trees being removed are to be checked for koalas. If koalas are present then wait for them to move on before removing tree.**
 - v) Koala Protection Measures – For the life of the development, prior to trimming or pruning trees check for koalas. If koalas are present then wait for them to move on before trimming or pruning tree.**

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- 3. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.**

[PCC0945]
- 4. Stormwater**
 - (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.**

- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surchage overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

5. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

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

[PCC1145]

6. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.

[PCC1195]

7. Prior to the issue of a construction certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system (private ejection pump station) under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

Any application to install/operate an onsite sewerage management system (private ejection pump station) under Section 68 of the Local Government Act 1993 shall be accompanied by three copies of detailed hydraulic design report certified by a qualified hydraulic engineer and shall address the following criteria:

- * System type and specifications including pump-well volume, pump specifications and rising main size, length and location.
- * Details of operation and maintenance
- * The sewer pump is to be constructed in a flood proof well.

Any approval to install an on site sewerage treatment system (private ejection pump station) shall comply with the hydraulic design specifications as certified by a qualified Hydraulic Engineer including all recommendations of that report and any addendum to the report to the satisfaction of Councils General Manager or his delegate.

[PCC1295]

8. Prior to the issue of the construction certificate the applicant/owner is to submit to the nominated principal certifying authority details of the external colours and finishes of the development which are sympathetic to the bushland environment.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

9. The proponent shall accurately locate and identify any existing 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]

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

[PCW0015]

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

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

[PCW0215]

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

[PCW0225]

13. Residential building work:

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

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

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

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

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

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

[PCW0235]

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

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

15. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

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

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

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

[PCW0255]

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

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

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

[PCW0985]

DURING CONSTRUCTION

17. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

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

[DUR0375]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

24. **Excavation**

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

[DUR0425]

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

The proponent shall also observe the guidelines set down under the Department of Environment and Climate Change publication, "A Renovators Guide to the Dangers of Lead" and the Workcover Guidelines on working with asbestos.

[DUR0645]

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

[DUR0905]

27. 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]

28. **Swimming Pools (Building)**

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 & AS 1926.3 -2003. (Refer Council's web site www.tweed.nsw.gov.au)

- (b) **Swimming pools shall have suitable means for the drainage and disposal of overflow water.**
- (c) **The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.**
- (d) **Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.**

[DUR2075]

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

[DUR2085]

30. **The proposed swimming pool is to be sited a minimum distance of 6 metres from any effluent disposal area.**

[DUR2105]

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

[DUR2185]

32. **The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.**

[DUR2245]

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

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

[DUR2485]

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

[DUR2515]

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

[DUR2525]

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

[DUR2545]

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

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

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

[DUR2555]

38. An On-site Sewage Management System shall be installed in accordance with an Approval to Install an On-site Sewage Management System under Section 68 of the Local Government Act 1993.

[DUR2775]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

40. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

41. Prior to the issue of an occupation certificate,
- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
 - (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

42. Application is to be made to Tweed Shire Council for a street address number. The number is to be prominently displayed prior to the occupation of the building.

[POC0245]

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

[POC1035]

44. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

RURAL FIRE SERVICE CONDITIONS

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.

1. At the commencement of building works and in perpetuity the property around the building shall be managed as follows 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':
 - north for a distance of 20 metres as an asset protection zone;
 - east for a distance of 9 metres as an asset protection zone;
 - south for a distance of 15 metres as an asset protection zone; and
 - west for a distance of 19 metres as an asset protection zone (APZ). (Note: in forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.)

Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2. Water, electricity and gas are to comply with the following requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
 - The water source shall be made available or located within the inner protection area (IPA) and away from the structure.
 - 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 no reticulated water supply exists, a 20000 litre water supply shall be provided for fire fighting purposes.
 - Above ground tanks are manufactured of concrete or metal and raised tanks are to have their stands protected. Plastic tanks shall not be used.
 - A minimum 5hp or 3kW petrol or diesel powered pump shall be made available to the water supply. A 19mm (internal diameter) fire hose and reel shall be connected to the pump.

- Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

3. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

4. New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 3.
5. All exposed/external timber used in the development shall be of a fire resistant timber species as identified in RFS Development Control Note 001. These species include: Blackbutt, Kwila (Merbau), Red Iron Bark, Red River Gum, Silver Top Ash, Spotted Gum and Turpentine.
6. All Class 10 structures as defined per the 'Building Code of Australia' 2006 attached to or within 10 metres of the habitable building shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 3.
7. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building
8. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1993 'Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials'.
9. Proposed bi-fold doors, french door and the like on the dwelling may be unscreened if it's a proprietary type door system incorporating, 5mm toughened glass, non combustible seals, and a design that does not permit gaps greater than 1.8mm in diameter to prevent the penetration of embers. Draught excluders, seals and door furniture shall be manufactured from materials having a "Flammability Index" no greater than 5. The entire door system (including jamb and seals) shall be designed and constructed to withstand 29kW/m² of radiant heat flux.

Landscaping

10. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'

REPORT:

Applicant: Mr GK Wilcock and Mrs LM Wilcock
Owner: Mr GK Wilcock and Mrs LM Wilcock
Location: Lot 3 DP 1074375 No. 581 Piggabeen Road, Piggabeen
Zoning: 1(a) Rural
Cost: \$650,000

BACKGROUND:

The subject site encompasses an area of 3.799 Hectares and is located on the southern side of Piggabeen Road and is irregular in shape with a steep slope to the road frontage. The subject site is in a rural area and is densely vegetated for the majority of the property. The existing near level building platform is approximately in the centre of the upslope which is the only logical location for the proposed dwelling house, and as such provides for boundary setbacks in excess of 8.2m.

The subject site is zoned 1 (a) Rural and is located within a designated 3 storey area as per clause 16 of the Tweed Local Environmental Plan (LEP) 2000.

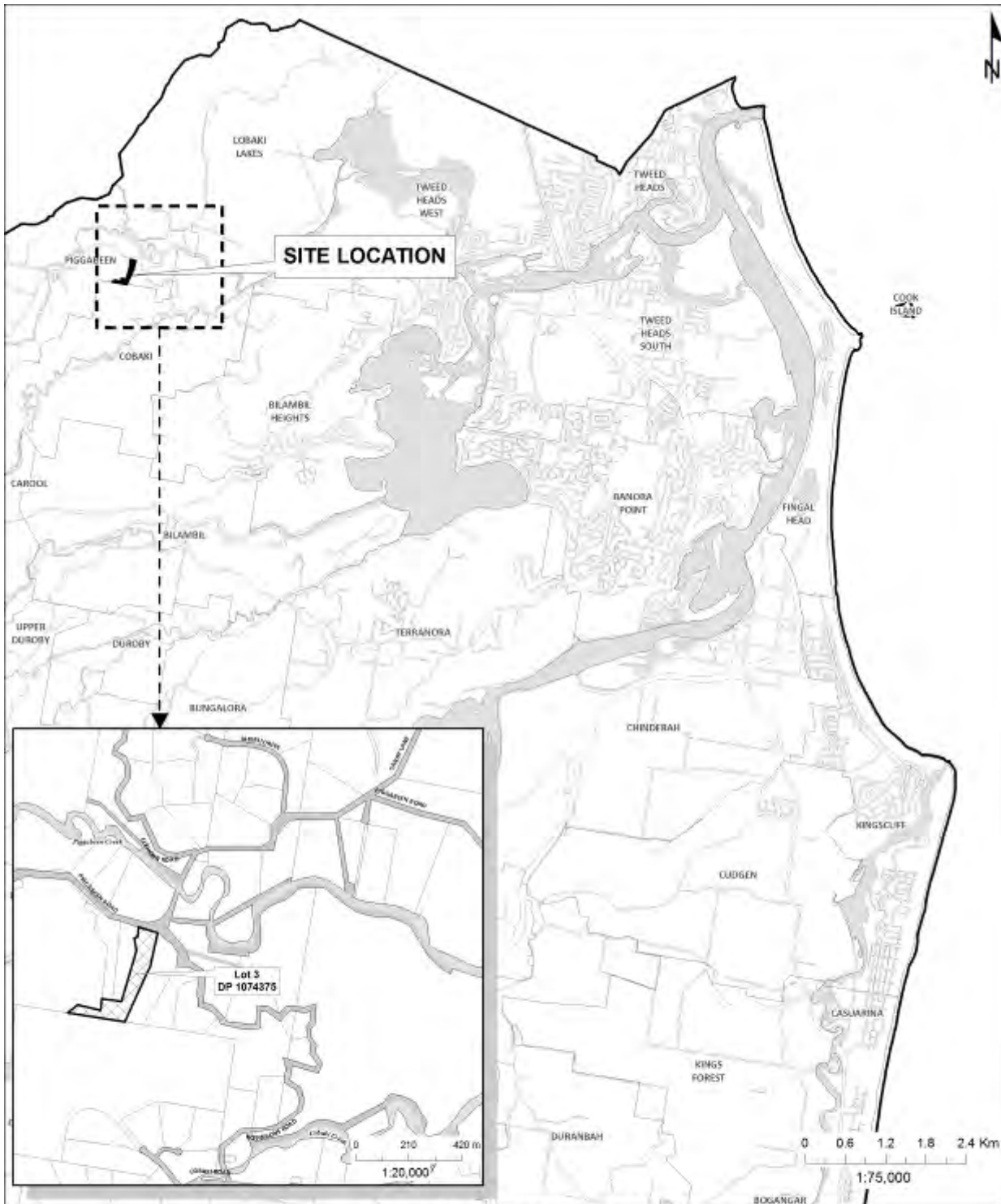
The plans submitted disclosed a three storey dwelling house with an undercroft area having a subfloor height exceeding 1.5m. Since this constitutes a storey as defined in the Tweed Shire Council LEP the development application was notified as a four storey dwelling house with attached double garage and inground pool.

The proposed dwelling house consists of three components, the first being single storey at the rear/south (comprising of a garage, guest room with ensuite, bar area, courtyard and outside bathroom), the second being two storey adjoining the northern side of the first component (comprises of a study, lounge area, entry and courtyard on the ground floor with three bedrooms, ensuite and bathroom on the first floor) and the third component comprising of three levels. The lower level of the third component consists of a laundry, store and rumpus/games, the ground floor comprises of a kitchen, dining and verandah, and the top level comprises of a master bedroom, verandah and ensuite.

The first and second components of the dwelling house do not exceed 9.0 metres in height; however the third component has a maximum height of 11.96m above existing ground level. This third component is located in the area of upslope which is located at the northern side of the building platform; this has resulted in an undercroft area having a height exceeding 1.5m and in the height of the dwelling exceeding 9 metres.

Notification was required in accordance with the provisions of DCP Section A11 (Public Notification of Development Proposals) and in response one written objection to the proposal was received.

SITE DIAGRAM:



LOCALITY PLAN
Lot 3 DP 1074375
No. 581 Piggabeen Road, Piggabeen

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

Author: J Batchelor - Planning Reforms Unit

Date Printed: 26 February, 2010

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representation or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only; it should not be used for survey or construction purposes, and prior to any excavations, a "Dig before You Dig" enquiry must be made by calling 1300. The information contained on this document remains valid for 30 days only from the date of supply.



Coordinate System - MGA Zone 56
 Datum - GDA94

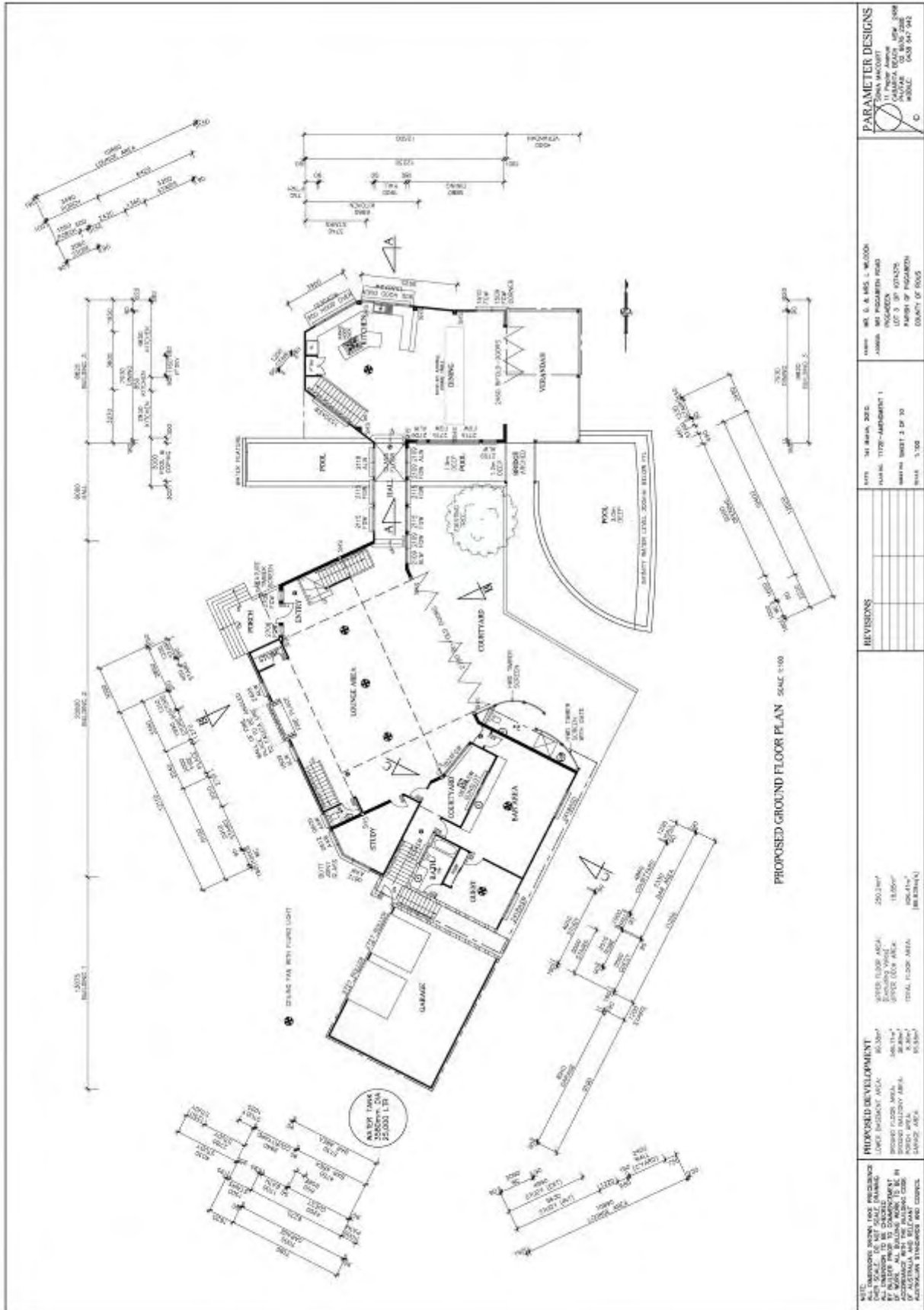
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TWEED
 SHIRE COUNCIL



PARAMETER DESIGNS
 11 Pepper Avenue
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 FAX: 08 9438 2002
 WWW: WWW.PARAMETERDESIGNS.COM

OWNER: MR. G. & MRS. S. MULLOON
 ADDRESS: 181 POGGIOLETTA ROAD
 MARRARA QLD 4870
 PROJECT: LOT 3 OF OTTAWA
 PARCEL 103 943 2002
 COUNTY OF POGGIOLETTA

DATE: 14 March 2010
 DRAWN: 11777-14780001-1
 SHEET 2 OF 30
 SCALE: 1:100

REVISIONS

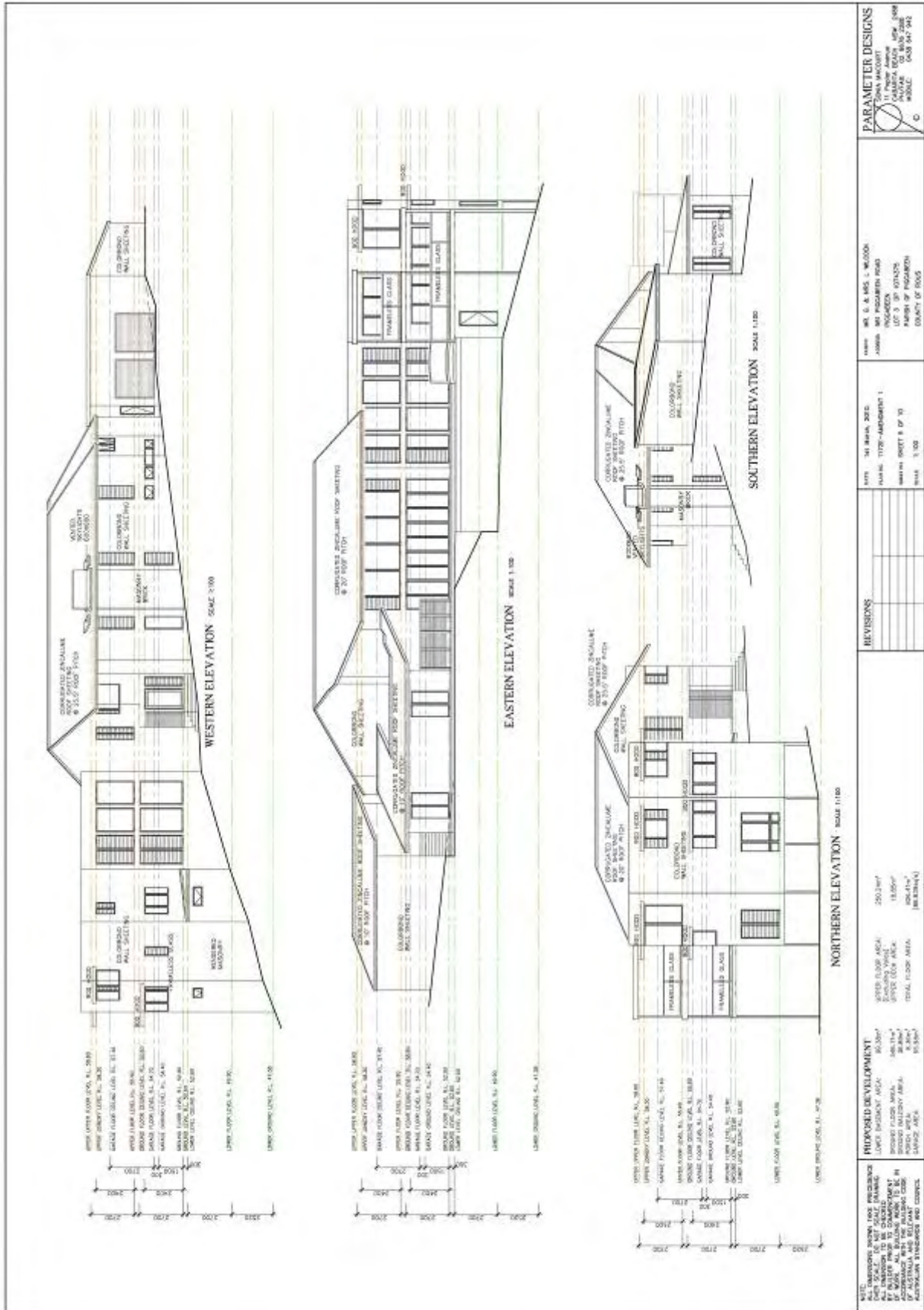
NO.	DESCRIPTION

PROPOSED DEVELOPMENT

DESCRIPTION	AREA (SQM)
TOTAL FLOOR AREA	250.30 ¹
Building Footprint	18.00 ²
Site Coverage	7.20 ³
TOTAL FLOOR AREA	265.50 ⁴

NOTES

1. ALL DIMENSIONS SHOWN ARE PER THE PLAN.
2. ALL DIMENSIONS SHOWN ARE PER THE PLAN.
3. ALL DIMENSIONS SHOWN ARE PER THE PLAN.
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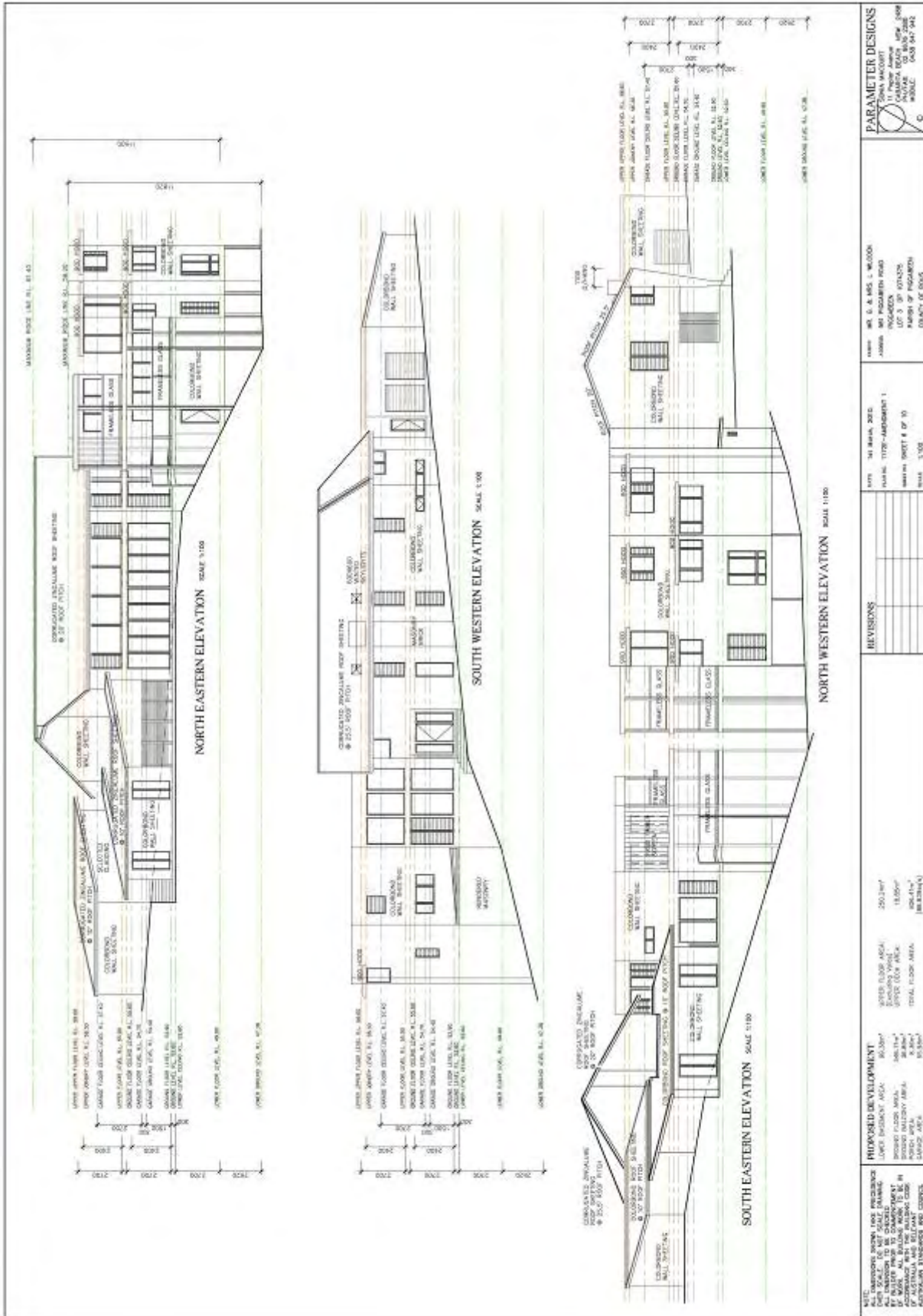


REVISIONS	DATE	BY	DESCRIPTION

<p>NOTE: DRAWINGS SHOWN FOR PRELIMINARY USE ONLY. THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION WITHOUT THE WRITTEN APPROVAL OF THE ARCHITECT. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED. THIS DRAWING IS THE PROPERTY OF PARAMETER DESIGNS AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF PARAMETER DESIGNS.</p>	<p>PROPOSED DEVELOPMENT</p> <p>LOT 3 OF 30 11 PETER AVENUE INGLEWOOD VIC 3209</p>	<p>PROPOSED DEVELOPMENT</p> <p>LOT 3 OF 30 11 PETER AVENUE INGLEWOOD VIC 3209</p>	<p>PROPOSED DEVELOPMENT</p> <p>LOT 3 OF 30 11 PETER AVENUE INGLEWOOD VIC 3209</p>
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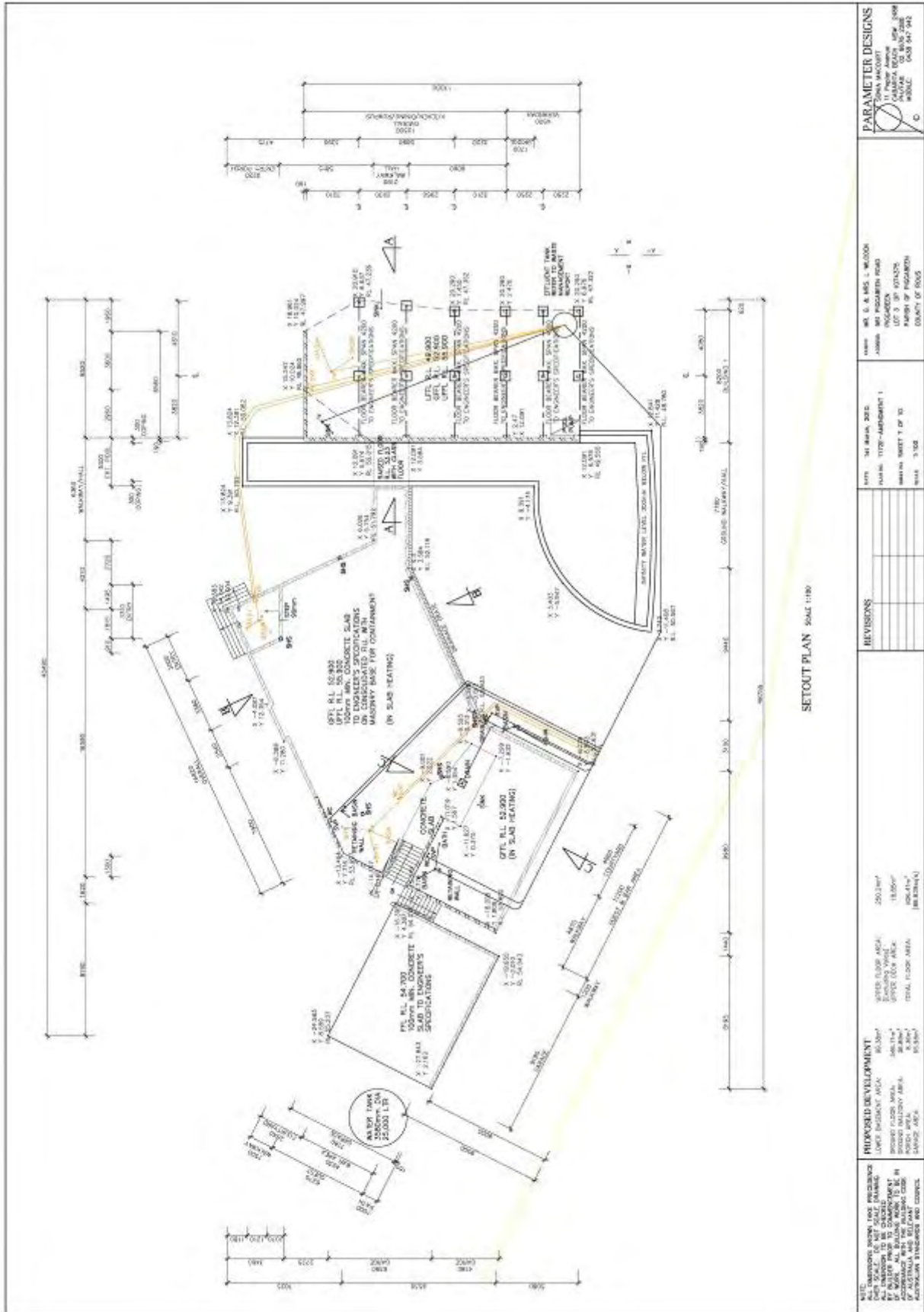
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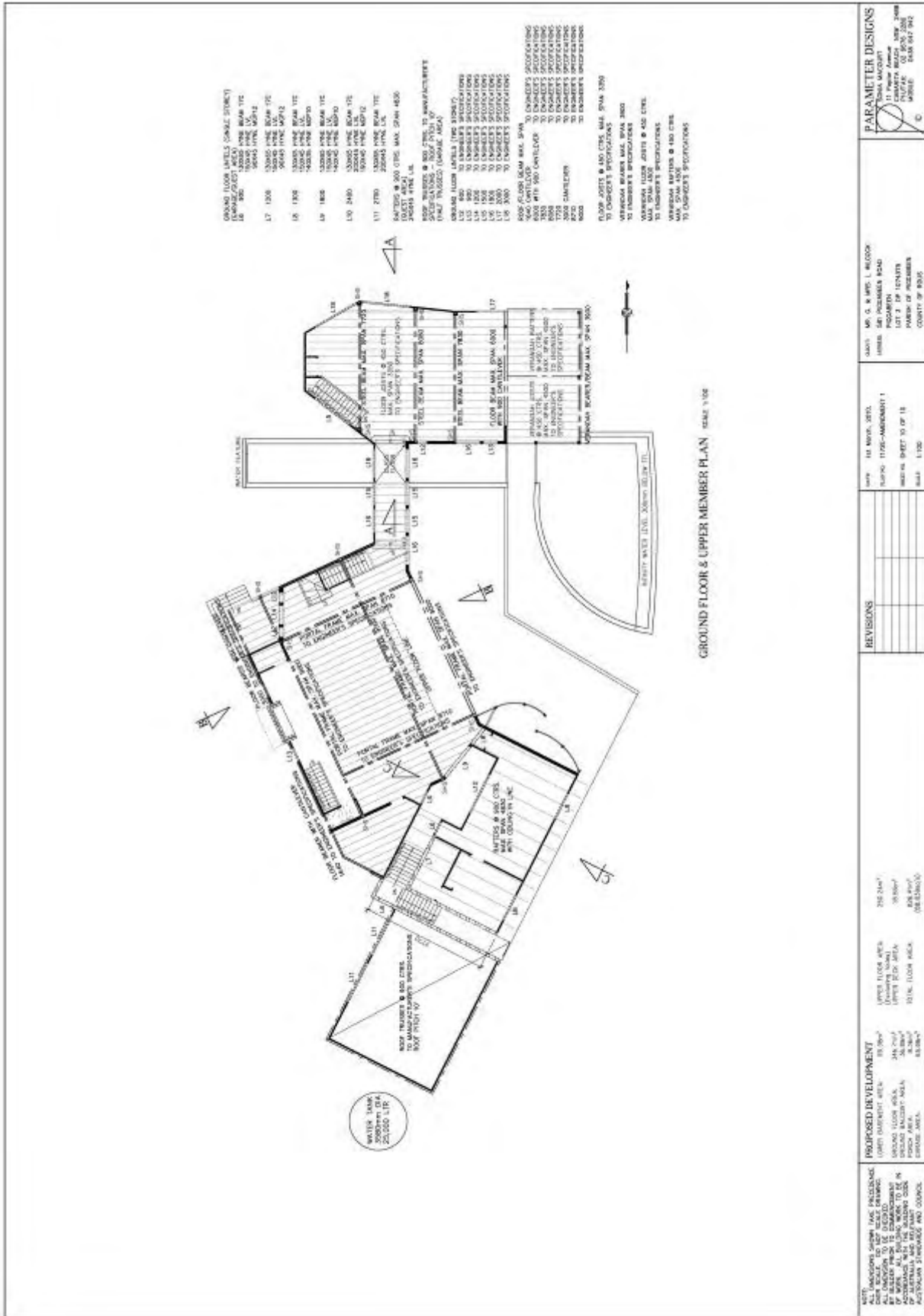


NO.	DATE	REVISIONS
1	14 March 2010	ISSUED FOR PERMIT APPLICATION
2	11 April 2010	ISSUED FOR PERMIT APPLICATION
3	11 April 2010	ISSUED FOR PERMIT APPLICATION
4	11 April 2010	ISSUED FOR PERMIT APPLICATION
5	11 April 2010	ISSUED FOR PERMIT APPLICATION
6	11 April 2010	ISSUED FOR PERMIT APPLICATION
7	11 April 2010	ISSUED FOR PERMIT APPLICATION
8	11 April 2010	ISSUED FOR PERMIT APPLICATION
9	11 April 2010	ISSUED FOR PERMIT APPLICATION
10	11 April 2010	ISSUED FOR PERMIT APPLICATION

DESCRIPTION	AREA
PROPOSED DEVELOPMENT	250.3m ²
LOWER FLOOR AREA	18.0m ²
UPPER FLOOR AREA	18.0m ²
TOTAL FLOOR AREA	36.0m ²

DESCRIPTION	AREA
PROPOSED DEVELOPMENT	250.3m ²
LOWER FLOOR AREA	18.0m ²
UPPER FLOOR AREA	18.0m ²
TOTAL FLOOR AREA	36.0m ²





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

The application was lodged as a requirement of the Environmental Planning and Assessment Act 1979 and is required to be evaluated using the relevant terms of clause 79C of the Act.

As a part of the assessment process a site visit was made by Council's assessing officer of the subject site and surrounding area. Impacts have been discussed with the applicant, and their building designer.

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

Tweed Local Environmental Plan 2000

Part 1 Clause 4 - Aims of the Plan

The proposal satisfies the aims of the Tweed LEP in relation to the desired outcomes of the plan namely the management of growth in a responsible manner.

Clause 5 - Ecologically Sustainable Development

The proposal satisfies the principles of this clause as there will be no anticipated serious or irreversible environmental damage likely as a result of the proposed development.

Clause 8 Consent considerations

Zone Objectives

The subject site is zoned 1 (a) Rural. The primary objective of the zoning is:-

- 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.

This relates to the provision for and maintenance of agricultural, natural resource utilisation and detached housing without adversely affecting the rural character and amenity of the area. The proposed development is consistent with the primary objective of the zone.

The secondary objectives of the zoning are

- 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 secondary objectives relate to allow some diversity of land uses provided it achieves design outcomes compatible with the primary objectives. The proposed development is consistent with the secondary objective of the zone.

Cumulative Impacts

The proposed building at four storeys is a response to the site conditions and the applicant's requirements. The proposed dwelling is unlikely to dominant the immediate streetscape due to its location in the centre of the upslope. The proposal is unlikely to have an unacceptable cumulative impact on the community, locality or area of the Tweed as a whole.

Clause 11 - Zone

The subject site is zoned 1 (a) Rural and the proposed development being a single dwelling house will be consistent with the approved use of the site.

The immediate locality predominantly contains single and two storey dwelling houses and agricultural structures.

Clause 15 - Essential Services

The site has access to essential services including electricity and telecommunications. The site will have its own water supply and on-site sewerage management.

Clause 16 - Height of Building

The proposed development consists of a three storey dwelling with an undercroft area exceeding 1.5m in height which constitutes a four storey dwelling house. Accordingly the applicant has submitted a SEPP 1 objection to the three storey height limitation under clause 16 under the TLEP 2000. This is discussed later in this report.

Clause 17 - Social Impact Assessment

Normal domestic impacts can be anticipated from the proposed development. These impacts are not anticipated to have any significant impact on the existing amenity of the area or the existing streetscape other than what could be reasonably expected.

Clause 34 - Flooding

A minor portion of the allotment is identified as being in a flood prone area. The proposed development will be constructed above this flood level. Therefore the proposal will not increase the effect of flooding on the community and is considered to be consistent with the aims of the policy.

Clause 35 - Acid Sulfate Soils

The allotment is identified as being class 5 and as the proposal involves minimal excavation no specific requirements are required.

Clause 39A – Bushfire Protection

The site is identified as being in a bushfire prone area. The application was referred to the Rural Fire Service for comments. Extra conditions have been added to the conditions of approval to help protect the dwelling from bushfire attack as recommended by the Rural Fire Service.

It is to be noted that the Tweed Vegetation Management Strategy 2004 identifies the significant vegetation on the property as being sclerophyll open forests/woodlands.

Clause 54 – Tree Preservation Order

The site is not affected by any tree preservation order.

Other Specific Clauses

There are no other relevant clauses which are applicable to this proposal.

State Environmental Planning Policies

SEPP No. 1 - Development Standards

A SEPP 1 objection has been lodged against the requirement under clause 16 of the Tweed LEP 2000 in that the proposed dwelling house exceeds the three storey height limit for the area.

The application was not required to be referred to the Department of Planning for the granting of the concurrence of the Director-General as Council may assume approval of the SEPP 1 objection to vary the three storey height limit for the area.

The Applicant has made the following submission in support of their request for a SEPP 1 variation:-

“1. What is your application for?

To build a dwelling

The application involves the construction of a dwelling with and attached garage and the construction of a swimming pool.

2. Where is the land located?

The subject site is located in the area known as Piggabeen. The land is described legally as Lot 3DP L074375, No.581 Piggabeen Road, Piggabeen.

3. What is the land zoned?

The subject site is zoned 1 (a) - Rural under the provisions of the Tweed LEP 2000.

4. What are the objectives of the zone?

The objectives of the zone have been detailed in this report.

5. Which Development Standard is proposed to be varied?

The proposed development is not strictly consistent with clause 16 of the Tweed LEP in that the proposed dwelling exceeds the three storey height limit for the area.

The objective of the clause is "to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land".

Furthermore the clause states:

- (2) *Consent must not be granted to the erection of a building which exceeds the maximum height or number of storeys indicated on the Height of Buildings*

Map in respect of the land to which the application relates.

6. Why is the standard unreasonable or unnecessary in this circumstance?

A relatively small portion of the northern most area of the master bedroom and attached ensuite is considered to be four storeys in height as the foundation area directly below exceeds 1.5 metres in height for approximately the last 2 metres of the building.

The height of the proposed building is not considered to be unreasonable on the basis that:

Only a relatively small section (20 m²) of the proposed dwelling exceeds the height requirement.

Topography and vegetation on site are anticipated to act as screening for the proposed dwelling.

Nearest adjoining dwelling houses are 250 metres to the west through dense vegetation, 480 metres to the north through vegetation and 210 metres to the east through vegetation. The nearest house to the south is in excess of one kilometre.

Rural area with inherent expectation for larger buildings.

Sunlight will still be accessible to adjoining properties with no overshadowing anticipated because of distances from building site.

Building designed with minimal cut and fill, as per current best practice and Tweed DCP design controls, which has created a larger and higher foundation area.

7. Is the proposal consistent with the objectives of the standard?

The objective of the standard is:

To ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.

It is considered that given the rural nature of the area that the proposed dwelling is appropriate for its location, surrounding development and the characteristics of the land.

The surrounding area has a mixture of single and multi-storey dwellings. Some of these dwellings are located quite prominently with a significant visual impact.

Even though these buildings appear to be consistent with the height requirements of the LEP they have a significant impact on the streetscape as there is minimal screening utilised to obscure them from view from the road or adjoining properties.

The street frontage to the subject site and adjoining subject sites are heavily vegetated, which effectively screens the subject property from view from the street. Furthermore the area surrounding the proposed building site is also highly vegetated which will further obscure the proposed dwelling from sight.

It is considered that the height, bulk and scale of the development is not excessive having regard for the 1(a) Rural land zoning, the topography of the land, positioning of the proposed dwelling and the dense vegetation on site.

The design of the proposed dwelling further reduces any visual impact by utilising contrasting design techniques such as sections of pitched roof versus skillion roof versus a grass top roof.

These elements help to break up the roof line reducing overall visual bulk, having a positive effect on built bulk.

As the proposed building site is located on a levelled pad behind a steep heavily vegetated slope, it is considered that the existing vegetation and the natural contours of the land will effectively screen the majority of the dwelling from public view and as such greatly reduce any apparent visual impact arising due to bulk and or scale of the dwelling.

It is contended that the natural contours of the subject site present a major topographical and geotechnical constraint. In addition the highly vegetated nature of the site precludes construction in some areas due to unsupportable risk of bushfire.

This has created a situation whereby the proposed building site is the only area on the subject property which can reasonably be used for a dwelling.

The northern and most visible elevation has been designed so that it presents an attractive residential character with large open areas and minimal bulk and scale. The dwelling, whilst large, is anticipated to present a strong residential character and will positively contribute to the amenity of the surrounding area.

It is contended that the design for the proposed dwelling, coupled with the site characteristics, vegetation and distances to houses on adjoining properties that the proposed dwelling is consistent with the objective for the development standard.

8. How does the proposal fit in with the existing location of dwelling houses in a two kilometre radius?

The proposed dwelling is well set back from all existing dwellings in the general area. It is not anticipated that there will be any effects from overshadowing.

9. What are the possible environmental impacts of the proposal? Will it involve the removal of trees and/or native vegetation; destruction of wildlife, habitats/corridors or wetlands; or erosion due to necessary earthworks?

No significant environmental impact anticipated from the proposed development.

There is minimal removal of trees or native vegetation. This is in fact one of the reasons behind the use of the proposed building site, to minimise any possible environmental impact.

10. Describe any natural hazards which affect or may affect the subject property

The property is affected by bushfire and flooding. These matters have been addressed further elsewhere in this report.”

Response to SEPP 1 Objection : In response to the SEPP 1 objection to clause 16 of the Tweed LEP it is acknowledged the majority of the dwelling house complies with clause 16 and the third component exceeds the three storey height limit due to the topography of the site. When put into context with the location of the existing building platform in the centre of the upslope as viewed from the north it is considered that the existing vegetation will effectively minimise the dominance of the dwelling house when viewed from a public place. To further reduce the impact of the dwelling house it is considered appropriate to include a condition of consent requiring that the external colours and finishes be sympathetic to the bushland environment.

The footprint of the dwelling house which exceeds 3 storeys is considered to be minor in size at only 20m² in area. However the areas of non-compliance being the fourth storey and the height variation will only be visible and evident by the residents of the site as it is remote from any external parties and public place. The subject dwelling house is only likely to be visible from a kilometre away to the north on Piggabeen Road where it will be obscured by the existing vegetation.



The photograph above is taken from Piggabeen Road approximately 1 kilometre away and the clearing and structure in the centre of the photograph represents the rear/south side of the building platform.



The photograph above has been taken from the rear of the building platform looking north. This confirms the size of the platform and the location of existing screen planting



The photograph above has been taken of the northern side of the building platform looking south. This confirms the area of upslope which will contain the four storey and contributes to the height exceeding 9 metres as prescribed by the controls of the DCP.

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

The proposed development is unlikely to impact upon the use of adjoining or adjacent agricultural land and will not result in a loss of prime crop or pasture land due to the topography of the site.

Clause 15: Rivers, streams and wetlands

The proposed development will not adversely affect any nearby river or stream, coastal or inland wetland or fishery habitat area.

Clause 29A: Natural areas and water catchment

The proposed development includes minimal clearing of natural vegetation. Notwithstanding an erosion and sediment control plan will be implemented which will successfully contain on the site any erosion or sediment caused by the proposed development.

SEPP No. 26 - Littoral Rainforests

The subject property is located outside the designated rainforest area and associated buffer area

SEPP No. 44 - Koala Habitat Protection

The subject site was inspected and the proposal assessed by Councils Ecologist on the 12 March 2010 and it was revealed that:

- The subject site is mostly vegetated with an existing cleared area for the proposed dwelling and additional cleared patches to the north.
- The site is mapped as having high ecological status and areas of low-moderate ecological sensitivity.
- The site is mapped as Secondary Class A Koala Habitat. Therefore, SEPP 44 Koala Habitat Protection will need to be considered
- The subject site is mapped as a Regional Wildlife Corridor.
- The site is mapped as young forest, and this was supported from observations at the site visit. There are a few larger and older trees on the property.
- Threatened fauna species recorded in the local area include Koala, Osprey, Black-necked Stork. The site is not considered to contain suitable habitat for the Osprey and Black-necked Stork.
- Threatened flora species recorded in the local area include Brush Cassia (*Cassia brewsteri* ssp. *marksiana*), Fine-leaved Tuckeroo (*Lepiderema pulchella*), Rough-shelled Bush Nut (*Macadamia tetraphylla*), Spiny Gardenia (*Randia moorei*), White Laceflower (*Archidendron hendersonii*) and Marblewood (*Acacia bakeri*). None of these species were recorded in the area of the proposed dwelling or APZ. It is possible that Brush Cassia, Marblewood, Fine-leaved Tuckeroo, and White Laceflower may colonise at the site in the future in the absence of fire. The site is unlikely to contain suitable habitat for the colonisation of Rough-shelled Bush Nut and Spiny Gardenia.

- The Rural Fire Service has required an Asset Protection Zone (APZ) (of 15 m to the south, 9 m to the east, 20 m to the north, and 19 m to the west of the proposed dwelling) and that the APZ be maintained as an Inner Protection Area.
- In attaining the performance requirements specified in the RFS Planning for Bushfire Protection Guidelines and the Standards for Asset Protection Zones, this will require the removal and trimming of some Eucalyptus trees, identified in the plan on the second page of the Ecological Assessment/Fuel Management Report prepared by the applicant and dated 10-3-2010.
- None of the trees identified as to be removed are identified on the plan as koala feed trees, as listed on Schedule 2 of SEPP 44. However, at the site inspection it appeared that one small tree may have been a juvenile Tallowwood. As this is a rough-barked species it is not suitable for retention in the APZ. In addition, a few trees will require pruning and/or trimming over the life of the development (but not removal), including Forest Red Gum and Tallowwood. Forest Red Gum and Tallowwood are recorded in Schedule 2 of SEPP 44 as preferred koala feed trees.
- The trees to be removed, and pruned and/or trimmed in the future, are relatively young and did not contain any obvious hollows.

It is recommended that the development application be approved subject to conditions of consent:

SEPP (Rural Lands) 2008

Further to clause 10 it is considered that the proposed development should not affect the existing uses and approved uses of land in the vicinity of the development, and is unlikely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development.

SEPP No 71 – Coastal Protection

The subject site falls outside the coastal zone as identified under SEPP 71.

SEPP (Building Sustainability Index: BASIX) 2004

The Applicant has provided a valid BASIX certificate for the proposed development in accordance with the legislation and the latest amended plans.

It is considered that the requirements if this SEPP have been satisfied.

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

Draft LEP 2010 is currently on exhibition until 31st March 2010, and in this document a maximum building height of 10m is proposed. Whilst this has not been formally adopted it can be taken into account subject to variation to the 9m maximum as prescribed in DCP A1 Part A.

The maximum 10m building height in the Draft LEP 2010 represents an additional 1m above the existing height limit of the DCP A1. The current proposal having an overall height of 11.96m represents a variation of 1.96m over the Draft LEP 2010. This height variation has been discussed below under Design Control 5 of DCP A1 Part A.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code Part A

Section A1 of Tweed DCP introduced detailed parameters for improved site outcomes including the provision of deep soil zones, impermeable site area, private open space, landscaping, car parking, setbacks and general street presence.

Section A1 of the DCP is divided into two chapters.

Chapter 1 Building Types

The Building Type proposed is 'Housing'.

The DCP describes that housing developments generally contain up to two storeys and details the minimum and maximum standards required for this Building Type.

The DCP envisages dwelling houses up to two storeys but does not prohibit three storeys, provided that they demonstrate compliance with the mandatory controls of the DCP and do not exceed the number of storeys permitted by the Local Environment Plan 2000 for the locality.

The proposal meets generally the mandatory controls of the DCP and specifically for chapter 1 as outlined below.

Objectives:

- To be well designed and attractive.
- To be of an appropriate scale relative to the existing or desired future pattern of development.
- To provide landscaped and deep soil areas on the lot.
- To provide amenity for residents without compromising the amenity of neighbouring properties.
- To address the street and to make a positive contribution to its established or envisaged streetscape character.
- To maximise the sustainability of the building during its lifecycle.
- To minimise the impact on the natural environment.
- To minimise the impact on the natural landscape through inappropriate or unnecessary cut and fill.

Controls

- a. Dwelling houses in existing urban areas must be consistent with the scale and character of surrounding dwelling houses or as envisaged through an adopted concept plan, locality plan, design statement or the like.
- b. In new subdivision areas dwelling houses are to be designed to conserve any natural landscape features of the site and surrounding area.
- c. In new subdivision areas dwellings must be consistent with any design scheme adopted for that subdivision.

- d. Deep soil areas are to be provided to the front and rear of sites in accordance with this Part.
- e. Entrances are to be clearly visible from the street, where the allotment has a street frontage, and there is to be a clear line of access to the building from the street.
- f. Dwelling houses are to meet the controls as set out in this Part A: Site and Building Design Controls.
- g. Dwelling houses on non urban zoned land shall not, for the purpose of this Plan, be restricted to the deep soil zone, setback and carport, garages and outbuildings controls where it is demonstrated that compliance with a particular control would be unreasonable in the circumstances.

Chapter 2- Site and Building Design Controls

Design Control 1-Public Domain Amenity

The proposed development by definition is a four storey dwelling house which is within an existing rural area. The adjoining properties consist of single and two storey dwelling houses with related agricultural structures. The existing vegetation on the site located between the front boundary and the building platform together with the natural contours of the site will assist in screening the dwelling house from the street. The height and location of the development will not significantly diminish the public views to any heritage items, dominant landmarks or public buildings from public places.

The entry doors of the proposed dwelling house will not be visible from the public domain as required by the controls due to the front boundary setback and the topography of the site. A relaxation to this control is considered appropriate as it is unrealistic to satisfy this requirement.

Streetscape and Public Views and Vistas

No public views or vistas will be affected by the proposal. It is considered that the height and location of the development will not adversely obscure views of major natural features such as the water, ridgelines or bushland from public places. The topography of the site, coupled with the existing vegetation, lack of public viewing areas and the allotment size will not result in the development obscuring public view corridors.

Design Control 2 -Site Configuration

Deep soil zones (DSZs)

The subject site is in a rural area and therefore the provisions of the DCP allow for the DSZ requirements to be disregarded. Notwithstanding there is adequate area at the front and rear of the development to accommodate adequate deep soil zones.

Impermeable Site Area

The impervious area of the development is 676.8m² which equates to 5.61% of the site which is well within the acceptable range and satisfies the provisions of the DCP. This will allow adequate area to enable water to infiltrate the site.

External Living Areas

The proposed development comprises of a north facing courtyard and a separate northern facing verandah adjacent to the proposed swimming pool. Also the master bedroom has an adjacent verandah with a northerly orientation.

Landscaping

It is intended to retain the existing vegetation on site, with the exception of the building platform. It is the owners intention during and after construction to plant additional landscaping around the dwelling house. This will improve the amenity of the area and minimising any possible visual impact from the development.

Topography, Cut and Fill

The allotment is vacant and has a fall to the front of approximately 8 to 18 degrees.

The design of the proposed development has responded to the site conditions by minimising cut and fill. This has been achieved by incorporating suspended floors to areas of steep grade and utilising the existing near level building platform for entry and vehicular access to the garages by the use of slab on ground in these areas.

Design Control 3 -Setbacks

The DCP contains the following requirements relating to building setback:

- a. Dwelling Houses are to be setback 6 metres from the street boundary.
- b. On corner allotments the setback along the secondary street (the street to dwelling has its secondary frontage) is 3m.
- c. In older established areas and on infill sites Dwelling Houses are to be consistent with the setback distance of neighbouring buildings and are to be the average of the setbacks of neighbouring dwellings on either side. This setback can be varied up to plus or minus 1m.
- d. Garages and carports, including semi-basement garages and attached garages, are to be set back a minimum of 1 metre from the dwelling's front facade.
- e. Council may approve the erection of a dwelling or garage, which does not comply with the required building line setback in circumstances, outlined elsewhere within this document, or where –
 1. The levels, depth and shape of the allotment, or
 2. The exceptional conditions of the site such as excessive grades or slope, make it necessary or expedient to do so, and:
 - the proposal will not affect the amenity of adjoining properties,
 - no valid objections are received from adjoining property owners,
 - the proposal will not create an unwanted precedent to the vicinity,
 - the structure is located a minimum of 900mm from the side boundary of the property,
 - the proposal will not impede on the required pedestrian and traffic sight lines.

The proposed development will be sited in excess of 6m off the front boundary, 8.2m off the western boundary, 9m off the eastern boundary and in excess of 100m from the rear boundary.

Design Control 4 -Car Parking and Access

The design control requires the proposed vehicle access and parking to be consistent with Section A2 of the DCP.

The proposed dwelling house complies having a total of four off street car parking spaces provided, two in front of the proposed garage and two within the double garage proposed.

The garage which is setback more than the required metre behind the building façade, does not occupy more than 50% of the street frontage, and has been articulated with the design of the dwelling house to complement its front elevation.

Design Control 5 -Height

The proposed dwelling house is not completely consistent with the Design Control for Building height. As such a variation is requested for Design Control 5 - Height,

The relevant design controls are listed as:

- a. 9 m is the maximum overall building height for Dwelling Houses.
- b. 8.5 m is the maximum wall plate height for Dwelling Houses

Section A1 - Residential and Tourist Code of Council Development Control Plan 2008 states that Council will "consider a relaxation or variation to a mandatory control due to excessive site constraints including:

The site being located in an 'infill' (Infill development is an allotment that is neighboured or adjoins a property that supports a building, including sites with new subdivisions, where that development has already occurred, and to the extent only that an existing building hinders the achievement of the mandatory control).

- *Established dwellings located in subdivisions created prior to the year 2000*
- *Sites with highly irregular geometry*
- *Sites with major topographical or geotechnical constraints.*

As the proposed development is not strictly consistent with the design controls assessment against the objectives is necessary.

The objectives for the Design Control are as follows:

- *To design new development appropriate to the existing building scale in the street and the local area.*

The surrounding area has a mixture of single and multi-storey dwellings; some of these dwellings are located quite prominently with a significant visual impact. Even though these buildings appear to be consistent with the height requirements of Section A1 they have a significant impact on the streetscape as there is minimal screening utilised to obscure them from view from the road or adjoining properties. The street frontage to the subject site and adjoining subject sites are heavily vegetated, which effectively screens the subject property from view from the street. Furthermore the area surrounding the proposed building site is also highly vegetated which will further obscure the proposed dwelling from sight.

It is considered that the height, bulk and scale of the development is not excessive having regard for the 1.(a) Rural land zoning, the topography of the land, positioning of the proposed dwelling and the dense vegetation on site.

The design of the proposed dwelling further reduces any visual impact by utilising contrasting design techniques such as sections of pitched roof versus skillion roof. These elements help to break up the roof line reducing overall visual bulk, having a positive effect on built bulk. With exception of the small section of the roof above bedroom 4 and the master bedroom the building is compliant with both the wall plate and maximum heights.

Additionally the majority of the three storey section has utilised a flat roof with minimal ceiling space so as to minimise the building height when viewed from the street. As the proposed building site is located on a levelled pad behind a steep heavily vegetated slope, it is considered that the existing vegetation and the natural contours of the land will effectively screen the majority of the dwelling from public view and as such greatly reduce any apparent visual impact arising due to bulk and or scale of the dwelling.

- *To ensure new development mentions on appropriate residential character*

The existing area has a variety of different building designs and forms, leading to no true consistent character for the area apart from rural residential. The proposed dwelling house presents as a well designed, attractive larger dwelling house and is anticipated to contribute well to this streetscape and complement the existing character of the area. The northern and most visible elevation has been designed so that it presents an attractive residential character with large open areas and minimal bulk and scale. The dwelling, whilst large, is anticipated to present a strong residential character and will positively contribute to the amenity of the surrounding area.

The mandatory controls can be varied for sites with "major topographical or geotechnical constraints". It is considered that the natural contours of the subject site present a major topographical and geotechnical constraint. In addition the highly vegetated nature of the site precludes construction in some areas due to unsupportable risk of bushfire. This has created a situation whereby the proposed building site is the only area on the subject property which can reasonably be used for a dwelling. The building design incorporates a 2700 mm ceiling height, minimal slab on ground construction and no significant cut or fill, all of which are desirable under the objectives of Section A1 of the DCP. However these design features also act to preclude three storey developments on any site without flat land even though it is permissible under the Tweed Local Environmental Plan 2000.

It is considered that whilst the dwelling house does not strictly comply with the Design Control 5 it is consistent with the objectives of the DCP, and considering the major topographical and geotechnical constraints on the site together with the existing vegetation which will screen a portion of the development the variation should be supported.

Ceiling Height

The control encourages a minimum ceiling height of 2.7m for habitable rooms.

The proposed dwelling house satisfies this design controls.

Design Control 6- Building Amenity

Sunlight Access

The proposed dwelling house has been orientated to the north, taking account of topography, utilising passive solar design techniques to maximise solar access during winter and minimise heating during summer months. The proposal includes private open space by the provision of decks orientated to the north and therefore will receive sufficient access to sunlight. Due to the nature of the rural area and the building setbacks shadow diagrams have not been included as no other properties will be adversely affected by a loss of sunlight.

Visual Privacy

Due to the size of the rural allotment and the location of the proposal and the physical separation to surrounding dwelling houses overlooking of adjoining properties will be negligible.

The proposed building generally complies with the objectives of this control.

Acoustic Privacy

The sound insulation of this design complies with the objectives of this control and a suitable condition on the consent will be imposed to control air conditioning and other mechanical equipment.

View Sharing

The proposal satisfies this control as each of the neighbouring properties has its own exclusive opportunity to the views from their properties.

Natural Ventilation

The design complies with this control. The dwelling provides for adequate natural ventilation of the dwelling with openable windows and ample breeze paths.

Building Orientation

The dwelling house has been sited on the property to optimize views and solar access and complies with the objectives of this control by the provision of the majority of active living areas having a north-easterly aspect.

Building separation

The proposed building has been sited with adequate boundary setbacks and is therefore considered that this control has been satisfied.

Design Control 7 – External Building Elements

Fences and Walls; Front, Side and Rear

There are no fences proposed in this application.

Roof

The roof satisfies the objectives of this section in that it contributes to the contemporary appearance of the dwelling house and will provide insulation to the internal spaces.

The design of the roof is consistent with the design requirements. A condition regarding the implementation of non-reflective roof materials has been included in the conditions.

Design Control 8 -Building Performance

The proposal is consistent with this design control. As discussed previously the proposal is consistent with the SEPP (Building Sustainability Index: BASIX) 2004.

Design Control 9- Outbuildings

There are no outbuildings proposed as part of this application.

Design Control 10- Swimming pools and spas

There is an inground swimming pool proposed as a part of this application which satisfies the applicable controls.

Design Control 11- Tennis Courts

There is no tennis court proposed as part of this application

Design Control 12 - Floor Space Ratio (FSR)

The proposed dwelling house has a site coverage of 329.21m² which translates to less than 1% of the site. Under Tweed DCP A1 the maximum FSR applicable for this proposal is 0.55:1 for the dwelling house as the site has an area of 3.799 hectares. The proposed FSR for the dwelling house is 0.02:1 which satisfies this design control.

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

Clause 92(a) Government Coastal Policy

The site is located outside a coastal zone and notwithstanding it is considered unlikely that the nature and scale of the proposed development will have any detrimental effects in this location.

Clause 92(b) Applications for demolition

A condition will be included requiring demolition of the unauthorised outbuilding prior to occupation of the dwelling house.

Clause 93 Fire Safety Considerations

None required.

Clause 94 Buildings to be upgraded

None required.

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

Context and Setting

The design, scale and appearance of the dwelling house are considered to be reasonable given the site characteristics and its rural location.

Access, Transport and Traffic

Minimal impact is envisaged, the proposed is a single residence within an approved rural subdivision.

Flora and Fauna

No significant impacts anticipated as a result of the development.

(c) Suitability of the site for the development

Surrounding Land uses/Development

The proposal is not inconsistent with the surrounding land use and the site is suitable for the proposed development. The property is located within an existing rural area and utilities of power and telecommunications are provided to the site. A mixture of old and new dwellings with varying architectural styles exist within the area, the design of the dwelling is considered to be in keeping with the existing residential character of the area.

Topography

The building has been designed having regard for the existing contours of the land. Where required the building has a suspended floor to take into account existing site characteristics and the slope of the land. As there is a slope in excess of 10% across the building site, the building has been designed using a combination of slab on ground and pier and beam construction so as to minimise the extent of any cut and fill.

Site Orientation

The active living areas have been oriented to the north to take advantage of solar access.

A11-Public Notification of Development Proposals

In accordance with DCP Part A11-Public Notification of Development Proposals adjoining property owners were notified of the proposal and in response only one objection was received to the proposal.

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

In accordance with DCP Part A11 adjoining property owners were notified of the proposal and in response only one objection was received to the proposal.

Each objection and a response are listed as follows:-

- *Building height exceeds maximum permitted. The four storey height is considered excessive, not consistent with the adjoining development.*

Response – This objection is acknowledged, however permissibility comes from the final determination of the development application considering the SEPP 1 Objection. Whilst the number of storeys proposed is not consistent with the Tweed LEP, it is considered that the proposal satisfies the objectives of DCP A1 Part A and the SEPP 1 objection is supported as detailed in this report.

- *The owners are living in a shed on the property.*

Response – A site inspection revealed that the owners are living in a tent which is located inside a roofed deck located to the south of the building site. This matter will be referred to Council's Compliance Team for investigation and action.

(e) Public interest

The development will not prejudice the public interest.

OPTIONS:

1. Council resolves to approve the development application subject to conditions.
2. Council resolves to refuse the development application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the determination they have the right to appeal the decision in the Land and Environment Court which would incur financial costs to Council in defence.

Should the application be approved there is potential for one or more of the objectors to lodge an appeal against the adequacy of the processing of the application would incur financial costs to Council in defence.

POLICY IMPLICATIONS:

Approval of this application is considered to be unlikely to undermine the enforcement of Council's policies in this matter.

Each application is considered on its merits and the variations from Development Control Plan A1 and the Tweed LEP 2000 have been considered and are regarded as being worthy of approval due to the particular circumstances of the site.

CONCLUSION:

On balance the assessment of the relevant planning matters, it is considered that the proposed development is suitable for approval, subject to conditions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

6 [PR-CM] Tweed Development Control Plan Section B23 - Hastings Point Locality Based Development Code

ORIGIN:

Planning Reforms

FILE NO: GT1/DCP/B23 Pt8

SUMMARY OF REPORT:

This report provides an overview of the Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code ("the Code"), and recommends that Council publicly exhibits the draft Plan.

On 30 October 2008 Council resolved that a detailed locality plan and development control plan be prepared for the Hastings Point locality; in response, Council's Planning Reform Unit (PRU) sought quotations, and engaged Ruker and Associates Urban Design, effective as of 15 April 2009.

Since that time PRU staff has worked with the consultant to undertake extensive community consultation and provide input into development of the Draft Code. A preliminary document was received in January 2010, which was reviewed and returned to undertake further amendments considered pertinent to the existing, and desired future character of the locality.

The Draft Code is now presented in 'precincts' enabling the local community to identify with guidelines and controls customised to the unique features, characteristics and specific contextual issues of the various locations within Hastings Point.

In recognition of this local diversity and 'uniqueness', and in response to submissions and outcomes of the landowner workshops, a number of controls have been recommended in variance to the standard requirements of the Tweed DCP s A1 Residential and Tourist Development Code, and relate specifically to building height, setbacks, and floor space ratio (FSR), as tabled in this report.

The Code has attempted to address community concerns and approached this through a range of processes significant to this planning process including:

- Visual analysis and visual impact assessment
- Character analysis and interpretation
- Built form and design-lead solutions

An extensive public consultation process has been undertaken and is addressed further in the report. Comments were received from the two landowner workshops, and a comprehensive questionnaire sent to all landowners, with concerns about economic, social and environmental impacts expressed.

The Draft Code has reached the stage where additional refining through a final public consultation stage is necessary to ascertain community support and acceptance for the approach presented by the consultant. It is proposed that the Draft Plan go on public exhibition for a period of not less than 60 days, during which a further landowner workshop will be conducted.

This report seeks Council's endorsement for the exhibition of the Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code for a period of 60 days.

RECOMMENDATION:


That:-

- 1. The report on Tweed Development Control Plan Section B23 - Hastings Point Locality Based Development Code be received and noted;**
- 2. Tweed Development Control Plan Section B23 - Hastings Point Locality Based Development Code be publicly exhibited for a minimum period of 60 days, in accordance with section 74E of the *Environmental Planning Assessment Act 1979*; and**
- 3. Following public exhibition the Draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code, having regard to matters arising from the public consultation and any submissions received, a further report be submitted to Council seeking final adoption of the Plan.**

REPORT:



**Hastings Point Locality Based Development Code
Tweed DCP Section B23**

 Land to which this Plan applies

 Precinct Boundaries

0 150 300m

Cadastré 31 March, 2010
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Figure 1: Hastings Point Precinct Boundaries Interim Controls

Background

On 21 August 2007 Council engaged Ruker Urban Design to assess the appropriateness of the height and density controls under the Tweed LEP 2000 for development in Hastings Point. The final report was considered by Council on 22 April 2008 at which it was resolved:

- “1. Council amend Section A1 of the Tweed Development Control Plan to include interim development controls in relation to the height and density limit in Hastings Point applicable to all land south of the Cudgera Creek Bridge, restricting height to two (2) storeys only with such provision being reviewed no later than 12 months from the date of adoption.***
- 2. That the draft amendment be publicly exhibited in accordance with s 74E of the Environmental Planning Assessment Act 1979.”***

The interim controls were incorporated into Tweed DCP Section A1, and subsequently amended by resolution of Council, as follows:

- **25.11.2008** - Amendment to Area Specific Site Controls to include height and density provisions for Hastings Point – south of Cudgera Creek Bridge Council Resolution,
- **21.04.2009** - Extension of the Area Specific Site Controls relating to Hastings Point (south of Cudgera Creek Bridge) to the whole locality of Hastings Point.
- **28.04.2009** - Repeal of an Area Specific interim site control (density ratio of 1 dwelling per 250m² of site area) and the inclusion of a new density control of no more than 2 dwellings (dual occupancy) per site relating to Hastings Point

Height and density controls stipulated in the interim controls are:

- 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).

A review period of 12 months from adoption was applied, 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.

Resolution to prepare the Hastings Point Locality Plan and DCP

On 30 October 2008 Council resolved that a detailed Locality Plan and Development Control Plan be prepared for the Hastings Point locality; in response to which Council's Planning Reform Unit (PRU) sought quotations, and engaged Ruker and Associates Urban Design, effective as of 15 April 2009.

Since that time PRU staff has worked with the consultant to undertake extensive community consultation and provide input into development of the Plan. A preliminary plan was received in January 2010, which was reviewed and returned to undertake further amendments considered pertinent to the character, both existing and desired future character of the locality.

Public consultation

An extensive public consultation process has been undertaken comprising:

- Two landowner workshops, with a third proposed during the public exhibition period,
- Comprehensive questionnaire mailed to all landowners,
- Site inspections with community representatives,
- 'Walk-and-talk' where PRU staff, during site inspections, were able to discuss options for the future of Hastings Point with interested residents.

Extensive comment was received from the two landowner workshops and comprehensive questionnaire, with concerns about economic, social and environmental impacts being raised.

Questionnaire responses considered

A comprehensive 7-page questionnaire was mailed to all landowners; comments have been tabulated, and collated into themes to allow identification of key issues.

More than 130 responses to the questionnaire were received, the majority from landowners, however, because of a number of anomalies in responses, and the intention to collect qualitative information only, all information was used to develop a broad 'feeling' of the communities concerns, likes, dislikes, aspirations and fears for Hastings Point. The consultant was then tasked with formulating the future desired character on which any new controls and urban design principles would be based.

Landowner workshops

More than 90 landowners, family and friends attended the first workshop held on 28 June 2009, with a similar number at the follow-up workshop (20 September 2009).

Representatives from all interested parties were present and able to express their point of view in a forum where free and open expression was encouraged.

Council officers provided information on water quality, estuary monitoring, flooding and flood modelling, before Noni Ruker and Steve Hammond (Landscape Architect) made presentations prior to the breaking into small groups to workshop issues.

Feedback from both events was very positive and pointed to the workshops being both important, and a productive process at which the community had opportunity to meet with the consultant and present their thoughts directly to the document's author.

Document structure

As a result of the initial review by PRU staff, the draft Plan is now presented in 'precincts' enabling the local community to identify guidelines and controls customised to the precinct-specific contextual issues and unique features within Hastings Point.

The Code has attempted to address community concerns and expectations through the adoption of a range of contemporary planning approaches, some of which are a significant addition to the way plans have previously been prepared and include:

- Visual analysis and visual impact assessment,
- Character analysis and interpretation,
- Built form and design-lead solutions,
- Precincts approach to guidelines and development controls.

The Code contains controls, guidelines and discussion of the following:

- Urban Structure;
- Vision;
- Precinct areas (with objectives and controls);
- Precinct character (Both existing and desired future);
- Building character;
- Public open space;
- Scenic protection and visual assessment (establishing objective standards for impact assessment);
- Environmental protection;
- Foreshore protection;
- Urban vegetation;
- Circulation and access;
- Building type controls;
- Design concepts to suit Hastings Point;
- Design resource kit.

Four broad precincts have been defined in the Code for the purpose of differentiating character, guidelines and controls; the four precincts are:

- The Centre;
- Peninsula Street and the Northern entry;
- Creek Street;
- Hastings Point South, as identified on figure 1.

A 'Control Diagram' has been presented for each precinct identifying key requirements of the Code, including details such as:

- Building type and location;
- Built form;
- Building setbacks;
- Building design criteria;
- Riparian buffers;
- Infrastructure improvements;

- Vegetation planting locations.

Building type controls have been presented addressing the three major building types found in the locality, namely:

- Dwelling houses;
- Dual occupancies and town houses;
- Shop-top residential buildings and residential flat buildings

Controls have been set out consistent with the format of Council's DCP A1 using identical headings for ease of cross-reference.

Design resource material is provided as appendices for the purpose of providing additional information directly relevant to the locality and includes:

- Landscape design ideas;
- Building design and materiality.
- Vegetation community species planting lists;
- Constraints maps.

Specific features of this Plan

In recognition of this local diversity and 'uniqueness', and in response to submissions and outcomes of the landowner workshops, a number of controls have been recommended above-and-beyond the standard requirements of DCP A1, and relate specifically to building height, setbacks, and floor space ratio (FSR).

Building height

Maximum height of buildings						
Building type	Overall	Wall Plate	When southern side is within 3 metres of boundary	Detached garage And carports		
				Eaves	Flat roof	Pitched roof
Dwellings, Dual Occupancy, town houses (See note *)	8	7.5		2.4	2.7	3.5
Shop top residential and RFBs (See note **)	10	9	7	2.7	3.5	4.5

Note:* Centre Precinct - Shop-top RFBs and RFBs up to 3 storeys may be considered by Council where a range of requirements spelt out in the Code are met.

****** Hastings Point South Precinct - RFBs up to 3 storeys in may be considered by Council where a range of requirements spelt out in the Code are met.

While building height has been prescribed for each building type within the Building Type Controls section, their location and certain qualifiers are defined within the Control Diagram for each precinct, as summarised below:

Precinct specific building controls (summary only)*			
Precinct	Controls		
	Caravan Park	Commercial Lots	Residential Lots
The Centre	<ul style="list-style-type: none"> • Providing caravan, tent and cabins only. 	<ul style="list-style-type: none"> • Widened footpath to 6 metres. • Commercial buildings and coastal shop-top housing. • Shop-top RFBs up to 3 storeys may be considered. • 3rd storey maximum of 30% of level below. 	<ul style="list-style-type: none"> • In 2b zone – Dwelling houses, Dual occupancies, Granny flats and town houses. • RFBs up to 3 storeys may be considered. • RFBs to be a maximum of 2 storeys for at least 10 metres back from front setback. • Third level to be 30% of level below.
Peninsula Street and Northern Entry	<ul style="list-style-type: none"> • Retained for holiday accommodation and associated facilities. 	<ul style="list-style-type: none"> • Redevelopment along Tweed Coast Road to consider shopfronts with zero setbacks along the road where shown. • Redevelopment in front of the caravan park to provide 10 metre landscaped area along the road. 	<ul style="list-style-type: none"> • In 2b zone – dwelling houses, dual occupancies, granny flats and town houses, and small coastal RFBs.
Creek Street	<ul style="list-style-type: none"> • Retained for holiday accommodation and associated facilities. 	<p style="text-align: center;">Subdivision</p> <ul style="list-style-type: none"> • New streets to provide view corridors to surrounding natural landscape. • Lots created on Creek Street to be consistent with existing allotments. 	<ul style="list-style-type: none"> • In 6b, 2a and 2e zones - dwelling houses, dual occupancies, granny flats. • In 2b zone – dwelling houses, dual occupancies, granny flats and town houses.
South Hastings Point		<ul style="list-style-type: none"> • Redevelopment along Tweed Coast Road to consider shopfronts with zero setbacks along the road where shown. • Redevelopment of petrol station is located must provide a 10 metre landscaped setback along southern boundary. 	<ul style="list-style-type: none"> • In 2a and 2b zones – dwelling houses, dual occupancies, granny flats and town houses. • RFBs up to 3 storeys may be considered. • RFBs to be a maximum of 2 storeys for at least 10 metres back from front setback. • Third level to be 30% of level below.

Note: * Detail relating to the location of recommendations listed are shown in the Control Diagram for each precinct.

Setbacks

Setbacks are an important feature defining the character of both streetscapes and precincts more broadly within Hastings Point. Front setbacks can vary significantly; this variation a part of the existing character of the locality. The use of variable setbacks is an attempt to protect this defining feature and ensure that future development is consistent with the desired future character of the precinct and locality. The following table summarises the key setback requirements.

Setback requirements by building type			
Building Type	Front setbacks	Side setbacks	Rear setbacks
Dwelling houses	<ul style="list-style-type: none"> In accordance with precinct plan in Part 4; can vary +/- 1 metre; Can vary by up to +/- 2 metres where the angle of the front and side boundaries vary by more than 10 degrees. 	<ul style="list-style-type: none"> No variation to DCP A1. 	<ul style="list-style-type: none"> Minimum 5.5 metres.
Dual occupancies and town houses		<ul style="list-style-type: none"> 1.5 metres for the first and second levels; 3.0 metres from southern boundary; 4.0 metres where walls contain primary windows of living areas. 	<ul style="list-style-type: none"> Minimum 8.0 metres.
Shop-top residential and residential flat buildings		<ul style="list-style-type: none"> Zero for at least 5.0 metres back from the street boundary. Can have 1.5 metre minimum first and second levels; 3.0 metres from southern boundary for third level; 4.0 metres where walls contain primary windows of living areas 	<ul style="list-style-type: none"> Minimum 8.0 metres. Minimum of zero for shop-top housing and RFBs
	<ul style="list-style-type: none"> Built to street boundary. 		

Floor Space Ratios (FSR)

The following table summarises variations to FSR requirements under this Code.

Building type and maximum FSR		
Dwelling houses	Dual occupancies and town houses	Shop-top residential and residential flat buildings
<ul style="list-style-type: none"> No variation to DCP A1. 0.55:1 except where dwelling does not cover more than 50% of the site in which case 0.65:1 	<ul style="list-style-type: none"> No variation to DCP A1. Dual occupancy - 0.55:1 except where dwelling does not cover more than 50% of the site in which case 0.65:1; 0.45:1 for detached dwellings Town houses – 0.8:1 	<ul style="list-style-type: none"> Shop-top RFBs 1:1. RFBs and Shop-top housing 0.8:1.

Building design criteria

One of the unique features of the Code is the inclusion of the 'Design Resources' appended to the Code and cross-referenced to development controls for each precinct. The Design Resources provide extended building design criteria to ensure that future development compliments the desired future character of the locality as a small coastal settlement. The design criteria include:

- Building form;
- Building footprint and height;
- Building materials and detailing;
- Landscaping;
- Roof design;
- Colours;
- Fences and Walls, and
- Rams and driveways.

Photographic representations are used to help visualise potential outcomes of the application of these criteria, as illustrated in the extract below.

6.2.1 DESIGNING TO SUIT HASTINGS POINT

Hastings Point's desired future character is as a small coastal village. As such buildings; whether single detached houses or multi-dwelling buildings, need to reflect the scale of a smaller settlement rather than an urban setting.

This necessarily requires a greater degree of design consideration for breaking down the bulk of the building, carefully detailing the building to give it a residential feel, breaking up the roof form and using lightweight materials.

Responsiveness to the site and the local environment as well as improving internal amenity and livability will also help to further modulate the buildings form and assist in breaking down building bulk.

The building is clad and it has a variety of domestically scaled windows and doors rather than all the walls being glass.

The garage is not more prominent than the buildings elevations. It has garage doors in line with the buildings elevation.

Landscaping features along the street using local species



The building is broken down into a series of forms.

A composition of materials including timber and weatherboard gives the building a coastal feel.

Skillion roof with overhangs and feathered edges softens the building against the sky.

The footprint of the top level of the building is only a portion of the level below. The top level of the building is under the roof.

Windows are shaded.

This is just one example of a building that has some of the design attributes appropriate for buildings in Hastings Point.

Public domain strategies

In addition to development controls relating to specific building types and precincts, the Code also makes a number of recommendations relating to public domain and streetscape. These public areas are an important component of existing character, and will have a significant role to play in establishing the desired future character of Hastings Point. Recommendations include:

- Estuary Beach Park:
 - Additional shade planting;
 - Extended pathway;
 - Upgrading BBQ and shelters.

- The Headland:
 - Enhanced planting;
 - Retain camping areas;
 - Rationalise access paths.
- Cudgera Creek Foreshore:
 - Recognise riparian areas to provide habitat and natural embankment stabilisation;
 - Establishment of riparian buffers

The following is an extract from the draft Code showing an example of streetscape improvements



Artists impression of the Tweed Coast Road with street tree planting and shrub planting



Existing view along the Tweed Coast Road looking north

Key issues

Matters which may generate responses from the community include:

- Residential building height: maximum building height varies between precincts, and while an overall height limit of 8 metres is recommended for residential dwellings, there is scope for 3 storeys under certain circumstances;
- Density and permissible building types: permissible building types for each precinct have been recommended;
- Setbacks: front and rear setbacks of up to 10 metres may impact in certain locations as identified in the 'Control Diagrams' for each precinct;

- Vision: the vision presents one of a range of potential future built form outcomes for the locality;
- Application of design criteria: the ability of the design criteria to assist the community understand how buildings can be designed and constructed to be consistent with the desired future character of the locality will be an important part of the final success of this document.
- Structure and language: Some variations to the format of the document and grammar are expected in the finalised document.

Submissions regarding these and other matters will provide valuable feedback which will be considered when preparing the finalised document.

CONCLUSION:

The draft Code has been prepared on the basis of extensive community consultation with the local landowners and residents, and having regard to the existing built and natural environment.

The consultant has provided a draft Code that has undergone several amendments. The project has reached a stage where the principles, ideas, and controls within the code need to be 'tested' for their level of acceptance within the broader community. The draft Code is considered suitable for exhibition purposes.

Planning staff would like to acknowledge however that there are certain elements of the Code that will need to be refined or further clarified following exhibition, when the document is formally handed over to Council and the consultant's role ceases.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

The policy implications from adoption of this plan will be a change in building height that will need to be amended in the Tweed LEP 2000, and any finalised version of Draft Tweed LEP 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 (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. Copy of Tweed DCP Section B23 – Hastings Point Locality Based Development Code for endorsement (ECM 14878201)
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7 [PR-CM] Pottsville Locality Based Development Code

ORIGIN:

Planning Reforms

FILE NO: GT1/DCP/B21 Pt2

SUMMARY OF REPORT:

Council originally resolved on 29 May 2007 to prepare a locality plan and DCP for Pottsville, which commenced with the appointment of the firm Architectus as Council's Consultant in June 2007. A draft DCP and Locality Plan was publicly exhibited in May 2008. As a result of an emerging appeal in the Land and Environment Court relating to a major shopping centre proposed on the Seabreeze Estate. In August 2008 Council resolved to investigate suitable site options for a supermarket within the Pottsville village centre. Following the successful defence of the Seabreeze Land and Environment Court Appeal, and upholding of Council's Retail Strategy, Council's Planning Reform Unit produced a revised Draft DCP and Locality Plan, which was endorsed by Council for public exhibition at its meeting of 15 September 2009.

The project process has been a varied one that has resulted in two public exhibition processes, each with a different Plan, with the latter current Plan being prepared by Council staff. This resulted in-part from Council's legal defence to an out-of-centre supermarket and the Council's subsequent resolution to reinvestigate suitable site options for a supermarket within the Pottsville village centre, with the view to upholding the adopted retail strategy.

The public exhibition was conducted in October/November 2009 of the draft Development Control Plan – Section B21 Pottsville Locality Based Development draft Plan (the "draft Plan") and a detailed summary of submissions is addressed in the report. It identifies the key issues raised in the 42 public submissions received and a response upon which the final draft Plan has proceeded.

The draft Plan, having been widely consulted on, and prepared with regard to the need to provide for ecologically, socially and economically sustainable development, is now considered suitable for adoption.

Adoption of the Plan will advance the effectiveness of Council's broader strategic planning framework and will continue with the appropriate growth management principles for Pottsville, as previously delivered through the Pottsville Village Strategy 1997.

RECOMMENDATION:

That Council:-

- 1. Receives and notes the amendments to the publicly exhibited Draft Development Control Plan Section B21 - Pottsville Locality Based Development draft Plan, arising from the review of public consultation submissions;**
- 2. Adopts the Development Control Plan Section B21 - Pottsville Locality Based Development draft Plan, 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; and**
- 3. Requests the Director of Planning and Regulation to forward a copy of Development Control Plan Section B21 - Pottsville Locality Based Development draft Plan to the Director-General of the NSW Department of Planning in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.**

REPORT:

BACKGROUND:

In accordance with the four-year priority actions of the *Tweed 4/24 Strategic Plan* (Tweed Futures), Council's Planning Reform Unit (PRU) along with their consultant, Architectus, commenced the preparation of a new draft Pottsville Locality Plan and Development Control Plan (DCP). The process began in 2007 and concluded with the exhibition a draft Plan in May 2008.

Several issues were raised for consideration subsequent to the public exhibition. They included the need to further investigate options for a retail supermarket within the Pottsville village, which stemmed from Council's successful defence in the NSW Land and Environment Court against a deemed refusal appeal for a supermarket and ancillary shops proposed within the Seabreeze Estate, and following expressions of interest from the Land and Property Management Authority (formerly Dept of Lands) for, among others, the development of specified Crown land within the Pottsville village centre for retail supermarket purposes.

At the Ordinary Council Meeting of 12 August 2008 it was resolved to investigate site suitability options to determine whether appropriate sites existed within the village centre to accommodate the village's longer-term retail needs, in accordance with Council's adopted retail strategy. Several sites were subsequently identified and along with additional urban design investigations the draft 'Architectus' Plan was substantially redrafted by the Planning Reform Unit. Among the amendments was the consolidation of the locality based and regulatory based elements. This process is consistent with other adopted like plans and provides a clearer connection between the strategic 'visioning' aspect and the design controls in a comprehensive DCP format, with the added benefit of there being a mandatory requirement under the Environmental Planning and Assessment Act 1979, for its consideration and compliance with any development application.

Council further resolved on 15 September 2009 to publicly exhibit the draft DCP, Section B21 - Pottsville Locality Based Development draft Plan ("the draft Plan"), following which public exhibition occurred between 14 October 2009 and 24 November 2009. As part of the Planning Reform's community engagement strategy for the draft Plan two public information sessions were held in Pottsville, and included a formal powerpoint presentation and open discussion forum.

Forty-two public submissions were received, the details of which are addressed further in this report. The draft Plan for adoption includes a public consultation section presented in a format similar to that utilised in the Tweed Urban and Employment Land Release 2009.

KEY FEATURES OF THE PROPOSED NEW PLAN

The draft Plan is a locality based planning document aimed at guiding the development of Pottsville over the next 25 years, and is subject to a five year review period. It is the culmination of an extensive strategic planning body of work developed through the Tweed 2000+ strategic Plan (2000), Tweed 4/24 Strategic Plan (2004), the Pottsville Village Strategy 1998 and Council's adopted Retail Strategy (2005).

The draft Plan's area of application is identified in Figure 1.2 of the Plan, comprising the village centre, surrounding urban residential and employment areas. Its format is structured in such a way that the Plan's regulatory and urban design controls are entrenched within the broader strategic visioning component so that the end user is familiarised in a holistic sense with the overall picture both of how the area is likely to grow but also what the expectations are for development on an individual lot basis. This format is advantageous to most DCP formats where the controls and developments of individual sites are often looked at in isolation or a vacuum of other competing factors. It recognises the importance of the interrelationship between individual lots and their immediate area and those areas within the locality.

The draft Plan contains strategies and guidelines in the following areas:

- Urban Structure
- Traffic and Transport – Public Transport
- Traffic and Transport – Bicycle
- Traffic and Transport – Pedestrian
- Traffic and Transport – Road Network
- Environment
- Community Facilities
- Education
- Village Centre Structure Plan
- Village Centre Key Development Sites
- Retailing
- Supermarket design
- Public Domain and Infrastructure
- Area Specific Strategies for Pottsville North, Koala Beach, Seabreeze Estate, Pottsville Waters, Black Rocks Estate, Dunloe Park Release Area, Kings Land Release Area and Employment Lands Release Area.

Most notably by way of improving sustainable planning for Pottsville are strategies and urban design measures for:

- Establishing a Pottsville Urban Structure Plan;
- Raising the total building height permitted within specified areas of the village centre to allow for residential accommodation in a part 3 storeys/11m building format;
- Expanding retail and mixed-use development opportunities within the village centre to meet longer-term community demand,
- Pursuit of the north loop road immediately to the north of the existing shops fronting Coronation Avenue as measure to improve accessibility, business and recreational opportunities;
- Maintaining the functional hierarchy and supremacy of the village centre as the primary Pottsville business centre through the identification of potential full-line supermarket sites;
- Public domain improvement works, and
- Identification of potential opportunities for youth and community facilities.

The overarching principle of the draft Plan is to foster development which reaffirms the broad settlement pattern of Pottsville through a framework that encourages active consideration of environmental constraints, whilst maintaining and enhancing the existing 'connected villages' structure. The village centre is to be consolidated as the primary activity hub for the Pottsville community by increasing its opportunity for retail, commercial and accommodation development, encouraging a mix of business and community uses, improving the quality of the public domain and enriching the experience for residents and visitors.

PUBLIC EXHIBITION AND SUBMISSION REVIEW

The public exhibition concluded with 42 public submissions and an assessment of the issues raised is provided as Attachment 1, which is also included in the public consultation section of the Plan. There were several recurring issues that are noteworthy and that require some discussion within this report, as provided below.

The Plan canvasses the possibility of the future road opening of Phillip Street, if required as part of a future road management strategy for the area. This raised quite a lot of discussion and opposition through the submissions, as did, the proposed increase in building height within the village's primary business centre, and to the location of a possible supermarket on the Crown Land site ('Site F' on Figure 4.7, page 104 of the Plan).

Post Exhibition Amendments

Post the public exhibition period, several amendments have been made to the Plan, namely, but not limited to:

- *Increase in the study area to align with the Hastings Point Locality Based Development Code*

A gap between the extents of the two study areas previously existed, however served no apparent objective. For continuity, the Pottsville study area was extended to the north to include the previous gap.

- *Reduction in previously exhibited building heights for the village centre*

As discussed within this Council report, post review of the public submissions and further modelling the maximum height of buildings in the village centre has been reduced from 13.6m to 11m.

- *Refinement of Design Controls for development in the village centre*

Post review of the public submissions and further urban design modelling several of the Design Controls applicable to the village centre were amended to reflect the reduced building height and to provide greater setback requirements from property boundaries.

- *Additional heads of consideration for potential supermarket development sites*

Additional clarification and heads of consideration for potential supermarket development sites have been included to ensure a positive outcome by way of infrastructure provision and urban design qualities.

- *Refinement of traffic network improvement strategies*

As discussed within this Council report, greater clarification has been included for several of the traffic network improvement strategies and their links between key development opportunities.

- *General Housekeeping*

General formatting to improve the readability of the Plan.

Locating a Potential Full-Line Supermarket within the Pottsville Village

The possibility of locating a 'full line' supermarket within the village centre has been the most discussed and analysed element of the project; both the consultant, Architectus, and Council's planning staff concluding that the preferred sustainable option for the Pottsville village is to consolidate the business centre by locating any future supermarket within the village. This approach is also consistent with the adopted retail strategy, which has been consistently applied throughout the Tweed.

The broader issues raised about the supermarket comprised:

- whether there was in fact a need for a full-line supermarket in Pottsville;
- the potential of a full-line supermarket to cause economic stress on current businesses;
- doubt as to whether a full-line supermarket could positively integrate into the existing urban character of the village centre;
- whether a full-line supermarket would result in adverse traffic impacts on the village centre and surrounding area;
- that some, and in some cases all, of the sites identified in the draft Plan were not suitable for a full-line supermarket, as well as, some support that the identified sites were suitable for the a full-line supermarket, which included a submission from a major retail supermarket operator that at least some of the sites would be suitable; and,
- that the adopted retail strategy as promoted in the draft Plan is supported.

As with other forms of development it is generally not the Council's role to determine whether a full-line supermarket is needed and where it should be specifically located. The role of the locality plan is to ensure that it provides appropriate guidance for the location of a supermarket should the 'market' determine that there is sufficient demand for one, and to ensure that there are suitable sites and urban design guidelines to assist the industry with its commercial decisions about siting, size and design.

Whether there is sufficient demand for a retail supermarket to be pursued the industry is best placed to make that determination. It is however noteworthy that residents of the Pottsville community have made many representations about their desire for a larger supermarket in the locality, this was quite evident during the Court Appeal involving the Seabreeze supermarket proposal; a case where the communities apparent desire for a supermarket was seemingly greater than the location as then proposed.

The planning system is not designed nor should it be used to stifle competition in the commercial / business sector. It is arguable that greater competition has the potential for providing customers/the community with access to a wider variety and quality of products and services at more competitive prices. The planning system is very much the facilitator of competition in that it should be providing a fair and equitable environment 'a level playing field,' with the ability to stimulate innovation and diversity. The draft Plan provides the opportunity for this to occur in a structured way that is ultimately targeted at ensuring the desirability and sense-of-place of the Pottsville village centre, and the locality generally.

In determining the suitability of potential supermarket sites a detailed desktop and urban design analysis was undertaken that also included a traffic assessment by Council's Traffic and Transport engineers. It was concluded that the existing road network is operating well under its design capacity and has the ability to sustain the additional traffic a full-line supermarket would generate, albeit with the possibility of requiring additional traffic management or road design measures.

Owing to the opportunity for improving the existing road network and pedestrian permeability and access throughout the village the draft Plan canvasses several potential options, including extensions of existing roads, new laneways and other traffic management methods, such as road alignment and pedestrian crossings. A highly desirable option for improving overall accessibility is the 'North, or rear laneway', which has the potential to bypasses a section of the main street (Coronation Avenue), and the draft Plan provides options for the loop road in two configurations that are dependant upon the final built form of the village, and which are contingent upon the location of any new supermarket.

Acknowledging the issues raised in the public submissions about the suitability of the identified potential supermarket sites it is noteworthy that the Plan is very clear about the constraints as well as the opportunities presenting each of the sites. The Plan makes no assumption about the ultimate capacity of the site to support a supermarket as this will only be determined following detailed site investigation at the development application level of detail, which is the responsibility of the proponent. Following the line of the planning system, detailed assessment of a sites suitability to support a supermarket would then be subject to the merit review process detailed by the *Environmental Planning and Assessment Act 1979*.

Best practice sustainable and socially responsive planning and design indicates that any new supermarket should be located within the village centre. However, the draft Plan has been designed to ensure that in the event that a supermarket cannot be sited in the village centre that one is not precluded altogether and that other potentially suitable areas may be considered, including within the future urban release area colloquially known as 'Dunloe Park.'

In summary, the Pottsville village centre has fulfilled a wider role than simply a place to shop; the village centre also provides the focus for community, cultural and entertainment activities for the whole community. The draft Plan seeks to maintain these functions and where possible encourage enhancement. The consolidation of the village centre as the primary activity hub is seen as an essential ingredient of maintaining that role, and improving opportunities for retail, commercial and accommodation development by providing appropriate guidance and commitment through the draft Plan, which should lead to improvements in the quality of the public domain and enriching the experience for Pottsville residents and visitors.

Building Heights in The Village Centre

The Tweed LEP 2000 presently restricts development within the village centre to 2 storeys (10 metres max), with the exception of a component of 'Site F' which is restricted to 3 storeys (15 metres max).

The draft Plan was exhibited with a building height of 13.6 metres in the village centre, which is consistent with the adopted Tweed DCP Section A1 – Residential and Tourist Development draft Plan. Following the exhibition further design testing was undertaken and has resulted in a reduction from the 13.6m height to an 11m height. In areas currently zoned 2-storey under the Tweed LEP 2000 a commercial building is permitted to 10 metres whereas in a 3-storey area that height increases to 15 metres. The draft Plan is premised on improving the diversity and availability in both the business sector and housing sector. Through considered design solutions and illustration the draft Plan proposes mixed use development to height of 11 metres, which can comprise of three levels; retail, commercial and residential, without significant impact on the village's character.

The building heights proposed in the draft Plan are a rationalisation of the heights adopted in both the Tweed LEP and Tweed DCP, and provide greater opportunity for achieving the objectives of the draft Plan. The following map shows the extent of the amended building heights proposed.



Figure 1.1 –Height Of Buildings Within The Village Centre

In addition to the 2.6m reduction in maximum building height, additional design controls have been included to reduce the bulk of development as viewed from the street level. In this regard, a 2nd storey setback control of 3 metres from the primary frontage has been added to the draft Plan, as well as the allowable 3rd storey component being restricted to 30% of the floorplate below. Previously, up to 70% was proposed. These amendments have also resulted in a reduced permissible floor space ratio (FSR).

The figure below provides a graphical demonstration of the controls contained.

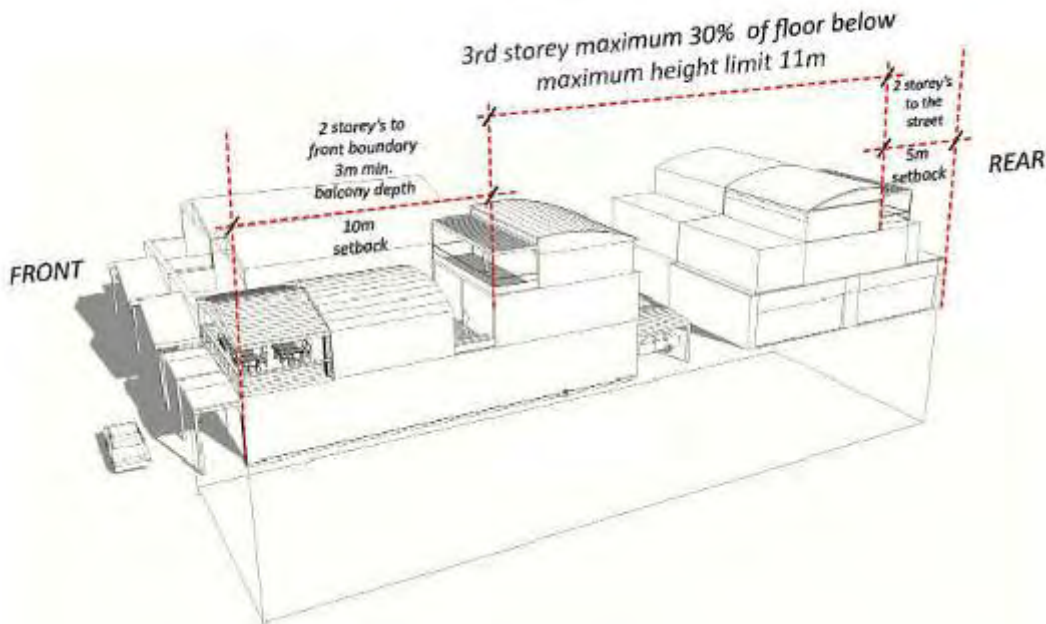


Figure 1.2 – Building Controls

As discussed above, the amendments made to the draft Plan post further modelling and public submissions received substantially reduce building bulk and visual prominence above the ground floor. Coupled with the building material requirements and identification of desirable design considerations detailed within the draft Plan, it is considered that the draft Plan will enable the delivery of high quality development that retains the characteristics of the Pottsville village centre and promotes good design within more contemporary forms into the future.

In summary, the height limits are considered appropriate and desirable for the locality and provide greater opportunity for delivering both improved diversity in housing choice and affordability, which are considered to be greater benefits to the Tweed community than the limited, if not imperceptible, cost on the villages' urban character, that is, the draft Plan is socially and economically responsive.

The Opening of Phillip Street to Through Traffic

At present, Phillip Street provides a north-south link alongside the Market Park from Coronation Avenue, terminating in a cul-de-sac, approximately 50 metres north of Phillip Street/Overall Drive. Whilst previously being a through road, the closure of the road in front of the Pottsville Neighbourhood Centre has enabled Phillip Street to be a more pedestrian friendly environment with fewer vehicular movements, direct pedestrian linkages from the Neighbourhood Centre to the Market Park, and has resulted in a safer environment for passive recreational use of the Market Park. Many of the submissions received detailed a strong value in the retention of these qualities, along with concerns regarding the potential increase in noise and how that would relate to amenity levels and the loss of property values.

The potential opening of Phillip Street to through traffic was included in the draft Plan for several reasons, firstly the need to ensure adequate vehicular servicing for any 'full line' supermarket site (delivery trucks and car parking) and an extended retail precinct, and secondly, to enable future opportunities to further disperse vehicular traffic within the village centre road network, creating greater levels of traffic efficiency in the village centre.

It is quite clear that the predominate nexus in re-establishing Phillip Street as a through road is the potential location of a full line supermarket along Phillip Street and at present the traffic feedback received has indicated that void of a full line supermarket being positioned along Phillip Street, the need to reinstate Phillip Street as a through road is not present.

In light of the operational timeframe of the draft Plan (25 year time horizon) and the draft Plans emphasis on reinforcing the Council's Retail Strategy, removing this component from the draft Plan was considered premature and would undermine some of the key objectives of the draft Plan.

Accordingly, the draft Plan has been amended post public exhibition to include the principle that in the event of Site's A, B or G (as identified on Figure 4.X) being developed for a supermarket use, that should the traffic impact assessment submitted require the extension of Phillip Street as a through road, that design options are to be explored, in consultation with the Pottsville community, to achieve the following objectives:

- Pedestrian primacy over vehicular traffic is to be maintained along Phillip Street
- Clear and legible pedestrian and cycle crossing points are to be identified and provided to maintain and where possible enhance safety and permeability either side of Phillip Street
- Traffic calming methods and other design solutions are to be explored to maintain pedestrian safety and comfort levels.
- That the details of the consultation undertaken be recorded and included as part of any Development Application submitted.

Other issues raised by way of public submissions are addressed within Attachment 1 – Public Consultation Submission Review.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The adoption of the draft Plan will necessitate amendments to several Council documents, including the Tweed LEP, amendments to existing Section 94 Contribution Plans and the development of a comprehensive Public Domain Improvements and Infrastructure Plan.

POLICY IMPLICATIONS:

The adoption of the Pottsville Locality Based Development draft Plan seeks to provide a clear direction and prioritisation of Council's strategic planning as it relates to the Pottsville locality.

CONCLUSION:

The Pottsville locality has had the benefit of a robust and highly relevant strategic plan, *Pottsville Village Strategy 1998*, which has played a significant role in managing the growth of the village during times of increasing redevelopment pressure. However, that Plan, although still of some relevance, needs to be updated.

The draft Plan has been drafted taking account of the many valuable and relevant elements of the earlier Strategy, extensive community consultation, as well as seeking to take the best of current best practice urban planning, community input and Land and Environment Court outcomes.

Pottsville is a unique and diverse place and has many challenges to face as new development occurs and as the population increases. Among those challenges is maintaining the sense of place that Pottsville residents and visitors have about the village. This requires careful planning about what uses should and should not be permitted to occur in and around the village, whilst at the same time respecting that the area is in a state of continual transition and evolution. The draft Plan has taken all of these factors in to account and has been designed to foster Pottsville village as meeting place for business, residents and visitors, whilst at the same time allowing the village to grow and expand to meet the needs of the community as it grows and diversifies.

Principally, the draft Plan is about ensuring that the growth of the village and its surrounding areas is managed in a coordinated way, that 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 developments are not ahead of their time. 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 five years.

The draft Plan since exhibited has been amended to take in to account the matters raised in this report relating to the receipt of public submissions and feedback.

The draft Plan is premised on best practice, it is highly relevant and geared to managing development and growth into the future.

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. Public Consultation Submission Review (ECM 14825522)
 2. Copy of Tweed DCP Section B21 – Pottsville Locality Based Development Code for endorsement (ECM 14877827)
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8 [PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

ORIGIN:

Director Planning & Regulation

SUMMARY OF REPORT:

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

RECOMMENDATION:

That Council notes the March 2010 Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

REPORT:

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

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

DA No.	DA09/0494
Description of Development:	Two (2) lot subdivision
Property Address:	Lot 4 DP 1133303 No. 358 Back Creek Road, Back Creek
Date Granted:	1/3/2010
Development Standard to be Varied:	Clause 20(2)(a) - Minimum lot size 40ha
Zoning:	1(a) Rural
Justification:	The proposed development incorporates two (2) allotments: proposed Lot 5 - 60.22ha; and proposed Lot 6 - 39.25ha. The subdivision is proposed along the alignment of Back Creek. The applicant has stated that it would be unreasonable to include 0.75ha across Back Creek to meet the 40ha minimum lot size. The applicant has acknowledged that proposed Lot 6 will have to rely on existing use rights (relating to the existing dwelling approved under DA04/0459) for a dwelling entitlement as a result of Lot 6 not meeting minimum requirements. The proposed subdivision incorporates only one allotment less than minimum, which is 98.125% of the minimum area. Therefore, Council has assumed concurrence pursuant to Planning Circular B1 (issued 17 March 1989).
Extent:	Lot 5 = 39.25ha = 98.13% of the 40ha minimum
Authority:	Tweed Shire Council

DA No.	DA09/0722
Description of Development:	Dwelling, swimming pool & spa
Property Address:	Lot 31 DP 1030322 Collins Lane, Casuarina
Date Granted:	19/3/2010
Development Standard to be Varied:	Clause 32B(4)(b) – overshadowing
Zoning:	2(e) Residential Tourist, 7(f) Environmental Protection (Coastal Lands)
Justification:	The proposal will result in a minor departure from the standard and this is restricted to very late in the afternoon, being approximately 7pm mid summer daylight saving time.
Extent:	The standard is considered to be unreasonable and unnecessary in the circumstance. The proposal will result in a minor departure from the standard and this is restricted to very late in the afternoon, being approximately 7pm mid summer daylight saving time. During this time all two storey dwellings along the coastal strip project shadows onto the coastal foreshore areas. It is contended that the minor departure from the development standard will not adversely affect the coastal foreshore or the beachfront.
Authority:	Tweed Shire Council

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au 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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REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

9 [CNR-CM] Water Sharing Plans

ORIGIN:

Water

SUMMARY OF REPORT:

This report provides background on the submissions made on behalf of Council to the draft water sharing plan process which is currently administered by the NSW Office of Water.

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. However Council's input into this process is limited to the public submission opportunities provided.

It is anticipated that the Water Sharing Plan will now be gazetted by mid 2010.

RECOMMENDATION:

That Council receives and notes the report on Water Sharing Plans.

REPORT:

This report provides background on the submissions made on behalf of Council to the draft water sharing plan process which is currently administered by the NSW Office of Water.

The Water Management Act 2000 was introduced to protect the health of the State's rivers, while also providing water users with greater security regarding the perpetual tenure of the water access licences, certainty over future access to water, and increased trading opportunities through separation of land and water.

Over the past decade 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.

This 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

Council was again invited to comment on the updated Report Cards and for the first time on the draft WSP document, in September 2009.

This submission again focused on secure yield impacts and operational issues, but also requested that:

- the Draft Water Sharing Plan be amended to permit the option of a future dam for town water supply at Byrrill Creek thereby maintain the existing situation.
- 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 with in the share component of the Mid-Tweed Access Licence.

The respective report cards, draft WSP document and the submissions made on behalf of Council are provided for reference under a separate cover.

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. However Council's input into this process is limited to the public submission opportunities provided.

It is anticipated that the Water Sharing Plan will now be gazetted by mid 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).

1. Report Card – Mid-Tweed Water Source, March 2006 (ECM 14860805)
 2. Letter - Northern Rivers CMA RE: North Coast Macro Water Plan – Mid-Tweed Water Source, March 2006 (ECM 1362038)
 3. Report Card – Upper Oxley Water Source, March 2006 (ECM 14860805)
 4. Letter - Northern Rivers CMA RE: North Coast Macro Water Plan - Upper Oxley River - Tweed River Area, March 2006 (ECM 1361895)
 5. Report Card – Mid-Tweed Water Source, September 2009 (ECM 14860805)
 6. Water Sharing Plan TSC submission Mid Tweed Oct 2009, October 2009 (ECM 7848560)
 7. Report Card – Upper Oxley Water Source, September 2009 (ECM 14860805)
 8. Water Sharing Plan TSC submission Upper Oxley Oct 2009, October 2009 (ECM 7848559)
 9. Draft Water Sharing Plan Tweed River Area Unregulated and Alluvial Water Sources Order, August - October 2009 (ECM 14860805)
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10 [CNR-CM] Host Sponsorship - Australian Water Association (AWA) 2010 Queensland Branch Regional Conference 26-28 November 2010

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

A request has been received from the Australian Water Association (AWA) for Tweed Shire Council to be the host sponsor for this year's Queensland Branch Regional Conference at SALT Village, Kingscliff.

RECOMMENDATION:

That Council:-

- 1. Accepts the invitation to be host sponsor to the Australian Water Association (AWA) 2010 Queensland Branch Regional Conference to be held at SALT Village, Kingscliff 26-28 November 2010 for the amount of \$7,500 excl of GST.**
- 2. Votes the expenditure from the Water and Sewer Fund budgets.**

REPORT:

A request has been received from the Australian Water Association (AWA) for Tweed Shire Council to be the host sponsor for this year's Queensland Branch Regional Conference at SALT Village, Kingscliff.

The AWA is the lead agency for the Water and Wastewater industry in Australia. The Queensland Branch Regional Conference is one of the major events of the year and is attended by over 200 delegates throughout Queensland and Northern New South Wales.

Council was joint host with Hunter Water for the 2006 conference which was very successful.

Following is a copy of the letter of invitation for the conference.



1 April 2010

Mr David Oxenham
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Mr Oxenham

Host Sponsorship for the AWA 2010 Queensland Regional Conference
26-28 November 2010 – SALT Village, Kingscliff

The Australian Water Association is the lead agency for the water and wastewater industry in Australia and the Queensland Regional Conference is one of the major events to be held in Queensland each year. We would like to formally invite Tweed Shire Council to be the Host Sponsor for this year's regional conference. Your sponsorship will provide you with the opportunity to put your name and organisation in front of the people and organisations that run the water industry in Queensland, if not Australia.

The conference will once again be different to other years and will be held at the two outstanding resorts at SALT – Peppers Salt Resort & Spa and Mantra on Salt Beach. This conference is a combination of technical and social aspects that is planned over a weekend to take advantage of the latest trends in the water industry and local recreational and tourist attractions. The conference, as has come to be expected, will incorporate a trade display and many networking opportunities.

Being the sole Host Sponsor will substantially promote the profile of your organisation within the water industry and provide you with the opportunity to display Tweed Shire Council's commitment and support of the water industry, both with professionals and clients from all aspects of the water industry.

As Host Sponsor, Tweed Shire Council would be entitled to:

HOST SPONSOR (1 only) \$7,500.00 excl. GST

- Your logo will appear prominently on any printed material in relation to the conference and will be included in such material as the registration brochure and conference proceedings cover
- Shared sponsor rights to, with Platinum Conference Sponsors (maximum 2) and display of banner* at the Conference Dinner
- 2 full conference delegate registrations
- 2 additional invitations to Conference Dinner
- An insert of your A4 corporate profile* into conference proceedings

2

- You may display two banners* in the conference auditorium
- Inclusion of corporate profile* into conference proceedings
- Your logo will be prominently featured on the PowerPoint presentation shown throughout the Conference
- The opportunity to provide delegates with a branded corporate gift*

*To be provided by Sponsor.

Tweed Shire Council will be provided with a maximum 30 minute time slot during the opening session of the conference to address delegates. If you do not wish to use this time period it would be appreciated if you could advise at your earliest convenience so that we can finalise the program accordingly. This is seen as a great opportunity to promote any innovative or ongoing projects that are being undertaken by your Council and that may be of interest to conference delegates.

We would also appreciate if the Mayor of Tweed Shire Council would be available to officially open the conference on the morning of Friday, 26 November 2010. Could you please advise if we need to communicate with him directly in regard to this invitation. We will also be extending an invitation to him, and a guest, to attend the conference dinner as our guests on Saturday evening.

I would appreciate the opportunity to meet with you and other representatives to discuss the conference as it progresses. For further information on the conference please contact Kathy Bourbon on (07) 3846 1564 or email awaq@bigpond.net.au.

Yours sincerely

Dave Alexander
Conference Chairman

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds are available from the 2010 Water budget. As this conference is attended by up to four staff on a yearly basis, there will be corresponding savings in travel and accommodation costs.

POLICY IMPLICATIONS:

Council has supported this conference for many years by both sponsorship arrangements for when the conference was held in Tweed Shire and by the attendance of delegates.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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11 [CNR-CM] Pottsville Beach Neighbourhood Centre

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

The Pottsville Beach Neighbourhood Centre is an incorporated community based not for profit organisation that provides vital social and community services operating from Council land and buildings in Elizabeth St Pottsville.

The draft Pottsville Locality Plan and associated Development Control Plan has provided the framework for a review of the longer term needs and requirements of the facility operating from this site. A conceptual plan has been prepared based on the preferred locality plan outcomes for the site including future building requirements. The plans are attached for Councillors review. The concept envisages replacement of the existing administration building with a two storey 678 square metre facility incorporating offices and community rooms. It is estimated that the new building and associated works could cost between \$1,000,000 and \$2,500,000 depending on the building type and quality of construction.

RECOMMENDATION:

That Council:-

- 1. Includes in the current review of Contribution Plan 15 – Community Facilities, consideration of the revised building requirements for the Pottsville Community Centre.**
- 2. Seeks community feedback on the proposed new Community Centre at Pottsville.**
- 3. Proceeds with finalising concept design and estimate for the proposed new community centre at Pottsville.**
- 4. Officers bring forward a further report to Council prior to the lodgement of the Development Application.**

REPORT:

The Pottsville Beach Neighbourhood Centre is an incorporated community based not for profit organisation that provides vital social and community services operating from Council land and buildings in Elizabeth St Pottsville.

The draft Pottsville Locality Plan and associated Development Control Plan has provided the framework for a review of the longer term needs and requirements of the facility operating from this site. A conceptual plan has been prepared based on the preferred locality plan outcomes for the site including future building requirements. The plans are attached for Councillors review. The concept envisages replacement of the existing administration building with a two storey 678 square metre facility incorporating offices and community rooms. It is estimated that the new building and associated works could cost between \$1,000,000 and \$2,500,000 depending on the building type and quality of construction.

In parallel to this the Pottsville Beach Neighbourhood Centre has been successful in obtaining a \$84,000 grant from the NSW State Governments Premier and Cabinet's Community Building Partnership Program. This money is to go towards a Youth Mentoring Space and Recycling Shed on the current site. The original proposal was for a small shed like facility adjacent to the existing Ebbitide building.

The Pottsville Beach Neighbourhood Centre does not receive ongoing funding for management, operational or minor maintenance costs. These costs as well as direct support to families in need are raised through revenue income from casual office/meeting room rental, annual office rental to funded programs such as the NSW DoCS "Brighter Futures" and the federal government Centrelink Agency, as well as op-shop and bi-monthly market income. The future building requirements for the PBNC take into consideration the capacity to retain current tenants, attract new rent paying services and support the business expansion of the op-shop to include furniture and repair/maintenance and refurbishment of donated goods through a youth-mentoring and training program.

It is now timely for Council to give consideration to the longer term needs of this community centre. Council's Contribution Plan CP15 – Developer Contributions for Community Facilities (coastal villages only) has a nominal amount of \$400,000 allocated for the construction of a Community Centre at Pottsville. There is a current comprehensive review of CP15 being undertaken across the whole shire. This review can incorporate a detailed review of the allocation in the Pottsville area. The plan has a current balance of \$1.2 million and the review will allow an increase in the estimates for building costs. This Contribution Plan and previous Council general rate income have funded the purchase of the site and the construction and refurbishment of existing buildings. There is potential for the allocation within CP15 for this Community Centre to increase to between \$700,000 and \$1,000,000.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Financial Implications as per 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).

1. Drawings - Proposed Building (ECM 14878791)
-

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12 [CNR-CM] Nomination of Youth Representative to State Conference

ORIGIN:

Community & Cultural Services

SUMMARY OF REPORT:

NSW Industry and Investment (I&I) are holding the 2010 Community Economic Development Conference in Broken Hill from 4 to 6 May. The Conference theme "Communities in Transition" echoes the changing economic, cultural and environmental factors affecting many of our communities today.

The Community Economic Development Manager - Enterprise, Small Business & Regional Development Unit, I&I NSW requested Tweed Shire Council nominate a youth representative who plays an active role in community and sustainable environment initiatives to attend the conference. I&I further request that TSC partner with them in paying costs for the youth representatives, with I&I to pay registration, accommodation and associated costs and TSC to pay travel costs. Shey Doyle has been nominated and accepted by NSW I&I.

RECOMMENDATION:

That Council:

- 1. Approves the expenditure for travel costs to the Community Economic Development conference in Broken Hill from 4 to 6 May 2010 for Council's nominated youth representative, Shey Doyle, from Youth Development project funds.**
- 2. Receives a conference report from the youth representative Shey Doyle.**

REPORT:

NSW Industry and Investment “Communities in Transition” conference is open to anyone in business, government, tourism or community development, who is keen to create jobs where we need them the most, in our country and coastal communities. Through Regional Development Australia and with the facilitation of Council's Community Development Officer hinterland rural villages have been successful in applications for a total of \$115 000 in 2009 and 2010 to deliver Community Economic Transition Plans and realise outcomes from the same. The Broken Hill conference will “feature the Northern Rivers communities of Uki, Tyalgum, Chillingham and Crystal Creek, together with Bingara and Comboyne, who are among the first village districts in NSW to develop’ community economic transition (CET) plans’ which are community driven climate change action plans and will help to generate green jobs and enterprise.”

The request for the nomination of a young person from this area has directly arisen from the level of community energy in achieving the CET plans. Through discussions with Council's Youth Development Officer, Shey Doyle was nominated to attend Broken Hill. Shey is a member of the YOUTH committee overseeing youth week activities, is a resident and member of the community committee of Tweed Shire Council's “Sustainability Street” project and writes a column for the Tweed Youth News titled ‘Sustainability Street’ which updates events and progress in achieving community driven sustainable action plans. Shey's attendance at this event will broadly support the development of sustainable skills within the communities of Tweed and specifically further develop the skills and interests of a local young person who already shows considerable commitment to his local community.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Estimate of cost is in the order of \$800. There are funds available in the current budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

13 [CNR-CM] Combined Neighbourhood Watch Funds under the NSW Government Community Building Grants

ORIGIN:

Director Community & Natural Resources

SUMMARY OF REPORT:

Council has been requested by Geoff Provest to auspice a grant of \$5,000 under the NSW Government Community Building Grants to assist the Combined Neighbourhood Watch.

RECOMMENDATION:

That Council:-

- 1. Accepts the grant of \$5,000 from the NSW Government Community Building Grants to assist the Combined Neighbourhood Watch.**
- 2. Votes the expenditure and completes all necessary documents.**

REPORT:

Council has been requested by Geoff Provest to auspice a grant of \$5,000 under the NSW Government Community Building Grants to assist the Combined Neighbourhood Watch. As the Combined Neighbourhood Watch is an un-incorporated organisation, it is not eligible to receive the funds directly.

Following is a copy of the request:-

Geoff PROVEST MP



Nationals State Member for Tweed

Office: 193 Minjungbal Drive, Tweed Heads South - Mail: PO Box 6695, TWEED HEADS SOUTH 2486
Phone: (07) 5523 4816 - Fax: (07) 5523 4817 - E-mail: tweed@parliament.nsw.gov.au - Web: www.geoffprovest.com.au

FAX

To: David Oxenham From: Office of Geoff Provest MP
Fax: 02 6670 2489 Pages: 12
Phone: RE: Combined Neighbourhood Watch Grant Date: 7th April 2010

Good morning David

As per our discussions this morning I am attaching a copy of the Combined NHW Application for funding under the NSW Gov't Community Building Grants.

The application for funding under the Grant scheme has been approved but due to Neighbourhood Watch being an un-incorporated organization they are not eligible to receive the funds directly.

I am asking Council to not only endorse the application for funding under the Cross Border Crime prevention strategy but also act as the legal representative to receive and distribute the funds to NHW. Combined NHW is also a member of the Councils Cross Border Crime Prevention Committee.

I have recently met with John Scott, Director Regional Coordinator from the NSW Department of Premier and Cabinet office and he is agreeable to council being the representative on behalf of NHW. He can be contacted on 02 9228 4989 for further clarification.

I am aware that the applications for Business Papers close this Friday and are therefore requesting this be including in the agenda.

Best regards

Geoff Provest

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

14 [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:-

- 1. With reference to the request from Tweed Valley Jazz Club Inc, provides the Murwillumbah Civic Centre Auditorium free of charge for a free workshop for high school music students on 1 June 2010, and that Council's support is recognised with the following acknowledgement "This programme has been supported by Tweed Shire Council".**
- 2. With reference to the request from Northern Rivers Writers' Centre, provides the Murwillumbah Civic Centre Auditorium for a reduced fee of \$95 being 50% of the full fee of \$190 for the primary schools event which is part of the 2010 Byron Bay Writers Schools Program on 4 August 2010, and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".**
- 3. With reference to the request from the Murwillumbah Theatre Company, provides the Murwillumbah Civic Centre Auditorium for a reduced fee of \$13.50 per hour for rehearsals being 50% of the full fee of \$27.00, and a reduced fee of \$110.50 per performance being 50% of the full fee of \$221.00, for a period of 12 months.**

REPORT:

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

Organisation Name	Request	Est \$ Amount of Waiver	Recommendation	Meet Guidelines?
Tweed Valley Jazz Club	Request fee be waived for hire of the Murwillumbah Civic Centre for a free workshop for high school music students on 1 June 2010.	\$221.00	That the fee of \$221.00 be waived.	Yes
Northern Rivers Writers' Centre	Request fee be waived or reduced for hire of Murwillumbah Civic Centre on 4 August 2010 for a primary schools' event as part of Byron Bay Writers Festival Schools Program	\$95.00	That the fee be reduced to \$95 being 50% of the full fee of \$190.	Yes
Murwillumbah Theatre Company	Request fee be reduced by 50% for hire of Murwillumbah Civic Centre for a 12 month period	\$13.50 per hour for rehearsals and \$110.50 per performance	That the fees be reduced to \$13.50 per hour for rehearsals and \$110.50 per performance.	As per Minute No. 187 of meeting 16 March 2010

A copy of each of the requests is reproduced below.



TWEED VALLEY JAZZ CLUB INC

P.O Box 5147, South Murwillumbah 2484

Mr. Garry Corbett,
Manager, Community & Cultural Services,
Tweed Shire Council,
MURWILLUMBAH.

3rd. March, 2010

CIVIC CENTRE-MIBAH-HIRE

TWEED SHIRE COUNCIL
DOC. No: DONATIONS
DOC. No:
RECD: 11 MAR 2010
ASSIGNED TO: CORBETT, G
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

Dear Mr. Corbett, BOOKING CIVIC CENTRE

I refer to my previous letters of and Councils affirmative response and advise that once again our club will be conducting a free workshop for High School music students at the Civic Centre on Tuesday 1st. June, 2010 from 9AM to 1PM.

The booking has been confirmed with Mr. David Martain and we seek Councils assistance by way of a reduction/waiver of the booking fee.

The clubs involvement in school and community activities was set out in my previous correspondence and this year we conducted an afternoon tea and music for seniors during Seniors week. Our commitment to school education in music is ongoing as is our financial support in providing \$600 plus trophies to the winners of four jazz sections at the current Murwillumbah Festival of Performing Arts.

Any assistance from Council would be greatly appreciated and I look forward to your reply in due course.

Regards,


GRAHAM ROBINSON -
SECRETARY

President:
Peter McLaughlin Ph: 02 6677 1365

Vice President:
Joan Daniels Ph: 02 6672 3190

Secretary:
Graham Robinson Ph: 02 6672 3392



Post: PO Box 1846 ■ Byron Bay NSW 2481 ■ Tel: 02 6685 5115 ■ Fax: 02 6685 5166
Email: info@nrwc.org.au ■ Website: www.nrwc.org.au

25 February 2010

The General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Sir

The Northern Rivers Writers' Centre has booked Murwillumbah Civic Hall for the morning of Wednesday 4 August 2010. We will be holding a primary schools event which is part of the 2010 Byron Bay Writers Festival Schools Program.

I wish to apply for a discount on the venue hire charge for this event. The Northern Rivers Writers' Centre, a non-profit incorporated organisation, administers this Festival. We are a community organisation with core funding from Arts NSW.

These particular schools events are subsidised heavily so as to bring writers directly to the area. Schools, especially those in the outer areas of the district, benefit greatly from these visits. These sessions provide rare opportunities to promote literature and develop student awareness about reading and writing.

As in previous years we sincerely hope that you are able to offer us a discount on fees due. We look forward to your response.

Many thanks

A handwritten signature in black ink, appearing to read "Pip Morrissey".

Pip Morrissey
Schools Coordinator
Northern Rivers Writers' Centre
2010 Byron Bay Writers Festival
T: 02 6685 5115 E: pip@nrwc.org.au



**MURWILLUMBAH
THEATRE COMPANY** INC
ABN: 98 974 702 064

P.O. Box 1068
Murwillumbah
N.S.W 2484

6 April 2010

The General Manager
Tweed Shire Council
Tumbulgum Road
Murwillumbah NSW 2484

Attention: David Oxenham

Dear Sir,

Following your letter of 23 March, 2010, Murwillumbah Theatre Company is pleased to accept Council's generous offer of 50% waiver on all rehearsal and performance fees at the Murwillumbah Civic Centre.

We look forward to continuing our current good working relationship in our endeavours to provide high quality theatre in the Tweed shire.

Yours sincerely,

Bryanne Jardine
Artistic Director

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:

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Nil.

15 [CNR-CM] North East Waste Forum (NEWF) Membership 2010/2011

ORIGIN:

Waste Management

SUMMARY OF REPORT:

The North East Waste Forum (NEWF) has invited all member Council's to confirm membership for 2010/2011. Council has been a member of NEWF since 2007. Prior to 2007 Council had 'observer status' and participated in only those projects that were relevant or benefited Tweed Shire Council. NEWF members have recently completed a review of the Forum and the Memorandum of Agreement. The NOROC General Managers group on 1 March 2010 decided to initiate a second review (Level 2 review) addressing higher level resource sharing issues. Membership costs Council \$45,499 per annum.

RECOMMENDATION:

That Council renews membership to the North East Waste Forum (NEWF) for 2010-2011 and reviews its ongoing membership upon the completion of the Level 2 review referred to in the report.

REPORT:

What is NEWF?

NEWF is a voluntary group of Council's collaborating on waste management issues. NEWF is not a legal entity. Members currently include Tweed, Byron, Ballina, Clarence Valley and Richmond Valley Council. Kyogle and Lismore are entitled to become members but choose not to. NEWF employs a Coordinator to facilitate the forum and several contractors to undertake identified projects and works.

Tweed Shire Council's membership

Council resolved to become a member after a resolution at Council Meeting on 8 May 2007. Prior to 2007 Council had an 'observer status' with NEWF, participating in only those relevant projects which directly benefited Council.

Cost of membership

NEWF is co-funded by member Council's and the NSW State Government (Department Environment Climate Change & Water - DECCW). NEWF seeks funding from the DECCW each year based on identified projects. A 2010/2011 funding request to DECCW for \$180,000 is due to be sent from NEWF in May 2010.

Member Council's contribution is based on population (capped at 50,000). Tweed Shire Council's contribution is \$45,496 per annum. Council's Membership to NEWF is funded from the Domestic Waste Management budget.

Commitment

LGA	Pop. 2006	0 – 19,999 \$1 / head	20,000- 29,999 \$0.90 / head	30,000- 39,999 \$0.85 / head	40,000- 49,999 \$0.80 / head	Total
Ballina Shire	40,266	\$19,999	\$8999.10	\$8,499.15	213.60	\$37,710
Byron Shire	30,635	\$19,999	\$8999.10	\$540.60	0	\$29,538
Clarence Valley	50,143	\$19,999	\$8999.10	\$8,499.15	\$7,999.20	\$45,496
Richmond Valley	22,172	\$19,999	\$1,955.70	0	0	\$21,954
Tweed Shire	82,955	\$19,999	\$8999.10	\$8,499.15	\$7,999.20	\$45,496
						\$180,194

Council's delegate is currently Coordinator Waste Management. NEWF meets a minimum of six times each year. The Coordinator Waste Management attends each meeting. In addition much time is spent on progressing projects.

Level 1 & Level 2 Reviews

Member Council's recently conducted a review of the Memorandum of Agreement (MOA) to address issues including governance, delegation and separation of strategic and operational functions. The revised MOA is reproduced at the end of this report. The MOA review (Level 1 review) has been completed.

The NOROC General Managers Group decided at its meeting on 1 March 2010 to undertake a Level 2 review. The Level 2 review will address higher order resource sharing issues across the region in relation to waste management services and infrastructure. A consultant's brief is currently being developed to engage a suitably qualified person to undertake the review.

Advantages of participation

- Regional networking and knowledge exchange
- Contact/lines of communication with DECCW
- Regional cooperation in waste management

Disadvantages of Participation

- Membership costs (\$45,496 per annum)
- Domestic Solid Waste Strategy identified stronger alliance with SE QLD rather than NEWF
- Lismore and Kyogle are not members, so NEWF does not represent the region as a whole
- Council has stand alone long term waste contracts so does not participate in regional contracts (ie. green waste processing)
- Many projects have limited benefit/relevance for Council
- Council undertakes many localised education initiatives via Council's Environmental Education Officer and Sustainability Program Leader

Proposed Projects for 2010/2011

There are 16 projects identified in the NEWF Regional Waste Strategy for 2010/2011. The projects and draft budget are reproduced at the end of this report.

Should Council resolve to continue NEWF membership, significant review and amendments to the 2010/2011 projects will be forwarded to NEWF to provide better alignment with Council's Domestic Solid Waste Management Strategy.

**DRAFT
North East Waste Forum
Agreement
February 2010
V4**



AGREEMENT made this day of 2010

BETWEEN:

TWEED SHIRE COUNCIL ABN 90 178 732 496 of Civic & Cultural Centre, Tumbulgum Road,
Murwillumbah NSW 2484

BYRON SHIRE COUNCIL ABN 14 472 131 473 of 70-90 Station Street Mullumbimby NSW 2482

BALLINA SHIRE COUNCIL ABN 53 929 887 369 of corner of Cherry and Tamar Streets, Ballina, NSW
2478

CLARENCE VALLEY COUNCIL ABN 85 864 095 684 of Council Chambers 2 Prince Street Grafton
NSW 2460

AND

RICHMOND VALLEY SHIRE COUNCIL ABN 54 145 907 009 of corner Walker Street and Graham Place,
Casino NSW 2470 ("the **Member Councils**")

BACKGROUND

- A The North East Waste Forum (**Forum**) is a voluntary group of Councils on the Far North Coast of New South Wales that has been in operation since 1996.
- B The Member Councils consider that collaboration on waste management issues can provide enhanced outcomes within their own Council areas and collectively.
- C The Member Councils intend to collaborate on waste management and undertake joint activities that deliver mutually beneficial operational and strategic outcomes.

OPERATIVE PROVISIONS

1. Definitions

- 1.1. In this Agreement the following definitions apply:

Act means the *Local Government Act 1993*;

Agreement means this agreement and includes any schedules, annexures and appendices to this agreement;

Annual Operational Plan and Budget means a regional waste management annual operation plan and budget which sets out the activities that will be undertaken each year by the Forum to achieve the commitments made in the Delivery Program;

Co-ordinator means the co-ordinator appointed in accordance with clause 10 of this Agreement;

DECCW means the NSW Department of Environment, Climate Change and Water;

Delivery Program means regional waste management delivery program for a minimum 4 year period, subject to review every 4 years, which sets out the actions that are required to be undertaken to achieve the strategic goals contained within the Strategic Plan,

Host Council means the council elected as the host council pursuant to clause 11 of this Agreement;

Membership Contribution means the amount determined and payable in accordance with clause 14 of this Agreement;

Regulation means the *Local Government (General) Regulation 2005*;

Strategic Plan means regional waste management strategic plan which sets out strategic goals for sustainable waste and resource management for a 10 year period, subject to review every 4 years;

Working Group means the working group comprised of the General Manager of each Member Council or his or her delegate;

2. Interpretation

- 2.1. In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:
- 2.1.1. Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
 - 2.1.2. A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 2.1.3. If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
 - 2.1.4. A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
 - 2.1.5. A reference in this Agreement to a \$ value relating is a reference to the value exclusive of GST.
 - 2.1.6. A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 2.1.7. A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 2.1.8. A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
 - 2.1.9. An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - 2.1.10. Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 2.1.11. A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - 2.1.12. References to the word 'include' or 'including' are to be construed without limitation.
 - 2.1.13. A reference to this Agreement includes the agreement recorded in this Agreement.

- 2.1.14. A reference to a Member Council includes a reference to the servants, agents and contractors of the Member Council, and the Member Council's successors and assigns.
- 2.1.15. Any schedules, appendices and attachments form part of this Agreement.
- 2.1.16. Notes appearing in this Agreement are operative provisions of this Agreement.

3. Status and Structure of the Forum

- 3.1. Section 355 of the Act provides that a function of a council may be exercised by two or more councils jointly.
- 3.2. The Forum is a collaborative body that exists to jointly exercise waste and resource management functions of member Councils as specified in this Agreement.
- 3.3. The Forum is **not** an independent legal entity.
- 3.4. A reference to the Forum in this Agreement is a reference to each of the Member Councils acting jointly, and the rights obligations and liabilities of the Forum are those of the Member Councils..
- 3.5. The functions of the Forum shall be performed in accordance with this Agreement.

4. Membership of the Forum

- 4.1. In addition to the Member Councils, Kyogle Shire Council and Lismore City Council are eligible to become members of the Forum (**Eligible Councils**).
- 4.2. An Eligible Council may become a member of the Forum if the Eligible Council:
 - 4.2.1. has formally resolved to become a member of the Forum;
 - 4.2.2. executes an Agreement with the Member Councils pursuant to which the Eligible Council agrees to be bound by the terms of this Agreement; and
 - 4.2.3. pays any membership fees due, as advised by the Forum.
- 4.3. A Council that becomes a member of the Forum during the course of a financial year shall pay membership fees on a pro-rata basis for the remaining period of the financial year.

5. Aims and Objectives of the North East Waste Forum

- 5.1. The Forum aims to provide tangible benefits to Member Councils through enhanced resource and capacity sharing programs aimed at delivering efficiencies and cost savings for Member Councils and promoting innovation and excellence in waste and resource management.
- 5.2. The Forum has the following objectives:
 - 5.2.1. Collectively discuss and investigate the future waste management needs of the region and of Member Council areas.
 - 5.2.2. Provide a co-ordinated approach to waste management and minimisation.
 - 5.2.3. Avoid duplication of effort between Member Councils.
 - 5.2.4. Confirm a commitment to reduce the volume of waste going to landfill.
 - 5.2.5. To exchange knowledge between member councils on waste management issues.
 - 5.2.6. To formulate draft policies, strategies and guidelines in relation to regional waste management and education needs

6. Commitment by Member Councils

- 6.1. Each Member Council agrees to act in good faith, and to use its best endeavours, including in terms of the allocation of resources, to:
 - 6.1.1. meet the aims and objectives of the Forum set out in this Agreement; and
 - 6.1.2. adopt the Strategic Plan, Delivery Program and Annual Operational Plan and Budget.
- 6.2. In order to further the aims and objectives of the Forum, each Member Council agrees to:
 - 6.2.1. co-operate and collaborate on matters including, education, research and development, training, marketing, policy and procedures, where there are economic, social and environmental gains;
 - 6.2.2. share resources including information and facilities;
 - 6.2.3. act in a co-ordinated manner with full awareness of what others are doing;
 - 6.2.4. respect opportunities for others to act alone;
 - 6.2.5. create and maintain positive relationships in a supportive network;
 - 6.2.6. commit to continuous improvement, leadership and innovation.
- 6.3. Each Member Council agrees to review the performance of the Forum and its delivery of services in accordance with this Agreement.

7. Delegation

- 7.1. Within 14 days of the date of this Agreement, each Member Council must ensure that the delegations set out in Schedule 2 are granted, and remain current during the term of this Agreement.

8. Functions of the Working Group

- 8.1. The Forum will operate through the Working Group .
- 8.2. The Working Group will have the following functions:
 - 8.2.1. development of and technical input into the Strategic Plan, Delivery Program, and Annual Operational Plan and Budget;
 - 8.2.2. the provision of services in accordance with the Annual Operational Plan and Budget;
 - 8.2.3. the identification and resolution of any problems encountered or anticipated in the provision of the services under this Agreement;
 - 8.2.4. researching, investigating, and evaluating opportunities for innovation and excellence in waste and resource management;
 - 8.2.5. identification of and where appropriate, the seeking of alternative funding and/or additional funding support from State and Federal Governments for the Forum's purposes;
 - 8.2.6. regular liaison with DECCW in relation to waste issues;
 - 8.2.7. preparation of quarterly and annual reports for the review of Member Councils;
 - 8.2.8. preparation of reports and funding acquittals in accordance with the requirements of sponsorship or funding agreements;
 - 8.2.9. interpreting and developing submissions on relevant broad policy issues on behalf of Member Councils;
 - 8.2.10. oversight of the administrative and operational functions of the Co-ordinator;

- 8.2.11. undertake investigations and research and provide information and advice to the Co-ordinator and any consultants retained by the Forum;
- 8.2.12. technical input into the development of projects, initiatives and services;
- 8.2.13. technical input into the development of project plans;
- 8.2.14. providing client representation, project management and contract management services;
- 8.2.15. initiate, plan, implement and finalise projects; and
- 8.2.16. such other functions as may from time to time be delegated to the Working Group.

9. Limitation of functions of the Working Group

- 9.1. The following functions can only be performed by the Member Councils:
 - 9.1.1. adoption of the Strategic Plan, Delivery Program, and Annual Operational Plan and Budget;
 - 9.1.2. the determination of waste management policy;
 - 9.1.3. authorisation and funding of projects and initiatives that are not included in an Annual Operational Plan and Budget;
 - 9.1.4. making of submissions to third parties on policy matters;
 - 9.1.5. applications for funding where the funding agreement would require Member Councils to commit additional funds or human resources;
 - 9.1.6. the variation of the rate or method of calculation of the Membership Contribution.

10. Appointment and Functions of the Co-ordinator

- 10.1. The Working Group shall make a recommendation to the Forum regarding the appointment of the Co-ordinator.
- 10.2. The Co-ordinator will be a contractor appointed by the Member Councils.
- 10.3. In performing its functions the Co-ordinator shall operate in accordance with the Annual Operational Plan and Budget, the contract under which the Co-ordinator is appointed, and under the direction and supervision of the Working Group.
- 10.4. The Co-ordinator will have the following functions:
 - 10.4.1. providing advice and guidance on policy and planning matters;
 - 10.4.2. directing and supervising other contractors engaged by the Member Councils for the purposes of meeting the aims and objectives of the Forum;
 - 10.4.3. managing the overall operations and financial and physical resources of the Forum;
 - 10.4.4. researching or advising on current and emerging waste and sustainability issues;
 - 10.4.5. acting as an advocate representing the interests of the Member Councils and their constituents in areas of waste management and sustainable use of resources;
 - 10.4.6. assisting in the development of the Strategic Plan, Delivery Program, and Annual Operational Plan and Budget;
 - 10.4.7. liaising with DECCW in relation to the Forum's plans, strategies, programs and projects;
 - 10.4.8. managing the financial and administrative operations of the Forum, including its planning, decision-making and budgetary processes, and processes for performance review;
 - 10.4.9. attending Working Group meetings;
 - 10.4.10. managing the schedule, and circulating agenda, minutes and reports for meetings of the Working Group;
 - 10.4.11. reporting to the Working Group on a regular basis on the implementation of the Forum's plans and strategies;

- 10.4.12. maintaining and having custody of all the records of the business and financial affairs of the Forum;
- 10.4.13. making recommendations for the appointment of other contractors by the Member Councils, and contract administration.

11. Appointment and Functions of the Host Council

- 11.1. At its first meeting, the Working Group must elect a Member Council to act as the Host Council.
- 11.2. The Host Council has the functions set out in this Agreement.
- 11.3. Unless otherwise decided by the Working Group, the administration and operation of the Forum shall be undertaken in accordance with the administrative and governance procedures of the Host Council, including any code of conduct or code of meeting practice adopted by the Host Council.

12. Meetings

- 12.1. The Working Group shall meet at least 6 times per year, and its first meeting must be held within 1 month of the date of this Agreement..
- 12.2. Working Group meetings shall be held at a date, time and place to be determined by resolution of the Working Group from time to time.
- 12.3. Extraordinary meetings of the Working Group may be convened by resolution of the Working Group or at the request of two members of the Working Group.
- 12.4. The Co-ordinator shall notify each delegate and each Member Council of the date and agenda of a meeting of the Working Group not less than 7 days prior to the date of the meeting.
- 12.5. The Co-ordinator shall forward minutes of meetings to each Member Council not more than 7 days after the date of the meeting.
- 12.6. Each member of the Working Group shall be entitled to a single vote at a meeting. Unless otherwise agreed to by the Working Group, there shall be no voting by proxy votes.
- 12.7. A quorum at a meeting shall consist of a majority of members of the Working Group. In the absence of a quorum after 30 minutes, the meeting shall be adjourned.
- 12.8. The Working Group shall elect a chairperson to preside over meetings who shall hold office for such period as determined by the Working Group.
- 12.9. Decisions shall be carried by majority vote. A tied vote shall be a motion lost. The Chairperson shall not have a casting vote.
- 12.10. The Co-ordinator does not have any voting rights.

13. Procurement & Contracts

- 13.1. Subject, to the other provisions of this clause, the Working Group can authorise expenditure for works or services by resolution at a meeting of the Working Group.

- 13.2. Unless otherwise directed by the Working Group, procurement shall be undertaken in accordance with the procedures of the Host Council.
- 13.3. No goods or services shall be procured otherwise than in accordance with the Annual Operational Plan and Budget, without a further resolution of the Member Councils.
- 13.4. If any contract to be entered into by or on behalf of the Forum is a contract which, pursuant to s55 the Act is a contract which could only be entered into after tenders have been invited, then any such contract will be entered into by the Host Council, and :
 - 13.4.1. the Host Council shall be responsible for calling for, and awarding tenders in accordance with the Act, and the Regulation and any policy and procedures adopted by the Host Council in relation to tendering; and
 - 13.4.2. the Working Group will assist the Host Council by:
 - 13.4.2.1. preparing any technical specifications and tender documents;
 - 13.4.2.2. assessing any tenders received in response to the call for tender; and
 - 13.4.2.3. making a recommendation to the Host Council regarding the preferred tenderer.
- 13.5. The Co-ordinator can authorise expenditure for works or services with a value up to \$5,000 exclusive of GST subject to the works being included in the Annual Operational Plan and Budget.
- 13.6. Other than contracts entered into by the Host Council pursuant to clause 13.4, all contracts entered into by and on behalf of the Forum are to be entered into by each Member Council.
- 13.7. Any decision by the Working Group or Co-ordinator to authorise expenditure on works and services under this clause must be notified to the Host Council within 4 days, and shall constitute authorisation for the Host Council to commit funds for the approved purpose.

14. Finances and Accounting

- 14.1. The income of the Forum shall be derived from the Membership Contributions, donations, grants and other such funding sources as approved by the Working Group.
- 14.2. Prior to the end of each financial year, the Working Group shall develop a budget to be adopted by the Member Councils, and the Member Councils shall determine the Membership Contributions in accordance with the funding formula in Schedule 1.
- 14.3. Members shall be liable to pay the Membership Contribution at such time as the Working Group may decide.
- 14.4. The income of the Forum shall be taken to be money received by the Host Council and must be accounted for and audited by the Host Council in accordance with the Act and Regulation.
- 14.5. Copies of all financial statements prepared by the Host Council in relation to the finances of the Forum shall be provided to each Member Council.
- 14.6. The Host Council shall expend money for and on behalf of the Forum as authorised by the Working Group, Co-ordinator or Forum in accordance with this Agreement, but shall not expend any money in excess of that held on behalf of the Forum, or in excess of any amount contained in the Annual Operational Plan and Budget.
- 14.7. The income and property of the Forum shall be applied solely for the purposes of carrying this agreement into full effect as set out in this Agreement, and shall not be paid or transferred to the

Member Councils or any other person, except as bona fide compensation for services rendered or expenses incurred on behalf of the Forum.

- 14.8. The Working Group shall consider the financial position of the Forum within three months after the end of each financial year and shall adopt an estimate of the funds that would be required to meet debts and liabilities in the event of the winding up of the Forum.
- 14.9. The Working Group shall ensure that sufficient funds are held in reserve by the Host Council to service all debts and liabilities, including unspent grant or sponsorship funds, in the event of the winding up of the Forum.
- 14.10. Unless otherwise agreed to in writing by the Member Councils, in the event of the winding up of the Forum, any surplus funds or property shall be distributed equally between Member Councils.
- 14.11. Each Member Council is responsible for the expenses incurred by its representative on the Working Group.
- 14.12. However, if a Member Council undertakes work on behalf of the Forum with the prior written approval of the Working Group, then that Member Council shall be entitled to be reimbursed for the expenses incurred by the Member Council in performing that work.

15. Liability

- 15.1. Member Councils acknowledge that the Forum is not a legal entity does not hold insurances of any kind.
- 15.2. Member Councils must have appropriate insurances in place to cover any potential liability that may arise from the Forum's operations.

16. Termination of Membership

- 16.1. A Member Council may elect to withdraw from the Forum by providing 3 months written notice of its intention to do so.
- 16.2. A Member Council's membership may be terminated by resolution of the Working Group if:
 - 16.2.1. the Member Council's representative on the Working Group fails to attend three (3) consecutive meetings of the Working Group without first seeking and obtaining leave from the Forum; or
 - 16.2.2. the Member Council fails to pay any Member Contribution payable within sixty (60) days of it becoming due.
- 16.3. Where a Member Council withdraws its membership, or its membership is terminated;
 - 16.3.1. any Member Contribution due before the date of withdrawal or termination shall be paid in full;
 - 16.3.2. any Member Contribution due after the date of withdrawal or termination does not need to be paid.
 - 16.3.3. the Member Council shall not be entitled to be reimbursed for any money held by the Host Council on behalf of the Forum, subject to clause 14.12.

17. Term of Agreement

- 17.1. This Agreement will remain in effect until 30 June 2011;

18. Dispute Resolution – Mediation

- 18.1. This clause applies to any dispute under this Agreement.
- 18.2. Such a dispute is taken to arise if one Member Council gives another Member Council a notice in writing specifying particulars of the dispute.
- 18.3. If a notice is given under clause 18.2, the Working Group is to meet within 14 days of the notice in an attempt to resolve the dispute.
- 18.4. If the dispute is not resolved within a further 28 days, the Member Councils must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and must request the President of the Law Society, or the President's nominee, to select a mediator.
- 18.5. If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Member Councils may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.

19. Assignment

- 19.1. A Member Council cannot assign, transfer or novate its interest in this Agreement.

20. Notices

- 20.1. Any notice, consent, information, application or request that must or may be given or made to a Member Council under this Agreement is only given or made if it is in writing and delivered by post or by hand to that Member Council's address contained in Schedule 3, or faxed to that Member Council's fax number contained in Schedule 3.
- 20.2. If a Member Council gives another Member Council 3 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Member Council if it is delivered, posted or faxed to the latest address or fax number.
- 20.3. Any notice, consent, information, application or request is to be treated as given or made if it is:
- 20.3.1. delivered, when it is left at the relevant address,
 - 20.3.2. sent by post, 2 business days after it is posted, or
 - 20.3.3. sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 20.4. If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Member Council to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

21. Approvals and Consent

- 21.1. Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Member Council may give or withhold an approval or consent to be given under this Agreement in that Member Council's absolute discretion and subject to any conditions determined by the Member Council.
- 21.2. A Member Council is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

22. Entire Agreement

- 22.1. This Agreement contains everything to which the Member Councils have agreed in relation to the matters it deals with.
- 22.2. No Member Council can rely on an earlier document, or anything said or done by another Member Council, or by a director, officer, agent or employee of that Member Council, before this Agreement was executed, except as permitted by law.

23. Further Acts

- 23.1. Each Member Council must promptly execute all documents and do all things that another Member Council from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

24. Governing Law and Jurisdiction

- 24.1. This Agreement is governed by the law of New South Wales.
- 24.2. The Member Councils submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 24.3. The Member Councils are not to object to the exercise of jurisdiction by those courts on any basis.

25. No Fetter

- 25.1. Nothing in this Agreement shall be construed as requiring a Member Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

26. Representations and Warranties

- 26.1. The Member Councils represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

27. Severability

- 27.1. If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

- 27.2. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

28. Modification

- 28.1. No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Member Councils to this Agreement.

29. Waiver

- 29.1. The fact that a Member Council fails to do, or delays in doing, something the Member Council is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Member Council.
- 29.2. A waiver by a Member Council is only effective if it is in writing. A written waiver by a Member Council is only effective in relation to the particular obligation or breach in respect of which it is given.
- 29.3. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

Schedule 1 – Calculation of Membership Contribution

Membership Contributions shall be calculated according to the following table and will be based on the population of each member Council as taken from the most recent Australian Bureau of Statistics Regional Population Growth Data.

LGA	Pop. 2006	0 – 19,999 \$1 / head	20,000- 29,999 \$0.90 / head	30,000- 39,999 \$0.85 / head	40,000- 49,999 \$0.80 / head	Total
Ballina Shire	40,266	\$19,999	\$8999.10	\$8,499.15	213.60	\$37,459.05
Byron Shire	30,635	\$19,999	\$8999.10	\$540.60	0	\$29,701.95
Clarence Valley	50,143	\$19,999	\$8999.10	\$8,499.15	\$7,999.20	\$45,129.40
Richmond Valley	22,172	\$19,999	\$1,955.70	0	0	\$20,820.70
Tweed Shire	82,955	\$19,999	\$8999.10	\$8,499.15	\$7,999.20	\$45,499
						\$178,610.10

Schedule 2 – Delegations

Part 1 - Delegation from General Managers to Working Group

I, [insert name] General Manager of [insert name of council] (**Council**), hereby delegate pursuant to section 378 of the *Local Government Act 1993 (Act)* to the Working Group established by the North East Waste Forum Agreement between the Council and [insert names of other Member Councils] dated [insert date of Agreement] (**Agreement**) the exercise of such of the functions which I have under the Act or which have been delegated to me by the Council under section 377 of the Act, as are required to be performed by the Working Group under the Agreement.

Part 2 - Delegation to the Co-ordinator

I, [insert name] General Manager of [insert name of council] (**Council**), hereby delegate pursuant to section 378 of the *Local Government Act 1993 (Act)* to the Co-ordinator appointed under the North East Waste Forum Agreement between the Council and [insert names of other Member Councils] dated [insert date of Agreement] (**Agreement**) the exercise of such of the functions which I have under the Act or which have been delegated to me by the Council under section 377 of the Act, as are required to be performed by the Co-ordinator under the Agreement.

Schedule 3 - Notices

[include address, contact person and telephone number for each Member Council]

Project Overview and Draft Budget Summary: 2010/2011

MILESTONE	SECTOR	PROGRAM (Issue)	FUNDING SOUGHT \$	ESTIMATED PROGRAM VALUE \$
1 (2010 / 11)	All projects are cross sectoral	Policy and Guidance Project (WARR 2007 Focus Area: Supportive Policy and Procedure) <ul style="list-style-type: none"> • Adopt and enact sustainability principles in all NEWF activities • Adopt and maintain and affirmative and proactive policy of study and action in waste and resource recovery related R and D • **** Region wide waste facilities and sites monitoring and reporting contract 	\$1,124	\$4,047
2 (2010 / 11)	All projects are cross sectoral	Governance, Accountability and Management Project (WARR 2007 Focus Area: Supportive Policy and Procedure) <ul style="list-style-type: none"> • Maintain a coherent and transparent approach to development of and adherence to effective and agreed governance, administration policy and procedures including meetings • Undertake all Forum related administration and management functions • Conduct 1/4ly review of progress in implementing Regional Waste Plan 	\$13,944	\$50,987
3 (2010 / 11)	All projects are cross sectoral	Partnerships and Contracting Project (WARR 2007 Focus Area: Supportive Policy and Procedure) <ul style="list-style-type: none"> • Research & prepare regional contracts for a broadening range of services • Actively seek collaboration, partnership, sponsorship and joint project arrangements with DECC, DEH, Universities, WMAA, ISWA and industry and others • Prepare, execute, monitor and report on contracts and contractors as required 	\$5,749	\$13,298
4 (2010 / 11)	All projects are cross sectoral	NEWF Information and Awareness Project (WARR 2007 Focus Area: Supportive Policy and Procedure) <ul style="list-style-type: none"> • Develop, implement and monitor NEWF Communication Plan • Develop and distribute Waste Policy and Regulatory Explanatory Notes and provide waste advisory services to a wide variety of clients 	\$12,920	\$27,641

5 (2010 / 11)	Commercial & Industrial	<p>Business Waste Reduction Project (WARR 2007 Focus Area: Reduce C and I Waste)</p> <ul style="list-style-type: none"> Maintain and expand the Business Waste Reduction Project to include Waste Wise Events, Tourism, Primary Production (Farming) and other specific waste sectors, and expand its links to and partnerships with other agencies and program Investigate options for enhancing C and I waste recovery and reprocessing and local or regional industry development 	\$46,279	\$94,357
6 (2010 / 11)	Municipal waste	<p>Standards, Performance Monitoring and Service Models Project (WARR 2007 Focus Area: Reduce Municipal Waste)</p> <ul style="list-style-type: none"> Provide guidance and assistance to Councils in developing or adopting best practise services. Assist Council applications for performance improvement payments Investigate options for enhanced Multi Unit Dwelling service provision and improvement 	\$3,132	\$13,465
7 (2010 / 11)		<p>Litter and Public Place Waste Project (WARR 2007 Focus Area: Reduce litter and illegal dumping)</p> <ul style="list-style-type: none"> Implement, monitor and report on Regional Litter and Illegal Dumping Investigation including a Reporting and Reduction Response Strategy Investigate option for Public place recycling (PPR) including, barriers to PPR, benefits of PPR and methods of PPR 	\$2,111	\$7,822
8 (2010 / 11)	All projects are cross sectoral	<p>RENEW and Regional NSW Project: (WARR 2007 Focus Area: Support waste reduction in rural and regional areas)</p> <ul style="list-style-type: none"> RENEW NSW membership and communication RENEW Meetings 	\$8,318	\$16,635
9 (2010 / 11)	Construction & Demolition	<p>C and D Waste Project (WARR 2007 Focus Area: Reduce C and D waste)</p> <ul style="list-style-type: none"> Investigate prevalence and management of asbestos waste and recommend practice improvements Research and document all C&D Operations across the NEWF region with a view to recommending a standardised best practice approach 	\$1,463	\$5,626

10 (2010 / 11)	Other specific waste streams) Organics	Organic Resource Project (WARR 2007 Focus Area: Other specific waste streams) <ul style="list-style-type: none"> Review broader (regional scale) organic resource management options, partnerships and opportunities if any Organic Resource Recycling Best End Use Options Research Look to define and standardize guidelines on compost and mulch management and reuse options 	\$1,713	\$7,026
11 (2010 / 11)	Hazardous Waste	Hazardous waste project (WARR 2007 Focus Area: Other specific waste streams) <ul style="list-style-type: none"> Operate Hazardous Waste Stores and provide broad haz waste education program with other agencies Coordinate Regional Haz Waste Collections Investigate merit of or need for sub-regional Haz waste Stores 	\$46,266	\$95,231
12 (2010 / 11)	Other specific waste	Specific waste project (WARR 2007 Focus Area: Other specific waste streams) <ul style="list-style-type: none"> Research, maintain and report on awareness of trends in the waste industry with special focus on specific waste initiatives and developments Seek involvement in Mobile Phone industry supported take back schemes Investigate and report on need for pharmaceuticals management Seek to standardize and contract used battery management Batteries (wet cell, dry cell, rechargeable and other) 	\$3,997	\$10,694
13 (2010 / 11)	All projects are cross sectoral	Stewardship and EPR project (WARR 2007 Focus Area: Stewardship and EPR) <ul style="list-style-type: none"> Research, develop and promote positions stewardship and Extended Producer Responsibility including; CDL, E waste levies, take back programs and the like Continue to support DrumMuster and ChemClear 	\$2,632	\$8,863

<p>14 (2010 / 11)</p>	<p>All projects are cross sectoral</p>	<p>Research and knowledge development project (WARR 2007 Focus Area: Knowledge and data)</p> <ul style="list-style-type: none"> • Undertake and report on research and investigations to ensure NEWF and member Council remain aware of and able to respond to new knowledge, data and developments in the waste and resource management industry broadly and especially in “hot topics”, regionally appropriate Advanced Waste Treatment Technologies and modeling tools as they arise • Prepare, publish and broadly distribute an Annual Report • Monitor and participate in and report on Regional, State, National and International research, development, investigations forums, conferences, events and debate • Conduct and report on detailed Northern Sub-regional Waste Management Investigation and Planning including volume capacity, volume projections, cost modeling and business structure options • Develop a project timeline and staging plan for development of a sub-regional waste management and treatment facility • *** Investigate need for and advantages of a model Bulk Waste Shipment and Transfer Station Design • Revisit the options of establishing a sub regional or regional MRF or Pre MRF and a *** Regional Equipment Pool 	<p>\$15,081</p>	<p>\$40,962</p>
<p>15 (2010 / 11)</p>	<p>All projects are cross sectoral</p>	<p>Training and skills enhancement project (WARR 2007 Focus Area: Knowledge and data)</p> <ul style="list-style-type: none"> • Identify and investigate areas for regional training and arrange delivery and evaluation and modification as required • Any additional works to be defined 	<p>\$9,979</p>	<p>\$25,358</p>

16 (2010 / 11)	All projects are cross sectoral	Education project (WARR 2007 Focus Area: Education) <ul style="list-style-type: none"> Maintain, deliver and monitor in conjunction with all councils the DECC and other relevant agencies a wide range of actions and support as outlined in the Regional Education Plan to ensure maximum alignment of NEWF Education Plan with Council education objectives and NSW Learning for Sustainability Plan Seek additional funding and resources to expand Regional Education Support Co-ordinate Northern Region Environmental Education Group Investigate options for identifying, supporting and promoting "Community Champions" and case studies of excellence Investigate options for greater use of electronic media with common region wide messages 	\$24,956	\$54,412
17 (2010 / 11)	All projects are cross sectoral	Waste avoidance project (WARR 2007 Focus Area: Waste avoidance) <ul style="list-style-type: none"> Reuse Directory – promote & update Develop, administer, utilise and maintain waste avoidance resources: (The Green House, A-Z of Waste, Reusable Bag Campaign) Coordinate landfill open days Coordinate Sustainable Purchasing Roadshow events Seek NEWF involvement in and mentoring of Byte Back, Men's Sheds and similar community service resource recovery initiatives *** Community repair and reuse facilities investigation and establishment 	\$27,624	\$60,649
2010 / 11			\$227,288	\$537,073

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Membership costs of \$45,496 per annum.

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] 2009/2010 Fees and Charges - New Waste Management Fees

ORIGIN:

Waste Management

SUMMARY OF REPORT:

Council will recall that at the meeting of 16 March 2010, a number of waste management fees were submitted for adoption after having been placed on public exhibition for 28 days. No objections or comments were received.

The new charges for commercial garbage were placed on exhibition but inadvertently omitted from the report of 16 March 2010. These charges are now submitted for approval.

RECOMMENDATION:

That the following fees be adopted and included in Council's Fees and Charges Register:

Commercial Garbage Services - Non-Domestic Waste Management
80L garbage per service \$3.00
140L garbage per service \$3.00
240L recycling per service \$3.86

REPORT:

Council will recall that at the meeting of 16 March 2010, a number of waste management fees were submitted for adoption after having been placed on public exhibition for 28 days. No objections or comments were received.

The new charges for commercial garbage were placed on exhibition but inadvertently omitted from the report of 16 March 2010. These charges are now submitted for approval.

Commercial Garbage Services - Non-Domestic Waste Management

- 80L garbage per service \$3.00
- 140L garbage per service \$3.00
- 240L recycling per service \$3.86

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.

17 [CNR-CM] Policy - Waiving of Disposal Fees (Waste Management)

ORIGIN:

Waste Management

SUMMARY OF REPORT:

Council took over weighbridge operations at Stotts Creek Resource Recovery Centre on 1 December 2009. Council Weighbridge Officers are now responsible for enforcing fees and charges relating to landfill disposal. Several non-profit organisations have made approaches to waive disposal costs for waste materials generated from organisation activities. A Policy is required to clearly identify those organisations to which Council may waive disposal fees for waste materials presented at Stotts Creek Resource Recovery Centre.

RECOMMENDATION:

That Council places the Waiving of Disposal Fees Policy on exhibition for twenty-eight (28 days) in accordance with Section 160 of the Local Government Act 1993.

REPORT:

Council took over weighbridge operations at Stotts Creek Resource Recovery Centre on 1 December 2009. Council Weighbridge Officers are now responsible for enforcing fees and charges relating to disposal. Several non-profit organisations have made approaches to waive disposal costs for waste materials. A Policy is required to clearly identify those organisations to which Council may waive disposal fees for waste materials presented at Stotts Creek Resource Recovery Centre.

The attached Policy clearly identifies the groups and organisations that this Policy would be available to, sets out the procedures to apply, and conditions of approval.

Council must remit a Waste and Environment Levy to the NSW State Government, the equivalent of \$10 per tonne, increasing by \$10 per tonne each year until 2015/16, for all waste sent to landfill. It is therefore important that each group or organisation who applies under this Policy, seek, and be granted, an exemption to the Waste and Environment Levy by the Department of Environment Climate Change and Water (DECCW). An exemption would remove Council's responsibility for the levy contribution that would normally be attributed to the waste from these groups or organisations.

Since 1 December 2009 approximately 117 vehicle transactions have presented materials from registered non-profit organisations, equating to approximately five tonnes of waste materials per month. This is the equivalent of \$425 to \$600 per month of in kind support to these organisations should Council resolve to adopt the Waiving of Disposal Fees Policy.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Reduced income from Stotts Creek Resource Recovery Centre in the order of \$5,000 to \$7,200 per year.

POLICY IMPLICATIONS:

New Policy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Policy - Waiving of Disposal Fees - Waste Management (ECM 14319622)
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18 [CNR-CM] Jobs Fund Project 'Building the Environmental Capacity of Tweed Valley Farmland' - Works on Private Property

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

On 5 November 2009 Council accepted the \$489,589 contract offered by the Department of Education, Employment and Workplace Relations (DEEWR) to undertake the project: **Building the Environmental Capacity of Tweed Valley Farmland**. The project aim is to implement rehabilitation of farm waterways such as cane drains or modified creeks, through planting and maintenance of 10 km of riparian vegetation while creating and retaining employment in local agriculture related industries, specifically the ecological restoration and horticultural industries.

To date a number of sites have been identified for rehabilitation and the cooperation of the relevant landholders has been sought. The proposed work includes the supply and installation of native plants and maintenance of the sites for two years to ensure a 95% survival rate.

In addition to the above, \$8,950 from the Northern Rivers Catchment Management Authority (NRCMA) budget has been allocated for cane drain in-filling works on private property in Pottsville. This work is expected to significantly improve downstream water quality by reducing oxidation and runoff of acid sulfate soil products.

The purpose of this report is to seek Council's approval to use the Jobs Fund funding to undertake rehabilitation works on the sites detailed in this document. Approval is also sought for the use of NRCMA funding for drain in-filling works.

RECOMMENDATION:

That Council:-

- 1. Approves the expenditure as detailed in the Jobs Fund funding agreement to undertake rehabilitation works on private land as detailed in the report.**
- 2. Votes the expenditure and completes all necessary paperwork under the Common Seal of Council if required.**

REPORT:

On 5 November Council accepted the \$489,589 contract offered by DEEWR to undertake the project: **Building the Environmental Capacity of Tweed Valley Farmland**. The project aim is to implement rehabilitation of farm waterways such as cane drains or modified creeks, through planting and maintenance of 10 km of riparian vegetation while creating and retaining employment in local agriculture related industries, specifically the ecological restoration and horticultural industries.

It is anticipated that the project will deliver the following environmental and socio-economic outcomes:

Environmental:

- Improved catchment water quality
- Decrease overland water runoff and soil loss
- Reduced chemical input in sensitive areas.
- Enhance fish/aquatic habitat.
- Offers carbon sequestration capacity to increase farm emission offsets

Socio-Economic:

- Create a position as a Sustainable Agriculture Project Officer and develop skills in sustainable agriculture management in the Tweed
- Generate and/or retain jobs in the local horticultural and ecological restoration industries and to allow them the capacity to provide training to build local skills base.
- Facilitate valuable flow-on effects for the fisheries industry and tourism industry through improved water quality.
- Increase farmland profitability by minimising the costs associated with weed control, erosion, soil acidity, and problems caused by acid sulfate soils.

Council's Sustainable Agriculture Officer has identified a number of priority sites for rehabilitation and has liaised with the relevant landholders and sought their cooperation. The table below outlines details of identified sites and landholders to date.

The proposed work includes the supply and installation of native plants and maintenance of the site for two years to ensure a 95% survival rate.

The purpose of this report is to seek Council's approval to use the Jobs Fund funding to undertake rehabilitation works on the sites detailed below.

Surname	Location	Total costs (\$)
Brinsmead	Leddays Creek	10,340
Quirk	Leddays Creek	11,703
Bartlett	Leddays Creek	11,397
Roche	Leddays Creek	8765
Twohill	Leddays Creek	9141
O'Keefe	Leddays Creek	1128
Leddays Creek Drainage Union (Hawkin)	Leddays Creek	25,977
Campbell	Condong	23,947
Bartlett	Kynnumboon	33,323
Brown	Kynnumboon	9200
Morrin	Tygalgah	4738
Pritchard	Cudgen	8200

In addition to the above, \$8,950 from the Northern Rivers Catchment Management Authority (NRCMA) budget has been allocated for cane drain in-filling works on private property (Hardy) in Pottsville. This work is expected to significantly improve downstream water quality by reducing oxidation and runoff of acid sulfate soil products.

Approval is sought for the use of NRCMA funding for drain in-filling works.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As per 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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19 [CNR-CM] NSW Environmental Trust Grant 2009/SL/0071 - Recovery of Threatened Species in Priority Implementation Areas

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

Tweed Shire Council has been awarded a \$100,000 grant from the NSW Environmental Trust for the project Recovery of Threatened Species in Priority Implementation Areas. The project In accordance with the application, a further \$120,000 over the three years of the project will be contributed from Council's Biodiversity Program. The Northern Rivers Catchment Management Authority (NRCMA) has also committed \$180,000 to the project. In addition to Tweed Shire Council and the NRCMA, other project partners include: Byron Shire Council, Tweed Landcare Inc. Brunswick Valley Landcare Inc., Department of Environment Climate Change and Water, bushland regeneration contractors and landholders.

The project will implement the priority actions to conserve threatened species and abate threatening processes in selected Priority Implementation Areas (PIAs) as recommended by the model process set up by the NRCMA. The selected sites are subcatchments at Bilambil - Duroby and Byrill Creek in Tweed Shire and Upper and Lower Brunswick in Byron Shire. The PIAs form part of critical Climate Change Corridors linking the coast with the hinterland and Border Ranges. Actions include restoration and expansion of habitat, control of isolated occurrences of highly invasive weeds, stakeholder involvement and community and landowner education.

RECOMMENDATION:

That Council accepts the grant of \$100,000 from NSW Environmental Trust Grant 2009/SL/0071 – Recovery of Threatened Species in Priority Implementation Areas.

REPORT:

Hon Frank Sartor MP

Minister for Climate Change and the Environment and
Minister Assisting the Minister for Health (Cancer)



DOC09/55353 and 2009/SL/0071

Dr Mark Kingston
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

ENVIRONMENTAL TRUST GRANTS
ENDANGERED SPECIES.

TWEED SHIRE COUNCIL	
FILE No:	BIODIVERSITY PROGRAM
DOC. No:	
REC'D:	15 FEB 2010
ASSIGNED TO:	KINGSTON, M
HARD COPY <input type="checkbox"/>	IMAGE <input checked="" type="checkbox"/>

M'LENNAN, R

Dear Dr Kingston

I am pleased to advise that the NSW Environmental Trust has approved a grant of \$100,000 for your project entitled *Recovery of threatened species in priority implementation areas* under the Restoration and Rehabilitation (State and Local Government) program, subject to certain conditions.

This program aims to facilitate projects of significant environmental benefit to NSW and build capacity of communities and organisations to protect, restore and enhance the natural environment. Your dedication to this effort is commendable.

As in previous years, there was strong competition for funds, with a diverse range of projects proposed. The Trust approved a total of 20 projects totalling \$1,524,069. Lists of successful grants will be placed on its website at www.environmentaltrust.nsw.gov.au.

A Trust representative will be in contact with you shortly to make arrangements for the uptake of your grant. Alternatively, the Trust can be contacted on 8837 6093.

I congratulate you on your successful application and wish you well with your project.

Yours sincerely

Frank Sartor MP

10 FEB 2010

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

\$120,000 over three years will be contributed to the project from Council's Biodiversity Program.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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20 [CNR-CM] Proposed Biodiversity Grants

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

On 27 January 2009 Council unanimously approved the implementation of a Biodiversity Grant Program to assist private landowners, community groups and researchers to undertake projects that contribute to maintaining and improving biodiversity values within Tweed Shire.

To date 58 landholders have submitted applications under the Biodiversity Grant Program. Site visits have been made to 34 properties, 32 of which meet the Grant's criteria and 26 have been approved. The purpose of this report is to seek Council's approval to fund the remaining 8 private landowners in accordance with the provisions of the Biodiversity Grant Program.

RECOMMENDATION:

That Council approves the expenditure under its Biodiversity Grant Program to assist the private landowners to undertake the projects listed in the table contained within the report.

REPORT:

Introduction

On 27 January 2009 Council approved the implementation of a Biodiversity Grant Program to assist private landowners, community groups and researchers to undertake projects that contribute to maintaining and improving biodiversity values within Tweed Shire. This initiative represents an important component of Council's Biodiversity Program.

The Biodiversity Grant Program supports projects that contribute to the following ecological priorities within Tweed Shire:

1. Rehabilitation of degraded habitats
2. Restoration of previously cleared areas
3. Threatened species recovery
4. Management of threatening processes
5. Monitoring and research

Applications under the program can be made throughout the year and are assessed using the following criteria:

1. Ecological benefits (eg. ecological status, multiple ecological priorities, contribution to State and regional biodiversity targets etc);
2. Value for money (including in kind contributions, external funding);
3. Technical capability and applicant track record;
4. Site security (preference will be given secure sites eg. conservation covenants, Environmental Protection zones etc);
5. Ongoing maintenance requirements;
6. Spread of projects across ecological priorities and the Shire (including projects funded from other sources).

To date 58 landholders have submitted applications for the Biodiversity Grant Program. Site visits have been made to 34 properties, 30 of which meet the Grant's criteria. Twenty six have been approved by Council, for which Agreements have been posted. To date, 23 of these have been signed and returned. The purpose of this report is to seek Council's approval to fund the 8 private landowners visited since the February meeting under the Biodiversity Grant Program to assist them as per the table below.

The proposed grants involve the provision of services by professional bushland regenerators to assist landholders to more effectively manage environmental weeds protect native vegetation and improve wildlife habitat.

Surname	Address	Total cost est. (\$)	Details
Price	Reserve Creek	2,275.00	Strong landholder commitment to maintain works in mod.-high biodiversity value flora and fauna area with connection to other high value properties.
Bloomfield	Uki	1,675.00	Strong landholder commitment to maintain works in high biodiversity value rainforest remnant.
Norman	Crystal Creek	3,350.00	Strong landholder commitment to maintain works in mod.-high biodiversity value flora and fauna area with connection to other high value properties.
McInnes	Chillingham	2,000.00	Strong landholder commitment. Connects to vegetation corridor to the south and riparian corridor to the north.
Granger	Dum Dum	1,525.00	Strong landholder commitment to maintain works in mod.-high biodiversity value flora and fauna area with connection to vegetation corridor and other Biodiversity grant applicants.
Baumer	Wardrop Valley	1,675.00	Strong landholder commitment. High potential for rainforest gully to regenerate on edge of vegetation corridor.
MacTaggart	Duranbah	4,110.00	Strong landholder commitment. Bounded by Cudgen Nature Reserve and 2 other Biodiversity Grant recipients undertaking tree planting projects to extend Koala corridor.
Youngblutt	Uki	1,220.00	Strong landholder commitment to maintain works in mod.-high biodiversity value flora and fauna area with connection to vegetation corridor and other Biodiversity grant applicants.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding for this project is to be sourced from the existing Biodiversity Program budget.

POLICY IMPLICATIONS:

This program is consistent with the adopted Tweed Vegetation Management Strategy 2004 and the Council resolution of 27 January 2009 which established the Biodiversity Grant Program.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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21 [CNR-CM] Provision of Funding by NSW Land and Property Management Authority towards Indian Myna Control on Crown Lands in Tweed and Byron Catchments

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

Tweed Shire Council has been awarded a \$3500 grant from the 2009/10 round of NSW Lands and Property Management Authority *Pest and Feral Animal Control Program* towards the control of Indian Mynas on Crown land within the Tweed and Byron Shires.

Through funding provided by the NSW Environmental Trust, a dedicated Indian Myna Control Officer has been employed three days a week over a period of two years to coordinate a control program in both Tweed and Byron Local Government Areas. This position commenced in August 2008. The project has been running well, with a commendable take-up of the project by the community.

The provision of additional project funding by the NSW Lands and Management Authority to assist in control effort, either on, or in the areas surrounding Crown Land in Tweed and Byron Shires, will make a meaningful contribution to ongoing Indian Myna control efforts.

RECOMMENDATION:

That Council:-

- 1. Accepts the grant of \$3500 from the NSW Land and Property Management Authority to contribute to Indian Myna control on Crown Land in Tweed and Byron Shires.**
- 2. Votes the expenditure.**

REPORT:



Hon Tony Kelly MLC
Minister for Lands
Deputy Leader of the Government in the Legislative Council
Leader of the House in the Legislative Council

BIRDS.
NOXIOUS-INSECTS + PESTS
ENVIRONMENTAL TRUST GRANTS

TWEED SHIRE COUNCIL
FILE No: INDIAN MYNAS
DOC. No:
REC'D: 17 DEC 2009
ASSIGNED TO: KINGSTON, M
HARD COPY IMAGE

DOC09/62513

8 DEC 2009

Mr Michael Rayner
General Manager
Tweed Shire Council
Tumbulgum Road
MURWILLUMBAH NSW 2484

Dear Mr Rayner

I refer to your application for financial assistance towards the control of Indian mynas on Crown land within the Tweed and Byron Catchments.

I am pleased to advise that I have approved grants of \$3,500 and for this purpose.

In order for the funds to be released it will be necessary for you to provide a tax invoice (GST inclusive).

All invoices should be directed to the Business Analyst, Crown Lands Funding Programs, Land and Property Management Authority (LPMA), GPO Box 15, Sydney 2001.

Please liaise with the local LPMA staff in implementing the project and report in writing when the work has been undertaken and the funds fully expended.

Yours faithfully

Tony Kelly MLC
Minister for Lands

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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22 [CNR-CM] Koala Plan of Management

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

Council at its meeting of 19 January 2010 resolved that Council:

1. *Commences the Koala Habitat Study (Stage 1) in preparation for the Koala Plan of Management (Stage 2).*
2. *Officers bring forward a future report on the creation of a Tweed Shire Koala Plan of Management Steering Committee.*
3. *In accordance with its previous resolution (18 August 2009) consider an allocation in the 2010/2011 Budget to address any shortfall necessary to complete the Koala Plan of Management.*

This report provides an update on these resolutions.

In accordance with the first resolution, work has commenced on Stage 1 of the Koala Plan of Management. This has involved: (1) the preparation of a brief to prepare a background study entitled the Tweed Coast Koala Habitat Study; (2) the engagement of specialist consultants Biolink Ecological Consultants to prepare the study and; (3) commencement of the study.

In accordance with the second resolution, Council officers have prepared draft terms of reference for a Tweed Coast Koala Advisory Group to guide the development of the comprehensive Koala Plan of Management. The role and function of the advisory group and its proposed membership is based on that of similar groups formed elsewhere and advice provided by Department of Environment, Climate Change and Water (DECCW) and Department of Planning in relation to meeting the requirements of State Environmental Planning Policy 44 - Koala Habitat Protection.

In relation to funding, as advised previously, it is estimated that it will cost \$100,000 to undertake the comprehensive Koala Plan of Management (KPOM). To fund the project, Council officers lodged an application with NSW Environmental Trust to fund \$80,000 of the project cost with the remainder (\$20,000) to be sourced from Council's Biodiversity Program. Unfortunately, Council has been recently advised that its application was unsuccessful. Notwithstanding, Council has recently received confirmation of a \$40,000 grant from DECCW to support the development of the Plan including the Koala Habitat Study. It is proposed that additional funds necessary to complete the KPOM will be sourced from Council's Biodiversity Program supplemented by a proposed additional contribution of \$30,000 from Council's 2010/11 budget.

RECOMMENDATION:

That Council:-

- 1. Accepts the grant of \$40,000 from the NSW Department of Environment, Climate Change and Water to undertake koala field surveys and associated works as part of a Comprehensive Koala Plan of Management under SEPP 44.**
- 2. Notes the commencement of the Tweed Coast Koala Habitat Study (Stage 1) in preparation for the Comprehensive Koala Plan of Management (Stage 2).**
- 3. Endorses the Tweed Coast Koala Advisory Group Terms of Reference.**
- 4. Nominates a Councillor representative to sit on and chair the Tweed Coast Koala Advisory Group.**
- 5. Calls for nomination from the community and the community groups as detailed in the attached Terms of Reference for positions on the Tweed Coast Koala Advisory Committee.**
- 6. Officers bring forward a report with recommendations on the membership of the Tweed Coast Koala Advisory Committee.**

REPORT:

The following report provides the documentation to support the recommendations above:

1. Project scope and outcomes of the Tweed Coast Koala Habitat Study
2. Letter of offer from the Department of Environment Climate Change and Water to undertake to undertake koala field surveys and associated works as part of a Comprehensive Koala plan of management under SEPP 44.
3. Draft Tweed Coast Koala Advisory Group Terms of Reference (under separate cover)

Project scope and outcomes of the Tweed Coast Koala Habitat Study

*Contract EQ2010 039
Provision of Services Tweed Coast Koala Habitat Study*

Project Scope and Outcomes

To effectively support the development of the CKPOM the Tweed Coast Koala Habitat Study will need to provide the following:

- Overview of SEPP 44 and other relevant planning legislation.
- A review of koala habitat requirements, ecology and regional conservation status.
- A review of previous koala studies relevant to the Study Area.
- Survey and analysis of current (and past) koala distribution, population size and dynamics within the Study Area. This should be based on community-based and opportunistic records (e.g. NPWS Atlas records) and systematic survey.
- An analysis of preferred koala food trees in the Study Area.
- Mapping to delineate vegetation considered to be potential and core koala habitat.
- Mapping and assessment of key threats to koalas and their habitat including priority locations such as road mortality blackspots
- Mapping of regional and local corridors required for koala movement both within and adjoining the study area
- Assessment of areas suitable for habitat restoration and revegetation.
- Identification of koala care and welfare needs.
- Assessment of local population viability and future prospects.
- Recommendations and options to inform the preparation and implementation of the CKPOM.

Letter of offer from the Department of Environment Climate Change and Water



Environment,
Climate Change
& Water

Memo to: Mark Kingston of: Tweed Shire Council
From: John Turbill of: DECCW
Phone: 02 66 598 224
cc:
Date: 11 March 2010 No of pages (including this page): 1

RE: Contractual Agreement between DECCW and Tweed Shire Council to undertake koala surveys and habitat mapping for the Tweed Coast

Hi Mark

Attached is the signed Contractual Agreement for this project and the standard purchase order for invoicing of the \$44,000 (inclusive of GST).

Could council now please forward an invoice to DECCW at the address below for \$44,000 (inclusive of GST) referencing Purchase Order number 4500311231.

Thanks and look forward to a great project

Kind Regards

John Turbill
Biodiversity Assessment and Conservation Section

Address for Invoice:
Department of Environment, Climate Change and Water
Locked Bag 914
COFFS HARBOUR, NSW 2450

AGREEMENTS
TWEED SHIRE COUNCIL
FILE No: KOALA MANAGEMENT
DOC. No: _____
REC'D: 15 MAR 2010
ASSIGNED TO: KINGSTON, M
HARD COPY IMAGE

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

In accordance with Council resolutions of 18 August 2009 and 19 January 2010 an allocation of \$30,000 has been include in the draft 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).

1. Draft Tweed Coast Koala Advisory Group Terms of Reference (ECM 14878189)
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23 [CNR-CM] Regulation of Traffic - Heath Road, Round Mountain

ORIGIN:

Design/Natural Resource Management

SUMMARY OF REPORT:

Heath Road, which runs in an east-westerly direction off Round Mountain Road, forms the boundary between the localities of Round Mountain and Pottsville. It is a formed, but rough track, with no surface material, that extends to the western end of Cudgera Creek. The road also forms part of the south-western boundary of the southern part of the Cudgen Nature Reserve, being Lot 513 in DP 729269.

The road provides access to the Nature Reserve, by forking northwards alongside its western boundary, which ultimately provides access to Council's Round Mountain Sewerage Treatment Plant.

There has been a history of rubbish dumping along the road, starting at the intersection of Heath Road with Round Mountain Road, where a car has been dumped, immediately alongside a Council sign prohibiting the dumping of rubbish. Other domestic rubbish comprising a refrigerator, building rubble, paint cans and garden waste has been found next to the road at various intervals.

The land adjacent to the road has also been identified as containing potentially endangered ecological communities and habitat for threatened species or populations, thus the incursion of domestic and garden waste is having a negative impact on the land.

As the land is in close proximity to the Nature Reserve and the northern part of Council's environmental corridor at Koala Beach it is proposed to install a locked gate to restrict use of the road reserve to National Parks and in the event of bush fires allow access to the Rural Fire Service.

Council has the authority under section 122 of the Roads Act to regulate traffic on a public road. In this instance, due to the continued dumping of rubbish and the sensitivity of the land adjacent to the road, it is recommended that Council approve the installation of a locked gate at the intersection of Heath Road with Round Mountain Road.

RECOMMENDATION:

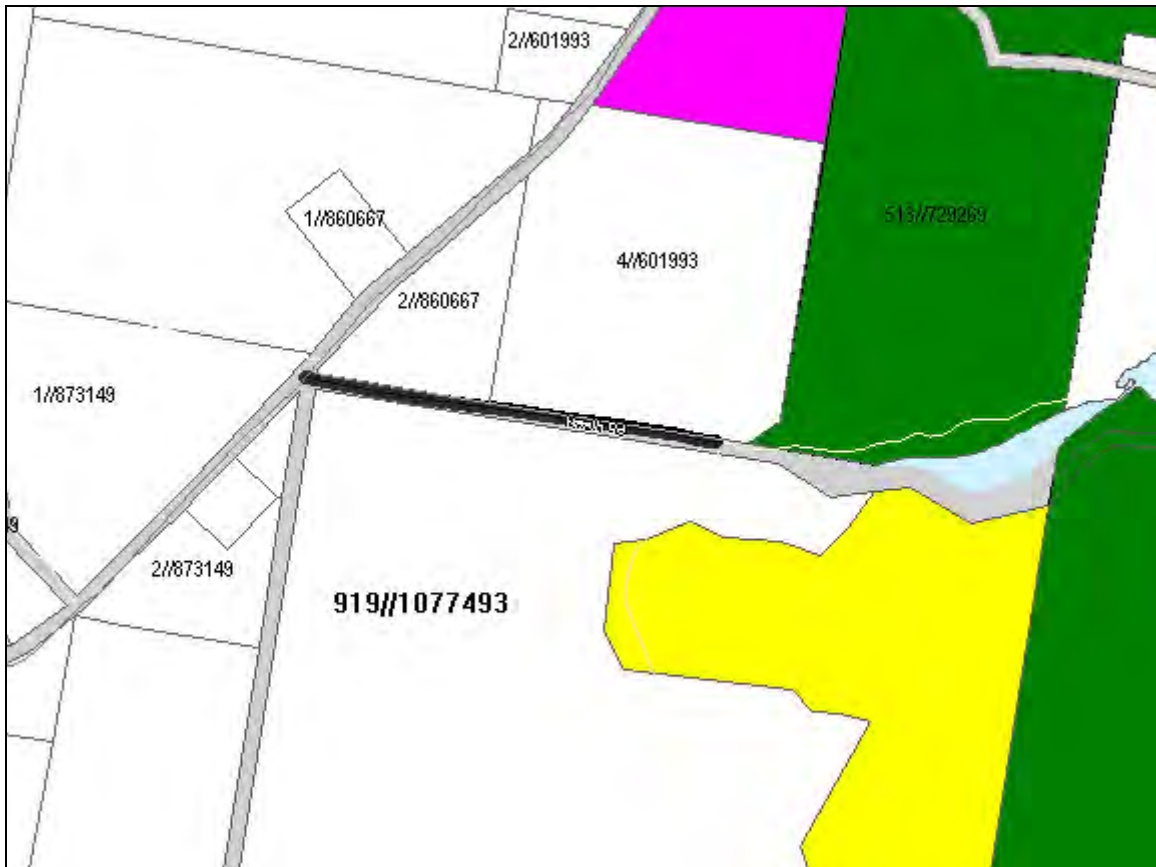
That Council:

- 1. Under section 122 of the Roads Act 1993, regulates the traffic on Heath Road, Round Mountain by means of a gated structure**
- 2. Advertises the regulation of traffic on Heath Road, Round Mountain in the Tweed Link.**

REPORT:

Heath Road, which runs in an east-westerly direction, forms the boundary between the localities of Round Mountain and Pottsville. It is a formed track, with no surface material, extends to the western end of Cudgera Creek. The road also forms part of the south-western boundary of the southern part of the Cudgen Nature Reserve, being Lot 513 in DP 729269.

The plan below shows the location of the subject road:



The road provides access to the Nature Reserve, by forking northwards and ultimately provides access along the western boundary of Lot 513 to Council's Round Mountain Sewerage Treatment Plant.

There has been a history of rubbish dumping along the road, starting at the intersection of Heath Road with Round Mountain Road, where a car has been dumped, notwithstanding a Council sign prohibiting dumping. Other domestic rubbish comprising of refrigerator, building rubble, paint cans and garden waste has been found next to the road at various intervals.

Several photographs follow showing the sign and the car next to it and various photographs showing the domestic and garden waste that has been dumped along Heath Road:









The land adjacent to the road has been identified as containing potentially endangered ecological communities, thus the incursion of domestic and garden waste is negatively impacting on the land.

It is proposed that the costs of any clean up and installation of gating at this site will be funded by the Tweed Byron Bush Futures Project, a NSW Government Environmental Trust Urban Sustainability Program that is currently running across both Shires. One of the core aims of this project is to *'deliver extensive on-ground works to address threats to bushland integrity'*.

The following vegetation communities were identified adjacent to Heath Road:

Broad-leaved Paperbark Closed Forest to Woodland – potential Endangered Ecological Community – *'Swamp sclerophyll forest on coastal floodplains of the NSW North Coast'*.

Coastal Swamp Mahogany Open Forest to Woodland – potential Endangered Ecological Community – *'Swamp sclerophyll forest on coastal floodplains of the NSW North Coast'* and potential Core Koala Habitat.

Coastal Tallowwood Open Forest to Woodland – potential Endangered Ecological Community – *'Subtropical coastal floodplain forest of the NSW North Coast bioregion'* and potential Core Koala Habitat.

Coastal Swamp Box Open Forest to Woodland - potential Endangered Ecological Community – *'Subtropical coastal floodplain forest of the NSW North Coast bioregion'*.

Coastal Brush Box Open Forest to Woodland - potential Endangered Ecological Community – *'Subtropical coastal floodplain forest of the NSW North Coast bioregion'*.

In addition a range of threatened fauna species have been recorded in the NPWS Wildlife Atlas using the vegetation communities listed above within one kilometre of Heath Road, these include the *Vulnerable* (TSC Act) species: Koala, Southern Myotis (a bat), Glossy Black-cockatoo, Common Planigale, Osprey, Little Bentwing-bat, Wallum Froglet, Black Bittern, Sanderling and Spotted-tailed Quoll (*Endangered* under the C'wealth EPBC Act) and the *Endangered* (TSC Act) Bush Stone-curlew and Black-necked Stork.

As the land is in close proximity to the Nature Reserve and the northern part of Council's environmental corridor at Koala Beach it is proposed to install a locked gate to restrict use of the road reserve to National Parks and in the event of bush fires allow access to the Rural Fire Service.

Council has the authority under section 122 of the Roads Act to regulate traffic on a public road. In this instance, due to the continued dumping of rubbish and the sensitivity of the land adjacent to the road, it is recommended that Council approve the installation of a locked gate at the intersection of Heath Road with Round Mountain Road.

It is intended to clean up the rubbish and to install the gate to prevent further dumping along Heath Road and maintain the integrity of the environment.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

All costs relating to the cleanup and installation of the gate will be derived through the Tweed Byron Bush Futures Project, a NSW Government Environmental Trust, Urban Sustainability Program grant obtained by Tweed and Byron Shires in 2009 to undertake sustainable management of significant urban and peri-urban bushland areas.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

24 [CNR-CM] Increasing Solar Power in the Tweed

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

This report details two initiatives to increase the amount of solar power generation in the Tweed Shire.

Initiative 1: Tweed Shire Council (TSC) Solar Rooftops Plan

The TSC Solar Rooftops Plan is an action plan for increasing the number of solar photovoltaic (PV) systems on community facilities in the Tweed Shire. It establishes a framework for maximising the economic, social and environmental benefit of solar PV installations, identifies a number of council assets suitable for solar PV systems and sources the funding required to implement the first two installations.

Initiative 2: Tweed Shire Council Alliance with a Solar Installer

To increase the voluntary uptake of solar photovoltaic (PV) systems in the local community, an alliance/partnership between Tweed Shire Council and a suitably qualified renewable energy business is proposed. Council will use its communication tools (eg. Tweed Link, website) to promote the solar alliance and the successful tenderer will install solar PV systems to paying customers within the shire. In return for local promotion, the successful tenderer will be required to provide TSC with free solar PV systems for installation on facilities identified in the TSC Solar Rooftops Plan. The Alliance will run for 12 months or 200 installations, whichever comes first.

RECOMMENDATION:

That Council:-

- 1. Endorses the Tweed Shire Council Solar Rooftops Plan to establish a framework for installing solar photovoltaic systems on community facilities.**
- 2. Endorses the Solar Alliance proposal to increase the voluntary uptake of solar power in the local community and to contribute to the implementation of the Tweed Shire Council Solar Rooftops Plan.**

REPORT:

Solar Power Incentives

The introduction of the Australian Government Solar Credits Scheme (ie. solar rebate) and the NSW Solar Bonus Scheme (ie. gross feed-in tariff) have combined to make solar power a cost effective investment for NSW property owners. Based on a feed-in tariff of \$0.60 per kilowatt a nine panel, 1.5kW solar photovoltaic (PV) system will generate up to \$1642 worth of electricity per year and pay for itself in less than four years.

Solar Power in the Tweed

This report details two initiatives to increase the amount of solar power generation in the Tweed Shire being:

- Solar power on TSC Community Facilities.
- An alliance between TSC and a solar PV system installer to facilitate the voluntary uptake of solar power in the local community.

TSC Community Facilities

The TSC Solar Rooftops Plan is an action plan to guide the installation of solar photovoltaic (PV) systems on council owned, community managed facilities such as community halls and sporting clubhouses. It establishes a framework for maximising the economic, social and environmental benefit of solar power installations, identifies a number of community facilities suitable for solar PV systems and sources the funding required to implement the first two installations being Uki Sports Clubhouse and Crystal Creek Community Hall. The TSC Solar Rooftops Plan is attached to this report.

Facilitating Solar Power Uptake in the Local Community

Take-up rates of 'green technologies' in the local community increases significantly when Council facilitates the process. This was demonstrated between January 2007 and December 2008 when more than 50% of shire households had energy and water saving devices installed through a partnership between Tweed Shire Council and Fieldforce Pty/Ltd. In other local government areas where Fieldforce offered their service without Council support the take-up rate was around 30% of households.

Solar PV Alliance

An alliance / partnership between Tweed Shire Council and a suitably qualified solar installer will provide Tweed property owners with a simply way of reducing energy costs and environmental footprint through the application of renewable energy technology.

Tweed Shire Council will undertake a tender process to identify the most suitable solar installer, with the successful applicant's contribution to the Solar PV Alliance being:

- Timely installation of solar photovoltaic systems to paying customers within the Tweed Shire.
- Community donation proposal eg. installation of a free two kilowatt (kW) solar PV system on a community facility for every 30kW of capacity installed through the alliance.
- Progress reports on the total number and total kilowatt capacity of installations.

Tweed Shire Council's contribution to the alliance would include:

- Promotion of the Solar Photovoltaic Alliance via:
 - Media launch
 - Tweed Link, Council's newspaper with a circulation of over 38,500 copies per week.
 - Council website
 - Community networks

The alliance would be sought through Council's tender process with applicant submissions to outline the following:

- Pricing structure for product packages
- Capability and experience
- Examples of track record
- System information and specifications
- Community donation proposal
- Any additional benefits resulting from the partnership eg. local employment generation

The Alliance will run for 12 months or 200 installations, whichever comes first.

SOCIAL/ECONOMIC/ENVIRONMENTAL IMPLICATIONS:

Social: Facilitating the uptake of renewable energy technology in the shire will contribute towards increased social awareness around climate change and energy supply issues.

Economic: Properties that install a 1.5kW solar PV system will generate up to \$1642 worth of electricity each year, leading to increased disposable incomes and associated benefits to the local economy.

Environmental: Properties that install a 1.5kW solar PV system will reduce their carbon footprint by nearly 3 tonnes of CO₂ per year.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Legal: Probity issues relating to the Solar PV Alliance will be addressed by adhering to Council's procurement process.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Tweed Shire Council Solar Rooftops Plan (ECM 14571494)
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25 [CNR-CM] National Greenhouse and Energy Reporting Scheme

ORIGIN:

Waste Management

SUMMARY OF REPORT:

The *National Greenhouse and Energy Reporting (NGER) Act 2007*, and its subordinate legislation, establishes a national framework for reporting by corporations of their energy production, energy use, and greenhouse gas (GhG) emissions. Under the Act, it is now a requirement of all corporations who exceed the specified thresholds defined in the Act to report GhG emissions, as well as the quantity of energy which they are responsible for either consuming or producing. Most Local Governments are currently exempt from NGERS due to the definition of corporation and therefore did not need to report for 2008/2009. Tweed Shire Council did register; to clearly define its emission profile, and to pre-empt the amendment to the NGERS legislation that will ensure all Local Governments are required to participate for the next reporting period (2009-2010).

A GhG emissions profile for Council's electricity / fuel consumption and methane emissions from landfill and waste-water treatment operations concluded that Council did not trigger the corporate group threshold for the 2008/09 reporting period. However, the landfill component of Stotts Creek Resource Recovery Centre produced 27.48 kilotonnes of CO₂-e in 2008/09, triggering the facility threshold of 25 kt CO₂-e. As a result, activity data for the Landfill was submitted to the Australian Government Department of Climate Change on 30 October 2009. Without the methane gas capture system in place at the landfill, the exceedance would have been far higher.

NGERS is now an annual reporting requirement for Tweed Shire Council. Council's existing data management systems for energy, fuel and methane emissions are being refined in accordance with the NGERS requirements for data collection. These processes will assist annual reporting requirements into the future.

RECOMMENDATION:

That the report on the National Greenhouse and Energy Reporting Scheme be received and noted.

REPORT:

The *National Greenhouse and Energy Reporting (NGER) Act 2007*, and its subordinate legislation, establishes a national framework for mandatory reporting by corporations of their energy production, energy use, and greenhouse gas (GhG) emissions. Under the Act, it is now a requirement of all corporations who exceed the specified thresholds defined in the Act to report GhG emissions, as well as the quantity of energy which they are responsible for either consuming or producing. GhG emissions that need to be accounted for are defined in Section 7 of the Act and are as follows:

- carbon dioxide; or*
- methane; or*
- nitrous oxide; or*
- sulphur hexafluoride; or*
- a hydrofluorocarbon of a kind specified in the regulations; or*
- a perfluorocarbon of a kind specified in the regulations.*

Sources of the above GhG emissions to be reported on include both scope 1 (direct) and scope 2 (indirect) emissions as stated under Section 2.23 of the *National Greenhouse and Energy Reporting Regulations 2008*:

The NGER thresholds for facilities and corporations are summarised in Figure 1.2 of the *National Greenhouse and Energy Reporting Guidelines* and is provided below.



Notes: TJ = terajoule (10^{12} joules) of energy consumed or produced; kt = kilotonne (10^6 kilograms) CO_2 -e equivalent of greenhouse gases emitted. Conversion factors: Energy—1 terajoule = 1000 gigajoules, 1 gigajoule = 1000 megajoules, 1 megajoule = 1000 kilojoules, 1 kilojoule = 1000 joules; CO_2 -e emissions—1 kilotonne = 1000 tonnes, 1 tonne = 1000 kilograms.

It should be noted that most Local Governments are currently exempt from NGERs due to the definition of a 'corporation' in the Act and therefore do not need to report for the year 2008 - 2009. The legislation is currently being amended to ensure all Local Governments are required to participate in NGERs for the next reporting period (2009-2010).

Council Officers took this opportunity to register for the 2008/2009 reporting period, and clearly define Council's emissions profile. Council is one of twelve (12) Local Governments in Australia which are listed on the National Greenhouse and Energy Register; however it is unclear how many of these twelve Councils submitted any data in 2008/2009.

An in-house review of Tweed Shire Council's scope 1 and 2 GhG emissions (ie. scope 1 - electricity and fuel consumption, scope 2 - methane emissions from Stotts Landfill and waste-water treatment plants) concluded that Council did not trigger the corporate group threshold for the 2008/09 reporting period, however, the landfill component of Stotts Creek Resource Recovery Centre produced 27.48 25 kt CO₂-e in 2008/09, triggering the facility threshold of 25 kt CO₂-e. As a result, activity data for the Landfill was submitted to the Australian Government Department of Climate Change on 30 October 2009. The implementation of the methane gas recovery infrastructure at the Stotts Creek Landfill significantly reduced the emissions profile for this site, and will continue to mitigate a portion of emissions from the site for many years after the last tonne of waste is accepted for landfilling. The methane gas recovery infrastructure is by far Council's single most effective emissions management infrastructure.

Council is now required to submit a NGERs report annually from 2008/09. To assist this process into the future existing data management systems for energy, fuel and methane emissions are being refined in accordance with the NGERs requirements for data collection.

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. NGERs 2008-2009 Submission Summary Report (ECM 9887851)
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26 [CNR-CM] Northern Rivers Food Links - Update

ORIGIN:

Director Community & Natural Resources

SUMMARY OF REPORT:

In February 2009, an alliance of councils across the Northern Rivers region, comprising of Lismore, Byron, Ballina, Tweed, Kyogle and Clarence Valley Councils and Rous Water were awarded \$1.9 million under the NSW Environmental Trust's Urban Sustainability Program to deliver the Northern Rivers Food Links Project.

Northern Rivers Food Links will contribute towards the Council 'Tweed Food Bowl Vision' resolution of 18 August 2009.

This report details the status of the Business Plan and associated governance structure for project delivery over the next two years and identifies the in-kind support required from Tweed Shire Council for project launch and implementation.

RECOMMENDATION:

That Council:-

1. **Endorses Option Two for the establishment of the Local Government Area Reference Group as detailed in the report.**
2. **Nominates a Councillor to participate in the project launch, being a '*local food cook off*' between a Councillor, chef and hospitality student.**

REPORT:

On 18 August 2009 Cr J van Lieshout tabled a mayoral minute – 'Tweed Food Bowl Vision' and resolved that:-

Council Officers investigate and prepare a feasibility report on the potential for Northern Rivers region to increase its food growing capacity together with studies on food related industry initiative and more sustainable "Paddock to Plate" and "co-operative marketing" opportunities.

Council takes an active involvement in the \$1.9 million Northern Rivers Food Links Project and that a suitable workshop presentation on the "Draft Food Link Project Business Plan" be arranged.

Council will recall the workshop presentation on the Northern Rivers Food Links Project on 22 September 2009. This report provides an update on the status of the project.

Background:

In February 2009, an alliance of councils across the Northern Rivers region, comprising of Tweed, Lismore, Byron, Ballina, Kyogle, Clarence Valley and Rous Water were awarded \$1.9 million under the NSW Environmental Trust's Urban Sustainability Program to deliver the Northern Rivers Food Links Project (the Project).

A Steering Committee was established comprising of staff from member Council's with Clarence Valley Council being appointed as the lead agency to administer the project on behalf of member Council's. Lismore City Council was initially the lead agency but withdrew from the position and Clarence Valley Council took up the role to allow the project to continue.

The Project consists of two stages, delivered over three years.

- Stage 1 (2009): Preparation of the Business Plan and establishment of the governance framework.
- Stage 2 (2010 and 2011): Implementation of the Business Plan.

Business Plan and Governance Framework

The Business Plan was prepared by independent consultants between March and September 2009 following extensive consultation with industry, community and councils across the northern rivers region and was approved by the NSW Environmental Trust in March 2010.

A summary of the Business Plan, including Project objectives, deliverables and governance framework is provided below.

Objectives

- Enhance the local food economy by strengthening links between the regions food producers, distributors, retailers and consumers.
- Support take-up of sustainable food production practices with particular emphasis on farming inputs, land-use management in a changing climate and off-farm environmental impacts.
- Reduce reliance on highly centralised food supply chains.

The General Managers from the seven participating councils have signed an agreement to continue co-operation and support for this project.

The Project will seek to achieve its objectives through a number of focus areas. These are listed below and have been divided according to their implementation on a shire-wide or regional basis.

Local Government Projects

Village Showcase: The projects will seek to fund at least one grassroots food-related initiative in each local government area, such as community gardens, local markets and community supported agriculture. Community and/or other groups seeking funding will be required to provide a cash/in-kind contribution.

Regional Projects

Marketing and Education: Will entail research of consumer attitudes to and awareness of locally produced food and the development of a marketing and education strategy to raise awareness of the benefits of consuming locally produced food.

Distribution: Will entail the identification of innovative, planned and co-ordinated actions aimed at the decentralization and localisation of food supply and distribution system.

LGA Food Resource Kit: Aims to support partner councils in the development and implementation of food related policy, procedures and practices to deal with emerging issues associated with food production.

Food Production and Distribution in Indigenous Communities: Aims to support activities to improve and upgrade food production, distribution and consumption in Aboriginal communities and Aboriginal community organisations throughout the region.

Sustainable Farming Practices: Aims to support sustainability initiatives, such as on-farm composting and/or biochar trials in a sector or location which have limited opportunities or take-up. Also aims to provide additional funding to training providers to allow them to extend their support beyond workshops to mentoring and/or focus groups to support people in implementing the change.

Business Development: Aims to provide opportunities for primary producers to make their farm businesses more financially sustainable, such as on-farm value adding and cooperative marketing.

Land Use Showcase: This will showcase existing and potential land use models (such as intentional communities and community supported agriculture) and promote new models.

Funding will be provided through the project to business, industry and community groups to implement a number of these activities. Information packages regarding the potential community funding and various project areas will be made available for the community following the approval of the Business Plan.

Governance Structure

The scale of the Project, and the involvement of seven councils requires a robust governance structure, including a project management team independent of any individual Council. Below is a summary of the governance structure for the Project, which will commence in April 2010.

Steering Committee

All councils partnered in the Project will be represented on a Steering Committee by at least two staff members, together with a representative from the Environmental Trust, the funding authority.

Project Management Team

A Project Management Team has been engaged, consisting of a Project Manager, Regional Project Officer and Local Government Project Officer. These personnel will be responsible for the successful initiation, implementation and completion of the projects.

The Project Manager will be responsible for overall project organisation, management, planning, implementation, monitoring and evaluation. The Project Manager will report to the Steering Committee.

The Local Government Project Officer will support the coordination of seven LGA Reference Groups and develop specific funding criteria for local government projects across the region.

The Regional Project Officer will support the co-ordination of a Regional Partnership Reference Group and develop specific funding criteria for regional project activities.

Reference Groups

Given the scale and complexity of the project and the range of interest groups throughout the region, a number of reference groups will be created. The reference groups will be supported by the relevant Project Officer who will assist with developing the criteria for the funding, promote the funding opportunities through the local media and provide support to applicants in putting together their submissions.

The overall role of the reference groups is to:

- Provide advice and feedback to community groups seeking support for project activities
- Provide advice to the Steering Committee on activities
- Provide advice and feedback on project activities once underway
- Communicate with constituents to explain decisions made by the Steering Committee

Local Government Area (LGA) Reference Group

A reference group will be established in each LGA with the responsibility for:

- Village showcase projects

The short listing of applications for projects under this focus area will be the responsibility of the local government area reference group set up by each of the partner councils. These short listed projects will then be recommended to the Steering Committee for selection.

Establishing the LGA Reference Group

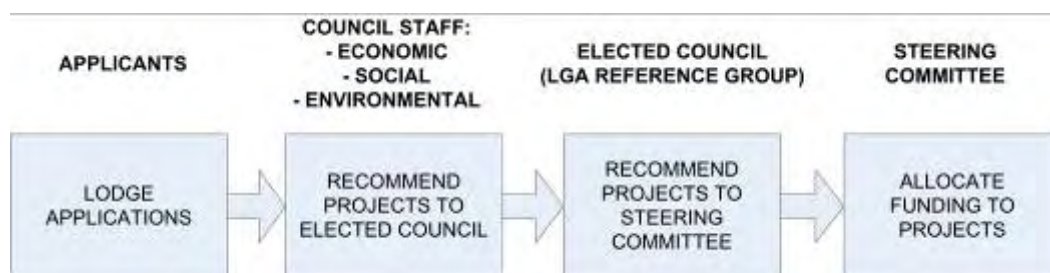
Each Council is choosing a slightly different framework for establishment of the LGA Reference Group based on existing governance structures within their own organisation. Two options that fit within the Tweed Shire Council framework are as follows:

Option One:

LGA Reference Group comprising two councillors to represent the community and three council staff representing economic, social and environmental management issues respectively.

Option Two:

Council staff to assess applications and prepare a business paper for Council endorsement as detailed in the flowchart below.



Recommendation: That Council endorses Option Two for the establishment of the LGA Reference Group.

Regional Partnership Reference Group

This is the largest reference group, reflecting the breadth of activities covered. It will be responsible for:

- Marketing and education
- Distribution
- Food production and distribution in indigenous communities
- Sustainable agriculture projects.

Membership of the Regional Reference Group will be drawn from identified stakeholder groups and membership numbers will be capped at thirteen. Expressions of Interest will be sought for membership of the Regional Reference Group and selection of the members completed by the Steering Committee with support from the Project Manager.

Event to Launch the Project to the Community

Put simply, the aim of Northern Rivers Food Links is to increase the availability of locally produced food in local stores and to get the community excited about locally produced food so this flows through to purchasing decisions. With this in mind, an innovative community launch is required to get the project off on the right foot.

The Project Steering Committee has chosen a 'local food cook off' in each local government area using the 'cook and the chef' format as the basis for the event. In each local government area a Councillor, a chef and a hospitality student will use local ingredients to prepare a dish in front of local media and event attendees. A date has not been set for the launch, but is anticipated to occur between 26 April and 7 May 2010.

Recommendation: That Council nominates a Councillor to participate in the 'local food cook off' between a Councillor, chef and student.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The only direct costs to Council associated with this project are of an in-kind nature though the commitment of staff time on the Steering Committee and the LGA Reference Group. The project budget has allocated funds for a project management team to provide the human resources required to deliver most of the activities covered by the project.

No legal implications have been identified.

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 [CNR-CM] Policy - Oxley Cove Canal Estate - Flood Debris Removal

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

In times of flood and after high flows in the upper catchment, large amounts of woody debris and rubbish are transported down the Tweed River and washed into the Oxley Cove canal estate under the influence of wind and river currents.

Debris can form large and very dense rafts which obstruct vessel access and the ability to use canal beaches.

Council receives a significant number of calls for assistance from waterfront property owners who wish to free their foreshores from flood debris.

This policy sets out when and how debris will be removed from canal foreshores.

This policy will allow Council staff to provide affected residents with clear information on the level of service which will be provided in the removal of flood debris.

Consultation with affected landowners will be undertaken prior to finalising the policy.

RECOMMENDATION:

That the Oxley Cove Canal Estate - Flood Debris Removal Policy be placed on public exhibition in accordance with Section 160 of the Local Government Act 1993, following which a report be brought forward for Council's consideration for adoption.

REPORT:

Introduction:

In times of flood and after high flows in the upper catchment, large amounts of woody debris and rubbish are transported down the Tweed River and washed into the Oxley Cove canal estate under the influence of wind and river currents. Debris is trapped and concentrated in a number of locations throughout the canal system.

Debris can form large and very dense rafts which obstruct vessel access and the ability to use canal beaches. Large logs are often stranded which require significant manpower to remove.

Due to tides and changes in wind direction, debris may move around within the canal system, some re-entering the river, but most re-stranding on beaches.

Council receives a significant number of calls for assistance from waterfront property owners who wish to free their foreshores from flood debris.

This policy sets out when and how debris will be removed from canal foreshores.

This policy will allow Council staff to provide affected residents with clear information on the level of service which will be provided in the removal of flood debris.

Consultation with affected landowners will be undertaken prior to finalising the policy.

Rationale for Debris Removal

Council will remove debris when a flood or other high flow event results in an accumulation of significant amounts of debris.

Debris is removed for the following reasons:

- To maintain the amenity of foreshores
- To allow reasonable navigational access to the waterways and foreshore
- To allow reasonable recreational access to beaches for residents

A campaign to remove debris will be commenced within one week following a major event, depending on the availability of staff. It must be recognised that following large floods there will be a large number of urgent jobs to attend to, throughout the Shire.

Residents should be aware that their property boundary extends two metres (on average) beyond their canal revetment wall. As such, it is the responsibility of property owners to undertake any maintenance in this area, beyond that which Council deems acceptable, at their own expense.

Methods of Debris Removal

- Debris is removed by Council staff by hand using a small boat.
- Debris is transported to a location where it is loaded onto trucks and transported to landfill.

- On occasions when severe debris accumulations are present, a commercial vessel, excavators and bob-cats can be used.
- Access to the canal system to undertake this work is very restricted.
- Access restrictions and the existence of pontoons makes extensive use of machinery impossible, increases the entrapment of debris and increases safety risk to staff collecting debris.
- Occasionally a clean up campaign will be halted for a number of days to allow high tides and wind to either remove or re-concentrate debris.

Residents can assist by:

- Collecting and stacking large debris on foreshores where it can be more efficiently removed by Council staff.
- Removing large debris from deep water around pontoons and stacking it on the foreshore.
- If residents rake beaches clean and push debris into the canal, it may be taken out of the canal by wind and tide. However, it must be recognised that in many cases this debris will simply become stranded on another resident's foreshore.

Standard of Service Provided

- It is impossible to remove all debris from the canal system, and debris will not be collected from the undeveloped south eastern foreshore.
- The objective of a clean up will be to remove the majority of large debris (sticks, branches etc approximately 1 metre and above) which is causing a significant problem to access as described in section 2.
- Council will not attempt to remove all small sticks and debris moving around the canal system under the influence of tide and wind.
- Rubbish will be targeted.
- Council will not collect piles of small debris (small sticks, leaves, grass etc) raked into mounds and left on beaches and above the high tide line by residents. This type of material may be bagged by residents and left on the footpath for Council collection.
- Council will collect bagged debris left on the foot path, two weeks after the commencement of a canal clean-up.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Canal debris removal is undertaken by the NRM Unit and funded under the canal maintenance 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).

1. Draft Policy - Oxley Cove Canal Estate - Flood Debris Removal (ECM 14484809)
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REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS

28 [EO-CM] Double View Road - Parish of Condong - Road Closure Application

ORIGIN:

Design

FILE NO: GR3/12/1

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve through Lots 9 - 12 in DP 11924, and north south and east of Lot 2 in DP 563711 at Farrants Hill, from the Land & Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. The application however does comply with each of the exception categories, noted below:-

- "1. Applications will be considered for closure of roads which are demonstrably redundant in terms of access if not otherwise ineligible.*
- 2. Application will be considered for closing road reserves where the proponent is opening a more negotiable corridor serving the same access role.*
- 4. Terrain where topographical constraints argue strongly for a more logical boundary definition for the purposes of road verge maintenance, safety fencing or private property access."*

It is recommended that Council does not object to the closure and purchase of the section of Crown Road Reserve through Lots 9 - 12 in DP 11924, and north south and east of Lot 2 in DP 563711 at Farrants Hill.

RECOMMENDATION:

That:-

- 1. Council consents to the closure of part of the road reserve that runs through Lots 9-12 in DP 11924, and north south and east of Lot 2 in DP 563711 at Farrants Hill; and**
- 2. As a condition of this consent the owners of Lots 1 and 2 DP 563771 are to open and dedicate public road access from Booths Road to the boundary of Lot 69 DP 755698 prior to closure of the road reserve.**

3. **As a condition of the consent, the owners of Lots 11 and 12 in DP 11924 be required to create a Right of Carriageway in favour of Lot 11 and burdening Lot 12 to secure access to Lot 11 in the event that Lot 11 is sold separately to Lot 12.**
4. **The applicant bears all the survey and legal costs and purchases the subject land as determined in value by a local registered valuer;**
5. **Easements be created over public authority reticulation services, if any; and**
6. **All necessary documentation be executed under the Common Seal of Council.**

REPORT:

Council has received a notice of application to close a section of unformed Crown Road reserve, known as Double View Road, shown highlighted in the plan, through Lots 9 - 12 in DP 11924, and north south and east of Lot 2 in DP 563711 at Farrants Hill, from the Land & Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

The applicant was advised in writing via his solicitor that various farming activities had evolved over time on parts of the road reserve including the establishment of dams and orchards. The road reserve is also constrained by steep gradients and significant trees and vegetation which could affect the feasibility of the proposed property access.

It was proposed that should the applicant wish to continue with the application he may be required to realign the road corridor which could involve negotiation with the affected land owners to minimise environmental impacts.

The applicant had been advised that an alternative to continuation with this application would be to negotiate a right of access over Lot 1 in DP 563771 from Booths Road. A potential corridor is shown hatched in the plan above. The owner of Lot 1 had provided his concurrence to this alternative and subsequently the application was then withdrawn.

Correspondence relating to this matter has been received by the applicants of this road closure application which expresses their objection to the formation of the road and notes that the owner of Lot 69 currently gains access to his property via Clothiers Creek Road and has the potential to gain further access if required via a negotiated right of carriageway from Booths Road over Lot 1 in DP 563771. In their opinion formation of this section of road reserve would be detrimental to the environment and is as such unnecessary.

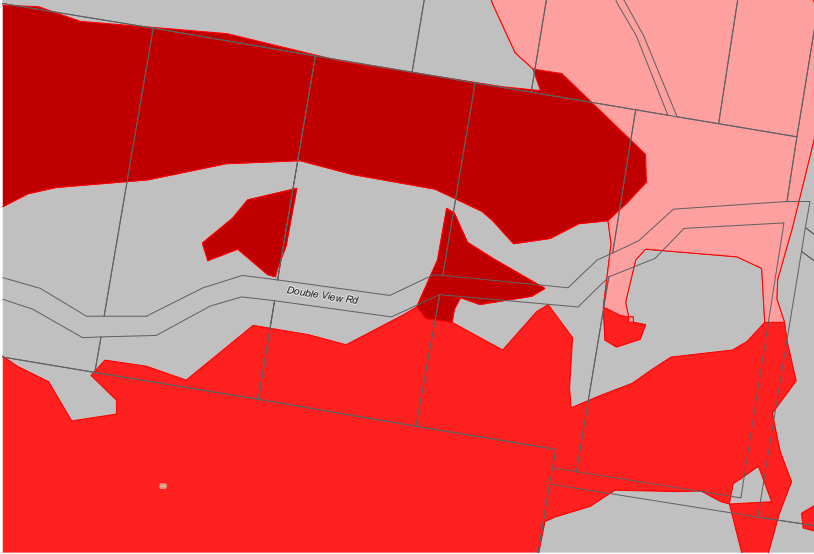
The road reserve is noted as containing Old Growth Rainforest and is key habitat State Forest. There is in small sections a range of low to high ecological status and sensitivity. There does not appear to be any other environmental factors or wildlife corridors affecting this section of the road reserve.

The applicants have expressed their interest in maintaining the road reserve upon closure in its natural state with no further impact on the area to be undertaken. The owner of Lots 1 and 2 in DP 563771 has advised Council that he would be happy to create and dedicate a public road reserve leading from Booths Road to the western boundary of Lot 69 in DP 755698 should the closure be approved.

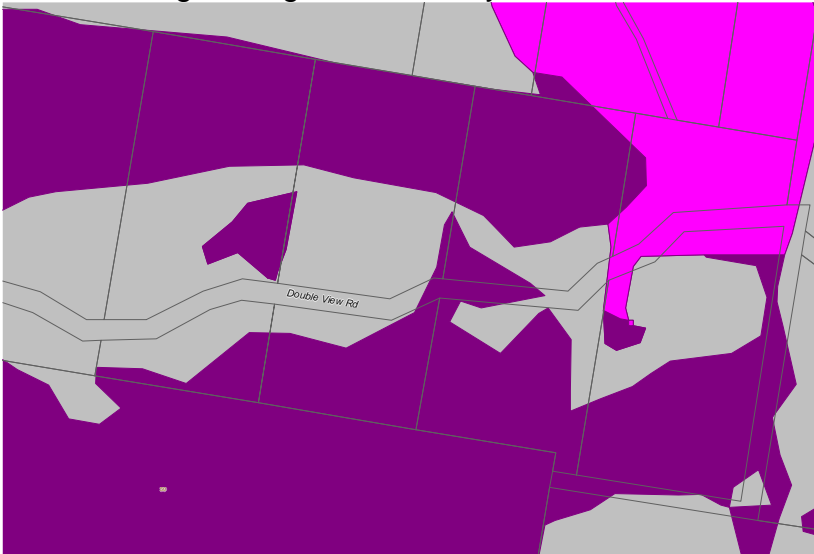
Plan showing Old Growth Forest as identified:-



Plan showing Ecological Status:-



Plan showing Ecological Sensitivity:-



It is to be noted that the owners of Lots 9 and 10 have a Right of Carriageway over Lot 1 from Booths Road to access their property.

Lots 11 and 12 are currently in the same ownership and to ensure that Lot 11 has a secure access in the event that Lot 11 is sold separately a Right of Carriageway should be created over Lot 12.

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. The application however does comply with each of the exception categories as noted below:-

1. *Applications will be considered for closure of roads which are demonstrably redundant in terms of access if not otherwise ineligible.*
2. *Application will be considered for closing road reserves where the proponent is opening a more negotiable corridor serving the same access role.*
4. *Terrain where topographical constraints argue strongly for a more logical boundary definition for the purposes of road verge maintenance, safety fencing or private property access."*

It is recommended that Council does not object to the closure and purchase of the unformed section of Crown Road Reserve known as Double View Road, subject to the owners of Lots 1 and 2 DP 56377 opening a public road from the end of Booths Road to the western boundary of Lot 69 DP 755698 and a Right of Carriageway for the benefit of Lot 11 burdening Lot 12.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. **Confidential Attachments** - Copies of correspondence (ECM 8987406; 9234663; 9743524; 10971342; 11316260; 12333746).
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29 [EO-CM] Lot 52 DP 755685 - Parish of Berwick - Road Closure Application

ORIGIN:

Design

FILE NO: GR3/12/4

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve west of Lot 52 in DP 755685 at Dungay, from Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council or other infrastructure appears to currently exist within it. There is no current formation of the road reserve.

The section of road reserve proposed to be closed is approximately 250m in length and falls within a road network leading from Bracken Road to Tomewin Road at Dungay.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 2** Road capable of providing physical access to other roads, public and private properties...;
- Clause 3** Road reserves containing wildlife corridors, significant flora...and scenic escarpments; and
- Clause 6** Roads that could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows.

As the proposal is not consistent with Clause 2, 3 or 6 of Council's Policy, it is recommended that Council objects to the closure and purchase by the applicant of the section of Crown Road reserve west of Lot 52 in DP 755685 at Dungay.

RECOMMENDATION:

That Council objects to the closure and purchase by the applicant of the section of Crown road reserve west of Lot 52 in DP 755685 at Dungay.

REPORT:

Council has received a notice of application to close a section of Crown Road reserve west of Lot 52 in DP 755685 at Dungay, from Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council or other infrastructure appears to currently exist within it. There is no current formation of the road reserve.

The section of road reserve proposed to be closed is approximately 250m in length and falls within a road network leading from Bracken Road to Tomewin Road at Dungay. Bracken Road is formed from the southern intersection of Tomewin Road for approximately 760m, it then travels a further 1.2km to the southern boundary of the applicant's property, Lot 52. From the northern boundary of the applicant's property the road reserve then travels approximately another 2km, over mountainous and heavily treed landscape to meet up with the northern intersection of Tomewin Road.

The entire road reserve could be suitable as a walking trail containing scenic escarpments.

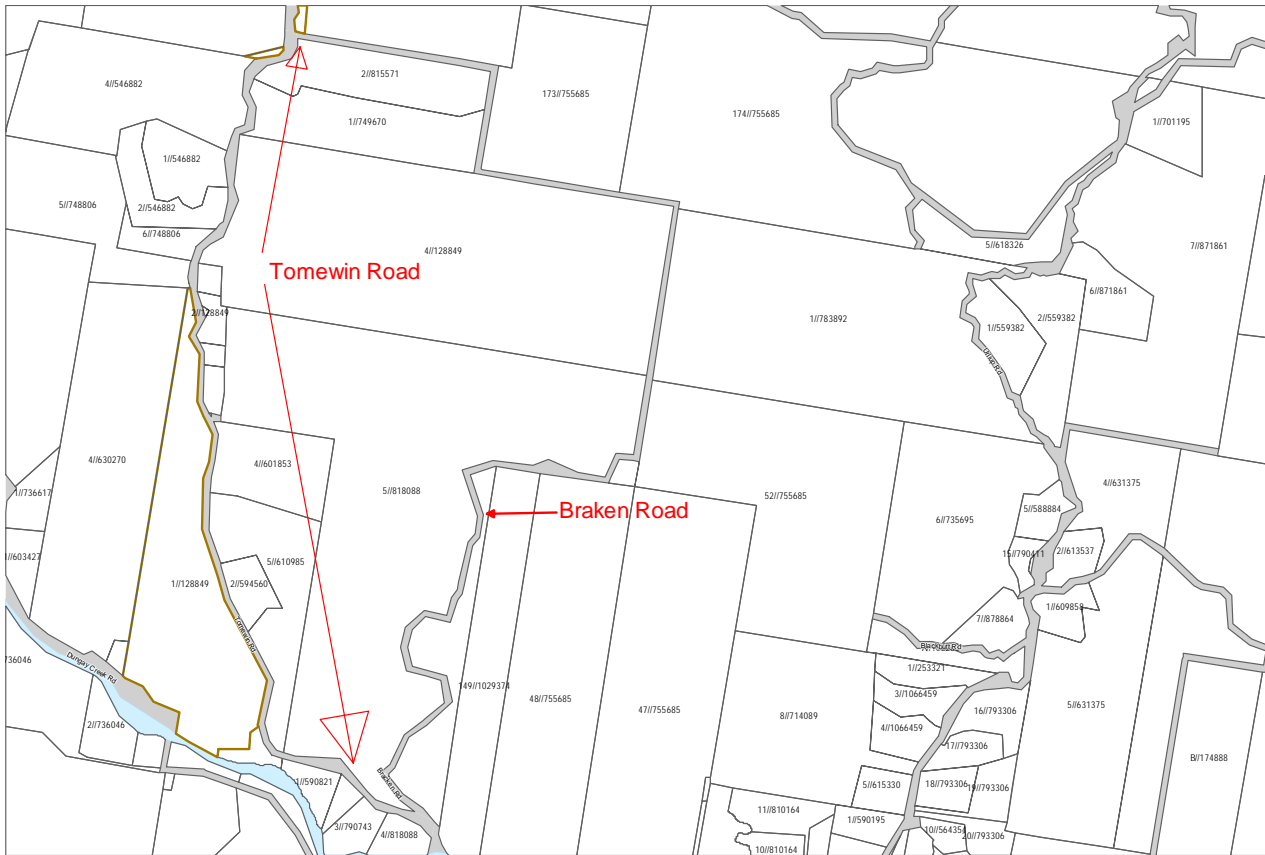
The southern part of the proposed road closure is cleared with the remaining section of around 135m in length being heavily treed with young forest growth which is identified on Council's Geographical Information System (GIS) as having a high ecological status and moderate ecological sensitivity and as being key habitat.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 2** Road capable of providing physical access to other roads, public and private properties...;
- Clause 3** Road reserves containing wildlife corridors, significant flora...and scenic escarpments; and
- Clause 6** Roads that could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows.

As the proposal is not consistent with Clause 2, 3 or 6 of Council's Policy, it is recommended that Council objects to the closure and purchase by the applicant of the section of Crown Road reserve west of Lot 52 in DP 755685 at Dungay.

Plan showing connection between Bracken Road and Tomewin Road:-



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 [EO-CM] Lot 311 DP1000653 Parish of Mooball - Road Closure Application

ORIGIN:

Design

FILE NO: GR3/12/9

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve on the eastern boundary of Lot 311 in DP 1000653 at Cudgera Creek, from the Land and Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions as the road can be considered redundant in terms of access.

It is recommended that Council does not object to the closure and purchase of the section of Crown Road Reserve east of Lot 311 in DP 1000653.

RECOMMENDATION:

That:-

- 1. Council approves the closure of part of the road reserve on the eastern boundary of Lot 311 in DP 1000653 at Cudgera Creek; and**
- 2. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by a local registered valuer;**
- 3. Easements be created over public authority reticulation services, if any; and**
- 4. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

Council has received a notice of application to close a section of Crown Road reserve on the eastern boundary of Lot 311 in DP 1000653 at Cudgera Creek, from Land and Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council or other infrastructure currently exists within it. A small section of the road reserve is moderately treed and Council's GIS systems show a small section noting some ecological status however this appears to have minimal impact.

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions as the road can be considered redundant in terms of access.

It is recommended that Council does not object to the closure and purchase of the section of Crown Road Reserve east of Lot 311 in DP 1000653.

Plan of section of Crown road proposed to be closed:-



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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31 [EO-CM] Parish of Nullum - Road Closure Application

ORIGIN:

Design

FILE NO: GR3/12/3

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve within Lot 40 in DP 755730 and Lot 2 DP 539592, south of Lot 3 in DP 44783 and north and east of Lot 4 in DP 44783 at Rowlands Creek, from the Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

As this application covers a large area of road reserve it has been split into three sections.

Section 1. Road reserve running through the southern section of Lot 40 in DP 755730 from Rowlands Creek Road to Rowlands Creek and then running north east to the southern boundary of Lot 3 in DP 44783.

Section 2. Road reserve running through Lot 40 in DP 755730 east to west and along the western boundary of Lot 2 in DP 539592.

Section 3. Road reserve running east to west through Lot 2 in DP 539592 and the section running east to west along the southern boundary of Lot 2 in DP 539592.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 2** Roads capable of providing physical access to other roads, public and private properties...;
- Clause 3** Road reserves containing wildlife corridors, significant flora...and scenic escarpments; and
- Clause 6** Roads that could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows.

As the proposal is in conflict with Clauses 1, 2, 3 and 6 of Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the section of Crown road reserve within Lot 40 in DP 755730 and Lot 2 DP 539592, south of Lot 3 in DP 44783 and north and east of Lot 4 in DP 44783 at Rowlands Creek.

RECOMMENDATION:

That Council objects to the closure and purchase by the applicant of the section of Crown road reserve within Lot 40 in DP 755730 and Lot 2 DP 539592, south of Lot 3 in DP 44783 and north and east of Lot 4 in DP 44783 at Rowlands Creek.

REPORT:

Council has received a notice of application to close a section of Crown Road reserve east of Lot 2 in DP 706328 at North Arm, from Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

As this application covers a large area of road reserve it has been split into three sections.

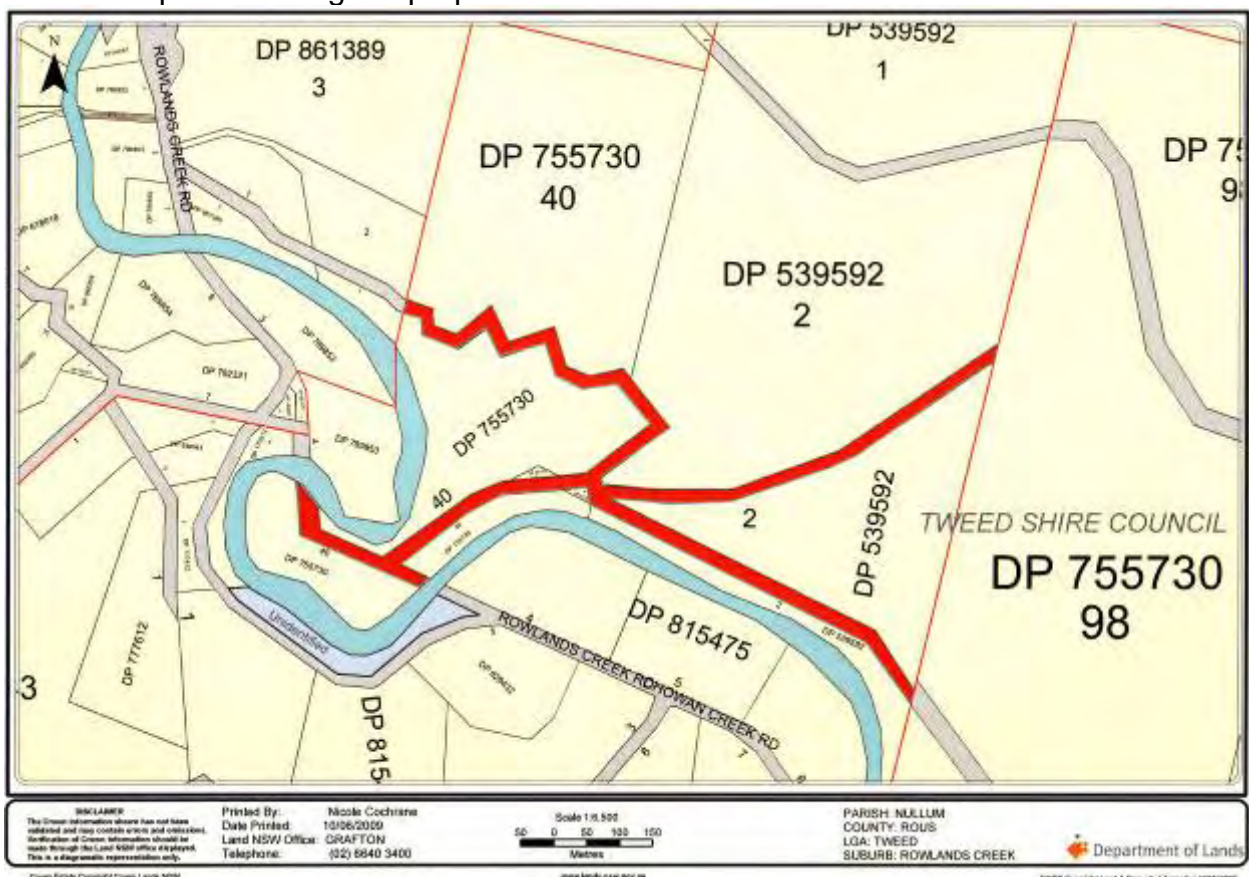
Section 1. Road reserve running through the southern section of Lot 40 in DP 755730 from Rowlands Creek Road to Rowlands Creek and then running north east to the southern boundary of Lot 3 in DP 44783.

Section 2. Road reserve running through Lot 40 in DP 755730 east to west and along the western boundary of Lot 2 in DP 539592.

Section 3. Road reserve running east to west through Lot 2 in DP 539592 and the section running east to west along the southern boundary of Lot 2 in DP 539592.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council or other infrastructure appears to currently exist within it.

Below is a plan showing the proposed Road Closure:-



Section 1.

The southern section of this road reserve contains a formed track leading directly from Rowlands Creek Road to Rowlands Creek. Closure of this section of road would sever this connection and prevent public access.

Aerial view showing road formation leading to Rowlands Creek:-



There is further formation leading north east from the above section of road to the dwelling located on Lot 3 in DP 44783. This parcel is currently owned by the applicant however if the property is sold in the future there will be no legal access or road frontage available to it. For this reason the proposal should not be supported.

Aerial view showing road formation leading to residence at Lot 3 DP 44783:-



Rowlands Creeks is identified as a key fish habitat area and carries a wetland conservation value of 100-200 within this area as shown on Council's Geographical Information System (GIS). The GIS also shows the road reserve has moderate vegetation and shows a moderate to high ecological status and high ecological sensitivity in parts.

Section 2.

This road reserve runs through Lot 40 in DP 755730. Council's GIS shows it is heavily vegetated, contains a significant subregional fauna corridor with nearby threatened and protected fauna species has a high ecological status and moderate ecological sensitivity.

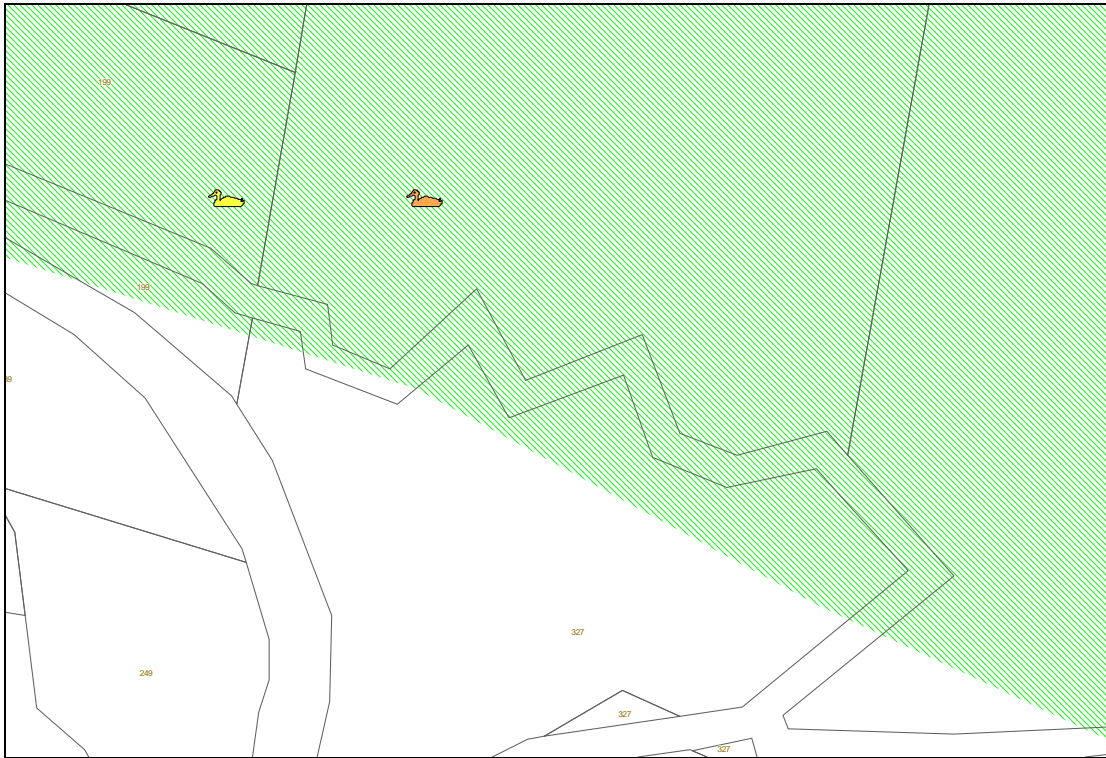
This section of road falls within a road network and closing it would sever this connection.

For these reasons the proposal should not be supported.

Aerial photo showing vegetation over road reserve:-



Plan showing subregional fauna corridor and notification of threatened and protected fauna species:-



Section 3

The road reserve running through Lot 2 in DP 539592 appears to have formation over the majority of it and may provide access to the adjoining parcel of land. Council's GIS shows there is a subregional fauna corridor within the majority of the road and that it has moderate to high ecological status and moderate ecological sensitivity.

It may be possible that a dwelling/building has been erected either within or very close to the road reserve however without a comprehensive survey of the area it is difficult to determine the exact location of the structure in respect of the road.

For these reasons the proposal should not be supported.

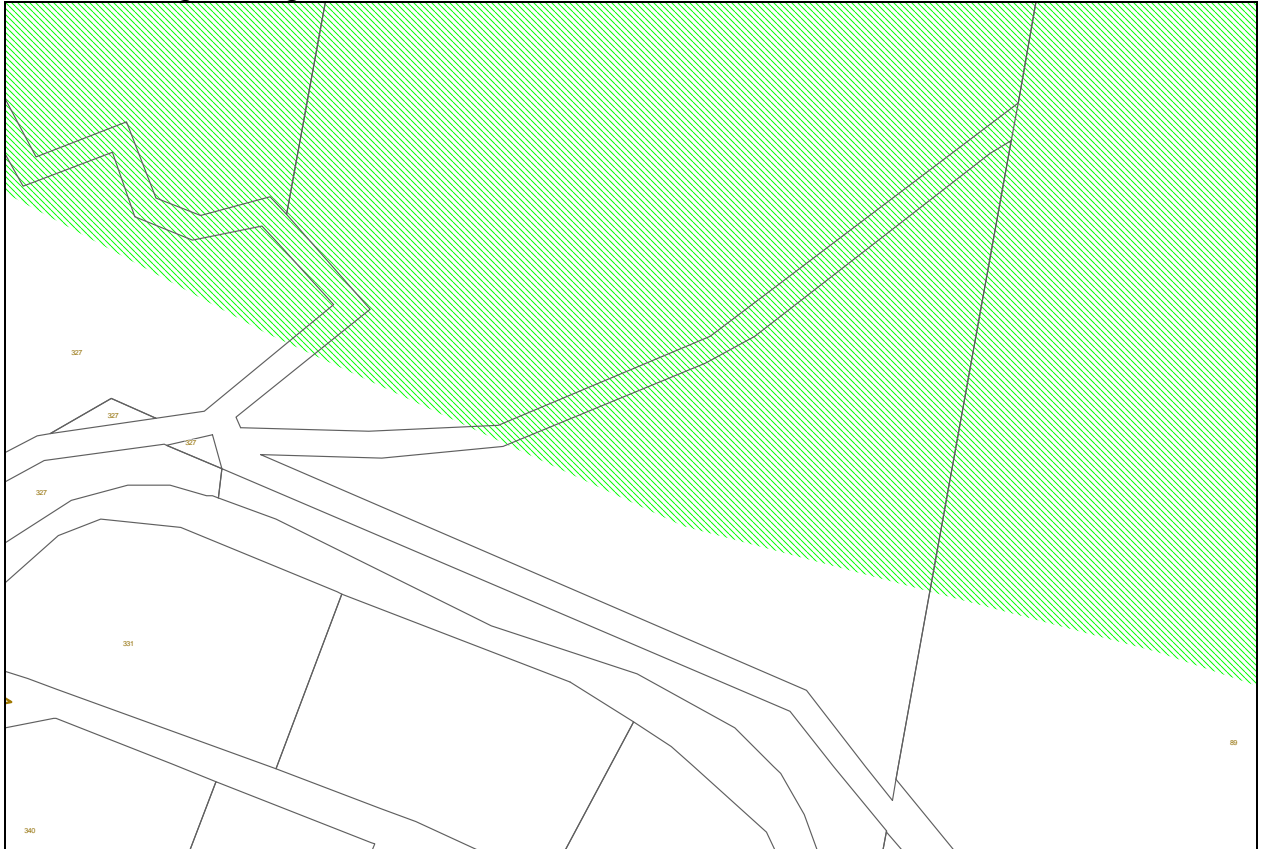
Aerial photo showing road formation and vegetated area:-



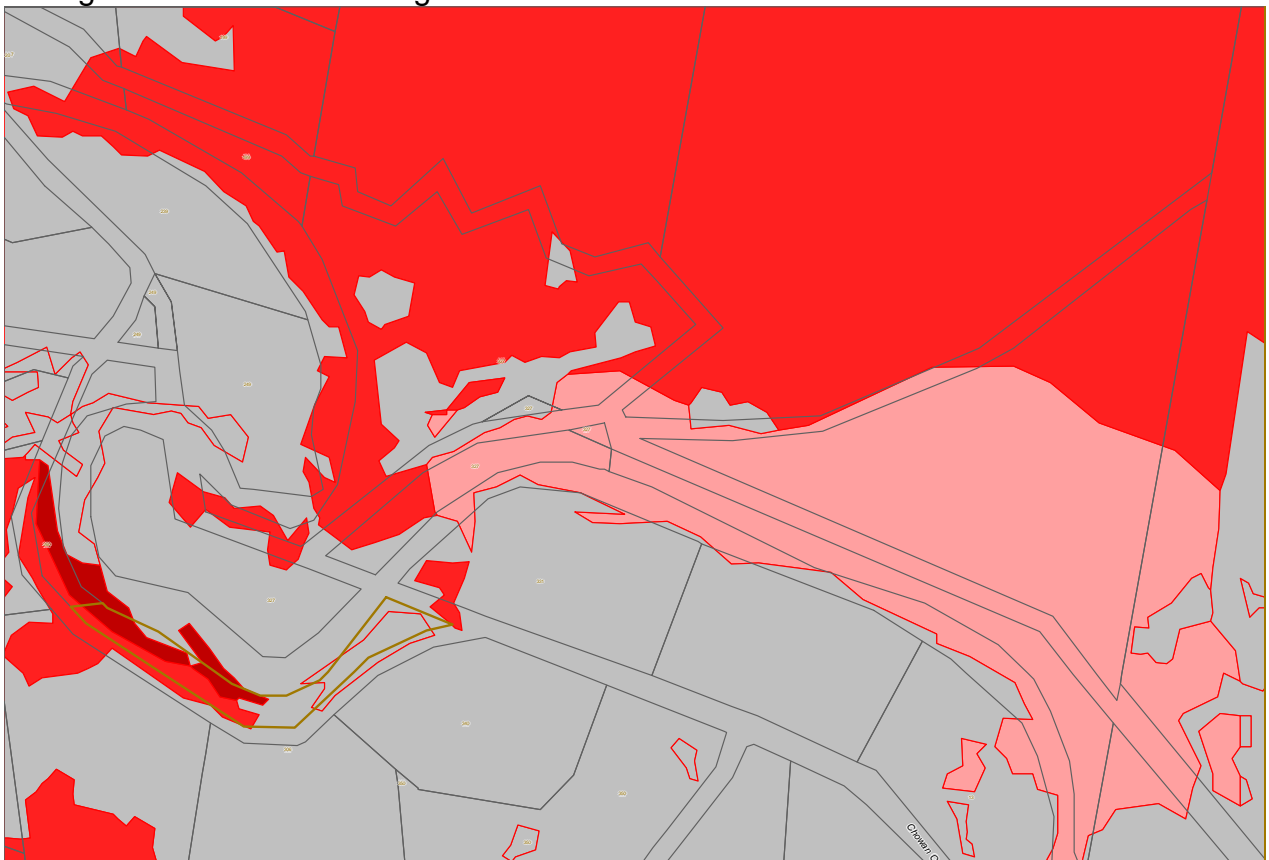
Structure in vicinity of road reserve:-



Plan showing subregional fauna corridor:-



Plan showing the Ecological Status of the whole area. 'Darker shaded' area being 'high' and the 'lighter shaded' area being 'moderate':-



Plan showing the Ecological sensitivity of the whole area. The 'lighter shaded' area being moderate and the 'darker shading' being high:-



Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 2** Roads capable of providing physical access to other roads, public and private properties...;
- Clause 3** Road reserves containing wildlife corridors, significant flora...and scenic escarpments; and
- Clause 6** Roads that could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows.

As the proposal is in conflict with Clauses 1, 2, 3 and 6 of Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the section of Crown road reserve within Lot 40 in DP 755730 and Lot 2 DP 539592, south of Lot 3 in DP 44783 and north and east of Lot 4 in DP 44783 at Rowlands Creek.

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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32 [EO-CM] Lot A in DP 108795 - Parish of Tyalgah - Road Closure Application

ORIGIN:

Design

SUMMARY OF REPORT:

Council has received a notice of application to close Crown Road reserves east and west of Lot A in DP 108795 at Tyalgah, from Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Council's policy on Road Closures notes that roads not eligible for closure include

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 2** Roads capable of providing physical access to other roads, public and private properties...;
- Clause 3** Road reserves containing wildlife corridors, significant flora...and scenic escarpments; and

As the proposal is not consistent with Clauses 1, 2 and 3 of Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the sections of Crown road reserve east and west of Lot A in DP 108795 at Tyalgah.

RECOMMENDATION:

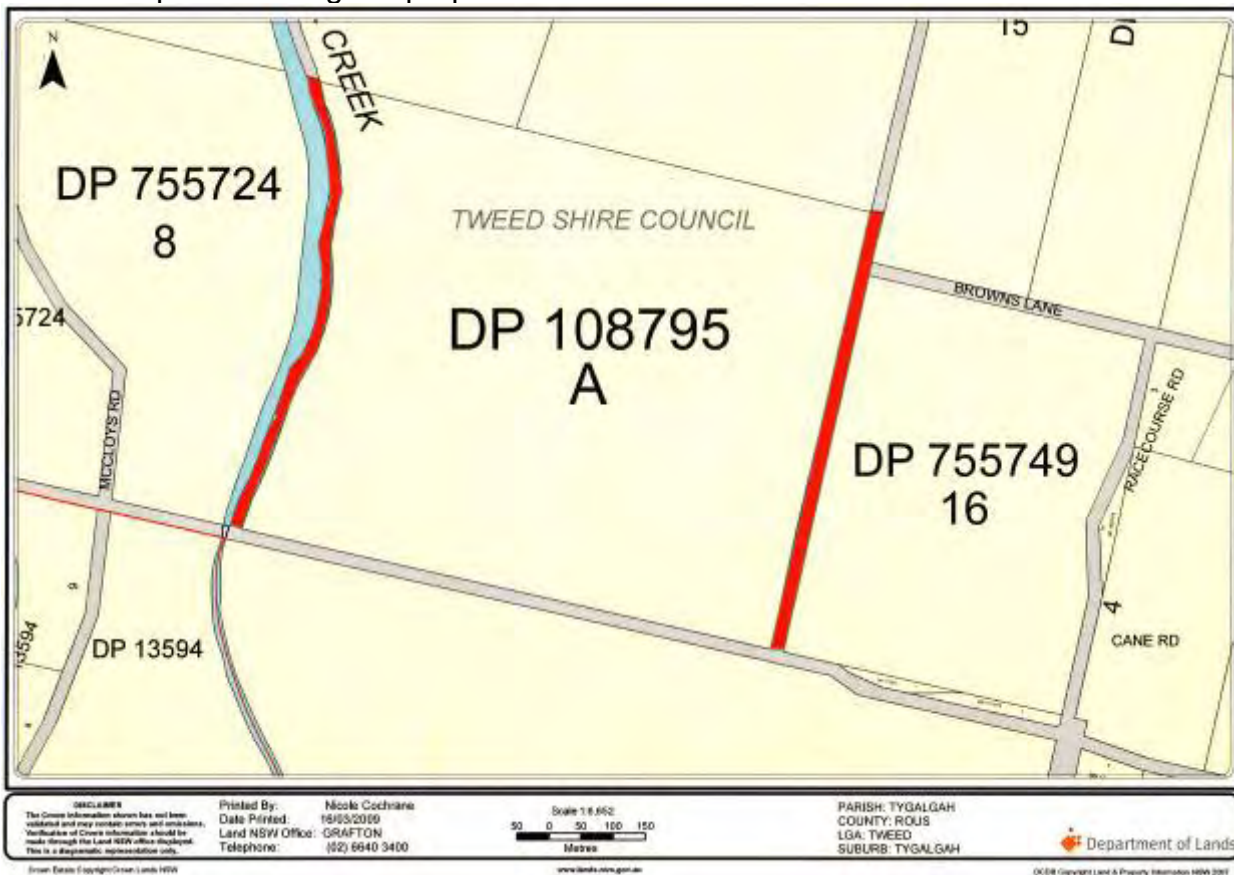
That Council objects to the closure and purchase by the applicant of the sections of Crown road east and west of Lot A in DP 108795 at Tyalgah.

REPORT:

Council has received a notice of application to close Crown Road reserves east and west of Lot A in DP 108795 at Tygalgah, from Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Below is a plan showing the proposed Road Closure:-



The section of road reserve on the western boundary of Lot A runs along the length of Mayal Creek which is protected riparian under Section 26D of the Water Act. This section of road reserve and creek contain key fish habitat and estuary threatened species.

Council is implementing foreshore regeneration within the region of the Tweed Shire and are utilising road reserves which adjoin the creeks and rivers to allow access to these areas. Council has encountered problems with land owners where access to the foreshore area is only available through private property. While Council is not seeking to fully construct the road reserves along the foreshores, the road reserves do provide an unimpeded access for regeneration works to be completed and should not be closed.

There is formation on the road running the length of the eastern boundary of Lot A from Browns Lane north to the south west boundary of Lot 15 in DP 755749 and also south to the intersection of Cane Road.

Aerial view showing formation leading north:-



Aerial view showing formation leading south:-





Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 2** Roads capable of providing physical access to other roads, public and private properties...;
- Clause 3** Road reserves containing wildlife corridors, significant flora...and scenic escarpments; and

As the proposal is not consistent with Clauses 1, 2 and 3 of Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the sections of Crown road reserve east and west of Lot A in DP 108795 at Tygalgah.

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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33 [EO-CM] Lot 4 DP 733832 - Parish of Tyalgum - Road Closure Application

ORIGIN:

Design

FILE NO: GR3/12/12

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve west of Lot 4 in DP 733832 at Brays Creek, from Land and Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

This application complies with Councils current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions as the road can be considered redundant in terms of access.

It is recommended that Council does not object to the closure and purchase of the section of Crown Road Reserve west of Lot 4 in DP 733832 at Brays Creek.

RECOMMENDATION:

That:-

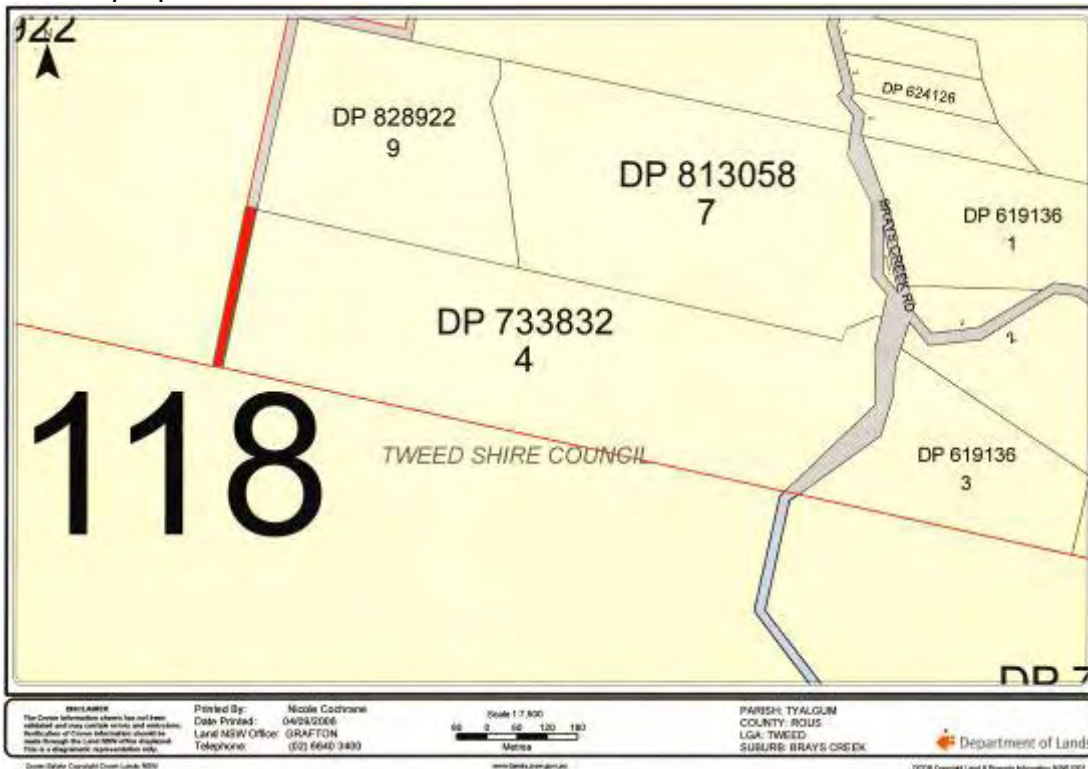
- 1. Council consents to the closure of part of the road reserve that runs west of Lot 4 in DP 733832 at Brays Creek; and**
- 2. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by a local registered valuer;**
- 3. Easements be created over public authority reticulation services, if any; and**
- 4. All necessary documentation be executed under Common Seal of Council.**

REPORT:

Council has received a notice of application to close a section of Crown Road reserve west of Lot 4 in DP 733832 at Brays Creek, from Land and Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

A small section of the road reserve is moderately treed however there appears to be minimal environmental impact within this area. There is no formation of the road reserve and it does not appear to impact on any of the surrounding properties.

Plan of proposed road closure:-



Aerial view of the road reserve:-



This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions as the road can be considered redundant in terms of access.

It is recommended that Council does not object to the closure and purchase of the section of Crown Road Reserve west of Lot 4 in DP 733832 at Brays Creek.

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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34 [EO-CM] Lot 10 in DP 1131920 - Parish of Dunbible - Road Closure Application

ORIGIN:

Design

SUMMARY OF REPORT:

Council has received a notice of application to close Crown Road reserves within Lot 1 in DP 583624, within north and east of Lot 10 in DP 1131920 and east of Lot 11 DP 1131920 at Byangum, from the Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 5** Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value.

As this part of the proposal is in conflict with Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the sections of Crown road reserve along the eastern and northern boundaries of Lot 10 in DP 1131920 and the first 100m along the eastern boundary of Lot 11 in DP 1131920, shown hatched on the plan in the body of this report.

It is further recommended that Council does not object to the closure and purchase by the applicant of the section of Crown road reserve which runs through Lot 10 in DP 1131920 and into Lot 1 in DP 583624.

RECOMMENDATION:

That Council

- 1. Objects to the closure and purchase by the applicant of the sections of Crown road along the eastern and northern boundaries of Lot 10 in DP 1131920 and the first 100m along the eastern boundary of Lot 11 in DP 1131920 at Byangum.**
- 2. Does not object to the closure and purchase by the applicant of the sections of Crown road which runs through Lot 10 in DP 1131920 and into Lot 1 in DP 583624.**

REPORT:

Council has received a notice of application to close Crown Road reserves within Lot 1 in DP 583624, within north and east of Lot 10 in DP 1131920 and east of Lot 11 DP 1131920 at Byangum, from the Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Council is implementing foreshore regeneration within the region of the Tweed Shire and utilising road reserves which adjoin the creeks and rivers to allow access to these areas. Council has encountered problems with land owners where access to the foreshore area is only available through private property. While Council is not seeking to fully construct the road reserves along the foreshores, the road reserves do provide an unimpeded access for regeneration works to be completed and should not be closed.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 5** Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value.

As this part of the proposal is in conflict with Council's Policy it is recommended that Council objects to the closure of the section of road reserve that runs from Bakers Road north to and along the Tweed River, which is along the eastern boundary and the northern boundary of Lot 10 in DP 1131920.

The section of road reserve which runs from Bakers Road south along the eastern boundary of Lot 11 in DP 1131920 has full sealed road formation for approximately 100m and provides access to all properties located off Amarillo Drive. The remaining 300m running south has no formation and does not provide access to any of the surrounding properties. It is recommended that Council objects to the closure of the first 100m of this road reserve however provides its consent to the remaining 300m running south along the eastern boundary of Lot 11.

Aerial views of formed and unformed sections of road reserve from Bakers Road:-





In so far as the remaining sections of the proposed road closure there appears to be no environmental impact or formation. It would therefore be recommended that Council does not object to the closure of the section of Crown road reserve which runs through Lot 10 in DP 1131920 and into Lot 1 in DP 583624.

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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35 [EO-CM] Lot 1 in DP 755754 - Parish of Wollumbin - Road Closure Application

ORIGIN:

Design

SUMMARY OF REPORT:

Council has received a notice of application to close Crown Road reserves forming part of the southern and eastern boundaries of Lot 1 in DP 755754, within and east of Lots 10 and 30 in DP 755754 at Byangum, from the Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of these sections of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 5** Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value.

As this part of the proposal is in conflict with Clause 1 and 5 of Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the section of Crown road reserve within south and east of Lot 1 in DP 755754 as well as the section of Crown road reserve east and within Lot 10 in DP 755754 (shown hatched on the plan in the body of this report).

It is further recommended that Council does not object to the closure and purchase by the applicant of the narrow Crown road reserve which runs east and through Lot 30 in DP 755754.

RECOMMENDATION:

That Council:-

- 1. Objects to the closure and purchase by the applicant of the sections of Crown road forming part of the southern and eastern boundaries of Lot 1 in DP 755754 as well as the narrow Crown road reserve east and within Lot 10 in DP 755754 at Byangum.**
- 2. Does not object to the closure and purchase by the applicant of the sections of Crown road reserve which run east and through Lot 30 in DP 755754.**

REPORT:

Council has received a notice of application to close Crown Road reserves within south and east of Lot 1 in DP 755754 (excluding Lot 101 in DP 755754) within and east of Lots 10 and 30 in DP 755754 at Byangum, from the Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

The section of road reserve on the north east boundary of Lot 1 and east and through Lot 1 in DP 755754 and Lot 10 in DP 755754 lead directly to the Oxley River which is protected riparian under Section 26D of the Water Act. These sections of road reserve and river contain key fish habitat and estuary threatened species.

The road on the south east and southern boundary of Lot 1 and the road east and through Lot 10 show low to high ecological status and sensitivity.

Council is implementing foreshore regeneration within the region of the Tweed Shire and utilising road reserves which adjoin the creeks and rivers to allow access to these areas. Council has encountered problems with land owners where access to the foreshore area is only available through private property. While Council is not seeking to fully construct the road reserves along the foreshores, the road reserves do provide an unimpeded access for regeneration works to be completed and should not be closed.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 5** Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value.

As this part of the proposal is in conflict with Clauses 1 and 5 of Council's Policy it is recommended that Council objects to the closure of the section of road reserve within south and east of Lot 1 in DP 755754 and east and within Lot 10 in DP 755754 (as shown hatched on the plan above).

The remaining sections of road reserve proposed to be closed east and through Lot 30 in DP 755754 are unformed and have no direct impact on the surrounding properties. There is minimal environmental impact within this area.

It is recommended that Council does not object to the closure and purchase of the Crown Road reserves east and through Lot 30 in DP 755754.

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.

36 [EO-CM] Lot 5 DP 377684 Parish of Condong - Road Closure Application

ORIGIN:

Design

FILE NO: GR3/12/1

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve south of Lot 5 in DP 600974 within Lot 3 in DP 834433 north and west of Lot 5 in DP 377684 at Eviron, from Land and Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions as the road can be considered redundant in terms of access.

It is recommended that Council does not object to the closure and purchase of the section of Crown Road Reserve south of Lot 5 in DP 600974 within Lot 3 in DP 834433 north and west of Lot 5 in DP 377684 at Eviron.

RECOMMENDATION:

That:-

- 1. Council consents to the closure of part of the road reserve that runs south of Lot 5 in DP 600974 within Lot 3 in DP 834433 north and west of Lot 5 in DP 377684 at Eviron; and**
- 2. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by a local registered valuer;**
- 3. Easements be created over public authority reticulation services, if any; and**
- 4. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

Council has received a notice of application to close a section of Crown Road reserve south of Lot 5 in DP 600974 within Lot 3 in DP 834433 north and west of Lot 5 in DP 377684 at Eviron, from Land and Property Management Authority. Council has been requested to provide its concurrence or objection to the closure of this section of Crown Public Road.

The road contains no natural vegetation and there appears to be minimal environmental impact within this area. There is no formation of the road reserve and it does not appear to impact on any of the surrounding properties, which all have access via either Tweed Valley Way or Eviron Road.

Plan of proposed road closure:-



Aerial view of the road reserve:-



This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions as the road can be considered redundant in terms of access.

It is recommended that Council does not object to the closure and purchase of the section of Crown Road Reserve south of Lot 5 in DP 600974 within Lot 3 in DP 834433 north and west of Lot 5 in DP 377684 at Eviron.

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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37 [EO-CM] Lot 95 in DP 755754 - Parish of Murwillumbah and Wollumbin - Road Closure Application

ORIGIN:

Design

SUMMARY OF REPORT:

Council has received a notice of application to close Crown Road within Lot 4 DP 705636 and road separating that lot from Oxley River, and Crown road separating Lot 95 in DP 755754 from the Tweed River at Eungella and Byangum, from the Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 5** Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value.

As this part of the proposal conflicts with Clauses 1 and 5 of Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the section of Crown road reserve which runs along the eastern boundary of Lot 4 DP 705636, and Crown road separating Lot 95 in DP 755754 from the Tweed River at Eungella and Byangum.

It is further recommended that Council does not object to the closure and purchase by the applicant of the section of Crown road reserve which runs through Lot 4 in DP 705636.

RECOMMENDATION:

That Council:-

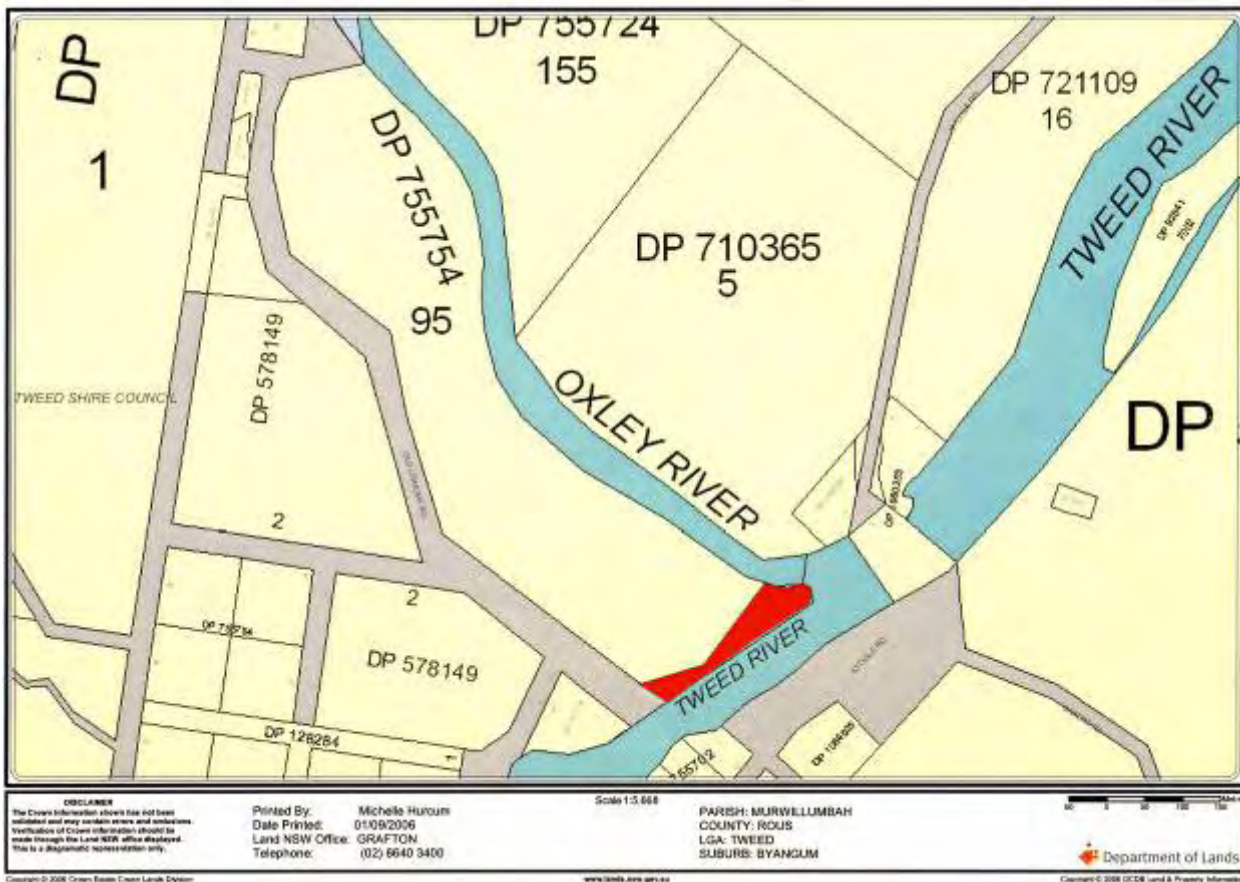
- 1. Objects to the closure and purchase by the applicant of the sections of Crown road reserve which runs along the eastern boundary of Lot 4 DP 705636 and Crown road separating Lot 95 in DP 755754 from the Tweed River at Eungella and Byangum.**
- 2. Does not object to the closure and purchase by the applicant of the sections of Crown road reserve which run through Lot 4 in DP 705636.**

REPORT:

Council has received a notice of application to close Crown Road within Lot 4 DP 705636 and road separating that lot from Oxley River, and Crown road separating Lot 95 in DP 755754 from the Tweed River at Eungella and Byangum, from the Land and Property Management Authority. Council has been requested to provide its consent or objection to the closure of this section of Crown Public Road.

An investigation of the Crown Road reserves has been conducted and it has been noted that no Council infrastructure appears to currently exist within it.

Below are plans showing the proposed Road Closure:-





The section of road reserve on the eastern boundary of Lot 95 and the eastern boundary of Lot 4 run along the Tweed River and the Oxley River which are protected riparians under Section 26D of the Water Act. These sections of road reserve and river contain key fish habitat and estuary threatened species.

Council is implementing foreshore regeneration within the region of the Tweed Shire and utilising road reserves which adjoin the creeks and rivers to allow access to these areas. Council has encountered problems with land owners where access to the foreshore area is only available through private property. While Council is not seeking to fully construct the road reserves along the foreshores, the road reserves do provide an unimpeded access for regeneration works to be completed and should not be closed.

Council's policy on Road Closures notes that roads not eligible for closure include:-

- Clause 1** Roads providing or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores;
- Clause 5** Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value.

As the proposal is in conflict with Clauses 1 and 5 of Council's Policy it is recommended that Council objects to the closure and purchase by the applicant of the section of Crown road reserve which runs along the eastern boundary of Lot 4 DP 705636, and Crown road separating Lot 95 in DP 755754 from the Tweed River at Eungella and Byangum.

The remaining section of road reserve proposed to be closed running through Lot 4 is unformed and has no direct impact on the surrounding properties. There is minimal environmental impact within this area.

It is recommended that Council does not object to the closure and purchase of the Crown Road reserves which runs through Lot 4 in DP 705636.

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.

38 [EO-CM] Doon Doon - Naming of a Council Public Road

ORIGIN:

Design

FILE NO: GS5/1 Pt 6

SUMMARY OF REPORT:

Councils Road Technical Officer recently identified a Council public road reserve which at this time is unnamed and as such to alleviate any confusion relating to the location of this road reserve it has become necessary to name it. A plan of reference is attached.

An advertisement was published in the Tweed Link calling for written submissions for the naming of this road however no suggestions were received at the end of the submission period.

The road runs off Lone Pine Road and in attempting to keep with the theme of the area it is suggested that the road be called after a native Australian pine. One such species is the Cypress Pine.

It is therefore recommended that the road running off Lone Pine Road approximately 1km north from the intersection of Commissioners Creek Road at Doon Doon be called **"Cypress Lane"**.

RECOMMENDATION:

That Council:-

- 1. Publicises its intention to name the road that runs off Lone Pine Road approximately 1km north from the intersection of Commissioners Creek Road at Doon Doon as Cypress Lane.**
- 2. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 2000.**

REPORT:

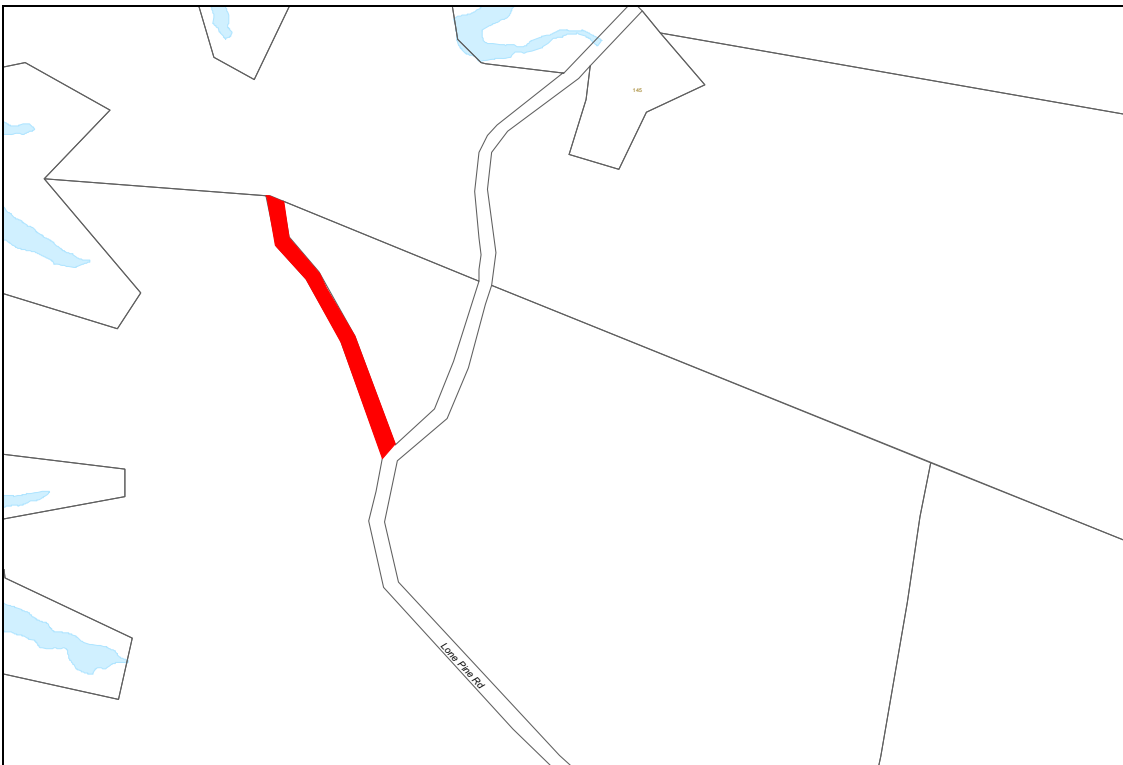
Councils Road Technical Officer recently identified a Council public road reserve which at this time is unnamed and as such to alleviate any confusion relating to the location of this road reserve it has become necessary to name it. A plan of reference is shown below.

An advertisement was published in the Tweed Link calling for written submissions for the naming of this road however no suggestions were received at the end of the submission period.

The road runs off Lone Pine Road and in attempting to keep with the theme of the area it is suggested that the road be called after a native Australian pine. One such species is the Cypress Pine.

It is therefore recommended that the road running off Lone Pine Road approximately 1km north from the intersection of Commissioners Creek Road at Doon Doon be called **“Cypress Lane”**.

Plan showing the road proposed to be named:-



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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39 [EO-CM] Pottsville - Naming of a Council Public Road

ORIGIN:

Design

FILE NO: GS5/1 Pt6

SUMMARY OF REPORT:

Council has received a written request to name a public road which runs off Coronation Avenue at Pottsville, next to St Marks Anglican Church. A plan of reference is attached.

Submissions for appropriate names were sought from the public via an advertisement in the Tweed Link. Council has received a variety of names from the public as noted below:-

Broadhead Lane	Berkleys Road
Jubilee Lane	Purple Place
Festival Lane	Eve Lane
Afflick Street or Afflicks Road	Bundjulung Lane
Colin Street	Wooyung Lane
Col's Road	Minjangbal Lane
Vincent Street	Poole Lane
Lester Lane	St Marks Place

After careful consideration of each of the suggested names it is recommended that in keeping with the historical significance of the area and its early pioneers and land owners that the road running off Coronation Avenue next to St Marks Anglican Church be named "**Berkleys Lane**".

RECOMMENDATION:

That Council:-

- 1. Publicises its intention to name the road that runs off Coronation Avenue next to St Marks Anglican Church as Berkleys Lane.**
- 2. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 2000.**

REPORT:

Council has received a written request to name a public road which runs off Coronation Drive at Pottsville, next to St Marks Anglican Church. A plan of reference is shown at the end of this report.

Council has received a variety of names from the public as noted below:-

Broadhead Lane	Berkleys Road
Jubilee Lane	Purple Place
Festival Lane	Eve Lane
Afflick Street or Afflicks Road	Bundjalung Lane
Colin Street	Wooyung Lane
Col's Road	Minjangbal Lane
Vincent Street	Poole Lane
Lester Lane	St Marks Place

It is suggested on behalf of the parishioners of St Marks Church that the road be named **Broadhead Lane** after the recently deceased Mr Stan Broadhead.

Mr Broadhead was a long time resident in the Burringbar and Pottsville area, a member of the church for many years and actively involved within the local community of Pottsville and Burringbar.

The names Jubilee Lane and Festival Lane were also suggested as alternatives to Broadhead Lane. A suggestion was also received for **St Marks Place** after the Church located on the corner.

Several suggestions were submitted by members of the Afflick family for **Afflick Lane, Colin Street, Col's Road, Vincent Street and Lester Lane** noting that the Afflick family has owned and resided at the end of the road proposed to be named for over 50 years. The current owner is the widow of the late Colin Lester Afflick.

Council's policy on Road Naming notes that names of living persons should not be used however the suggestions relate to the family name and Christian names of early land owners who are now deceased. Council Officers are unsure however if this will be acceptable on these terms by the Geographic Names Board who have overriding authority on the naming of Council public roads.

The name **Purple Place/Parade** was suggested as fitting with the theme of the immediate area i.e. Royal names. It was also noted that the local school colours are predominantly purple. This submission also suggests that Council plant purple flowering flora to further enhance this suggestion.

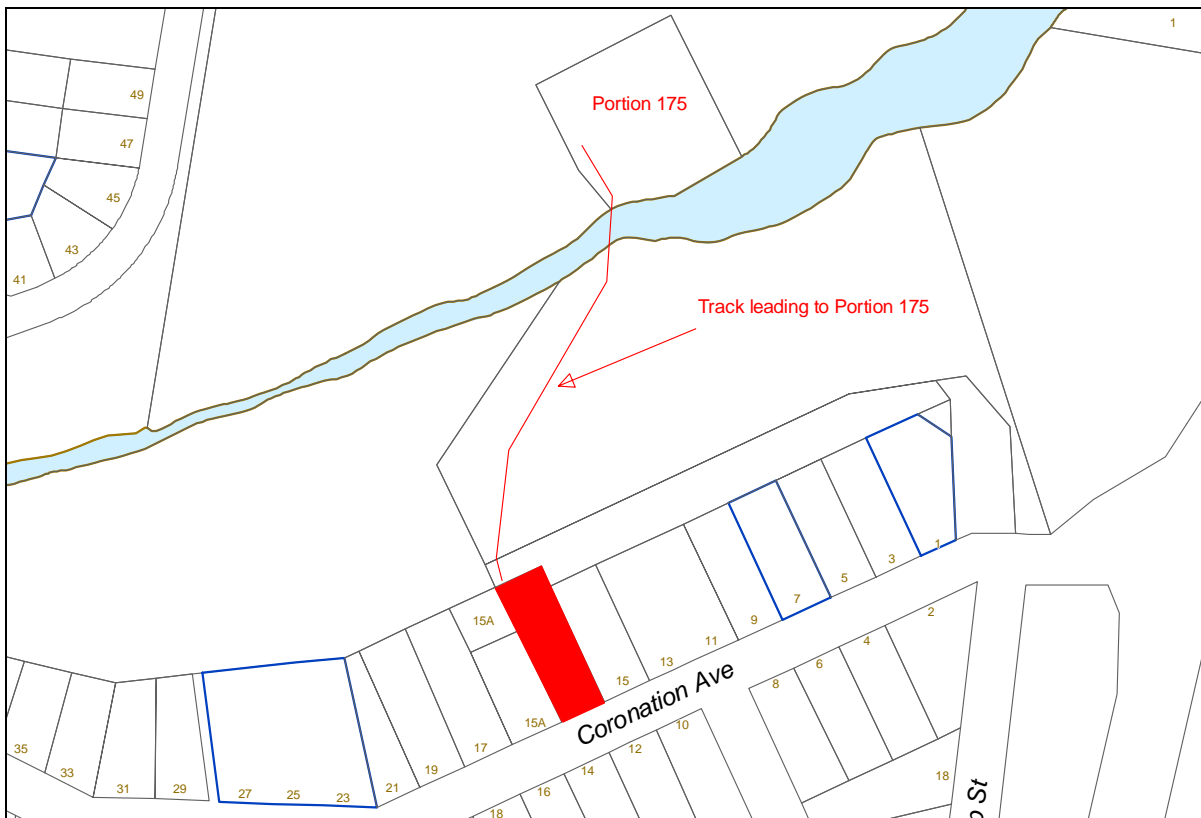
The names of **Eve Lane/Crescent, Bundjulung or Wooyung Lane and Minjangbal Lane** were submitted by one of the residents of this road. The name "Eve" is derived from Dr Eve Fesl, the first aboriginal woman to be appointed Director of the Aboriginal Research Centre at Monash University who in 1988 received the Order of Australia Medal for work within the ethnic community and maintenance of the Aboriginal language. The other names are of Aboriginal origin however both Wooyung and Minjungbal Drive already exist within the Tweed Shire and therefore do not comply with Council's Policy on Road Naming.

A submission was also received for the name of **Poole Lane** which was signed by a number of local residents. This suggestion is in honour of Mr Arthur John Poole (1927-2005) in acknowledgement of his contributions to the Pottsville community during his life. Mr Poole is has been noted was instrumental in the formation of the Pottsville Dune Care Group, an inaugural member of the Pottsville Community Association, an active member of the Clean Up Australia campaign, an honorary ranger for Tweed Shire Council as well as a long term warden for St Marks Anglican Church.

Lastly the submission for **Berkleys Road** was received which notes that the property, portion 175, which is accessed from this road was originally called "Berkleys" after the pioneering owner of this land, Mr Berkley. The road was formed for the purpose of accessing portion 175. In accordance with Councils Policy on Road Naming it would be appropriate to name the road after the original pioneer of the immediate area.

Due to the functional nature of this road, it is considered that its designation is more appropriately termed "*lane*" therefore it is recommended that the road running off Coronation Avenue next to St Marks Anglican Church be named "**Berkleys Lane**".

Plan showing the road proposed to be named:-



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.

40 [EO-CM] Unformed Part of Road Reserve - Ozone Street, Chinderah

ORIGIN:

Design

FILE NO: PF4030/2170 Pt5 and DA09/0006

SUMMARY OF REPORT:

In December 2009 issued a notice to remove a locked gate and caravans stored on the unformed road reserve of Ozone Street in response to concerns raised by a resident of the Tweed Heritage Park. The advice received was that the unformed road reserve of Ozone Street on the southern boundary of the caravan park was gated off, blocking access to the drain and pedestrian access to the south-eastern corner of the caravan park. The resident also advised that the owner stored caravans on the western end of the road reserve, just south of the entry into the caravan park.

The owner of the caravan park responded to Council's request for the removal of the gate and caravans by requesting a peppercorn licence for the occupation of the road reserve.

On October 22 2009 Council issued development consent for a four lot industrial subdivision, which includes the construction of the western part of Ozone Street for access to the subdivision from Chinderah Bay Drive.

In light of the approval granted for the four lot subdivision, a licence for the continued storage of caravans within the road reserve will create a conflicting use. In this regard, it is recommended that Council pursue the removal of the caravans and locked gate from the road reserve to ensure that these will not obstruct the construction of the access road pursuant to its authority under section 107 of the Roads Act, 1993.

RECOMMENDATION:

That:-

- 1. Council orders the landowner of the Tweed Heritage Caravan Park operating on Lots 102, 103 and 104 in DP 755701, at his/her own cost, to remove, within 28 days of receiving a notice, all unauthorised obstructions, including caravans, locked gate and other items, stored or located within the unformed road reserve of Ozone Street on the southern boundary of the above lots pursuant to the authority granted under section 107 of the Roads Act, 1993.**
- 2. If such caravans, locked gate and other items are not removed, then Council is to remove the caravans, locked gate and other items from the road reserve and charge costs plus overheads and administrative costs to the landowner of the Tweed Heritage Caravan Park operating on Lots 102, 103 and 104 in DP 755701.**

REPORT:

In December 2009 issued a notice to remove a locked gate and caravans stored on the unformed road reserve of Ozone Street in response to concerns raised by a resident of the Tweed Heritage Park. The advice received was that the unformed road reserve of Ozone Street on the southern boundary of the caravan park was gated off, blocking access to the drain and pedestrian access to the south-eastern corner of the caravan park. The resident also advised that the owner stored caravans on the western end of the road reserve, just south of the entry into the caravan park.

The owner of the caravan park responded to Council's request for the removal of the gate and caravans by requesting a peppercorn licence for the occupation of the road reserve.

On October 22 2009 Council issued development consent for a four lot industrial subdivision, which includes the construction of the western part of Ozone Street for access to the subdivision from Chinderah Bay Drive.

In light of the approval granted for the four lot subdivision, a licence for the continued storage of caravans within the road reserve will create a conflicting use. In this regard, it is recommended that Council pursue the removal of the caravans and locked gate from the road reserve to ensure that these will not obstruct the construction of the access road pursuant to its authority under section 107 of the Roads Act, 1993.

The aerial photo below shows the caravans within the road reserve:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council may be exposed to a damages claim regarding unauthorised occupation and blocking by others of a road reserve under the care and control of Council.

POLICY IMPLICATIONS:

Council is exercising its responsibilities under the Roads Act 1993 to manage public roads under its care and control.

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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- 41 **[EO-CM] Easement for Underground Powerlines 3 wide within Lot 14 in DP 746154, Lot 836 in DP 856271 and Lot 1435 in DP 1005048 - Foxhill Place, Banora Point**

ORIGIN:

Design

SUMMARY OF REPORT:

Country Energy is seeking the creation of an Easement for Underground Powerlines 3 metres wide within the subject parcels, being Council owned land at Banora Point.

Lot 836 is a drainage reserve and with Lot 14 is classified as operational land. Lot 1435 is a public reserve dedicated to Council when DP 1005048 was registered in 1999 and is classified as community land.

There are no statutory restraints in creating easements within Council owned operational land.

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

Compensation for the easement has been agreed and the necessary documentation for the creation of the easement has been received from legal representatives for Country Energy.

The documentation has been approved and it is now necessary for Council to resolve to approve the creation of the easement within Council land and to execute all necessary documentation under the Common Seal of Council.

RECOMMENDATION:

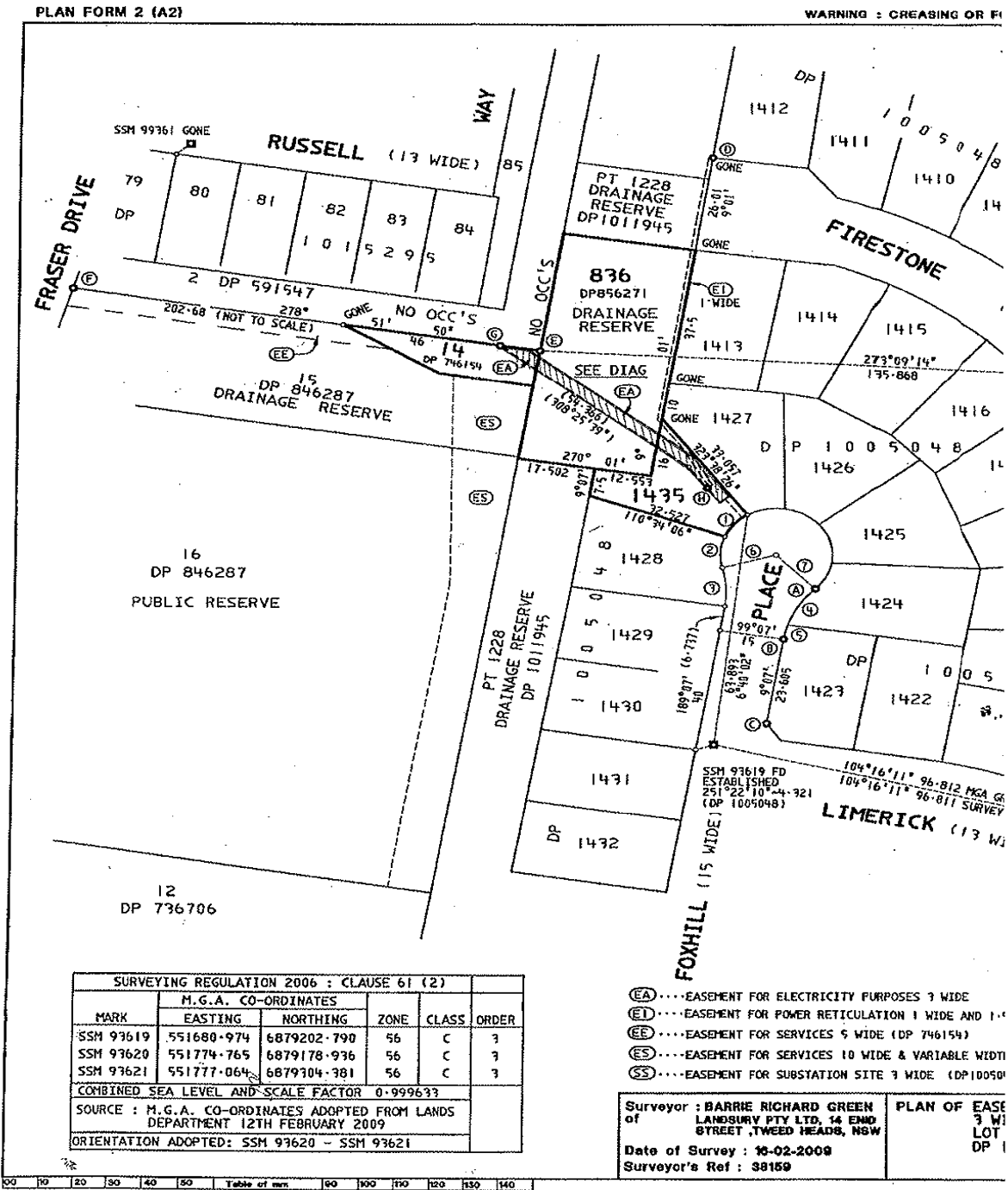
That:-

1. **Council approves the creation of an Easement for Underground Powerlines 3 wide within Lot 14 in DP 746154, Lot 836 in DP 856271 and Lot 1435 in DP 1005048;**
2. **Country Energy bears all survey and legal costs relating to the creation of the Easement for Underground Powerlines; and**
3. **Council executes all documentation under the Common Seal of Council.**

REPORT:

Country Energy is seeking the creation of an Easement for Underground Powerlines within the subject parcels, being Council owned land at Banora Point.

Lot 836 is a drainage reserve and with Lot 14, forms part of the Banora Point Drainage Scheme, both lots are classified as operational land. Lot 1435 is a public reserve that was dedicated to Council when DP 1005048 was registered in 1999 and it is classified as community land. The proposed easement is shown hatched below:



SURVEYING REGULATION 2006 : CLAUSE 61 (2)					
MARK	M.G.A. CO-ORDINATES		ZONE	CLASS	ORDER
	EASTING	NORTHING			
SSM 93619	551680.974	6879202.790	56	C	3
SSM 93620	551774.765	6879178.936	56	C	3
SSM 93621	551777.064	6879104.381	56	C	3

COMBINED SEA LEVEL AND SCALE FACTOR 0.999633

SOURCE : M.G.A. CO-ORDINATES ADOPTED FROM LANDS DEPARTMENT 12TH FEBRUARY 2009

ORIENTATION ADOPTED: SSM 93620 - SSM 93621

- (EA).....EASEMENT FOR ELECTRICITY PURPOSES 3 WIDE
- (EI).....EASEMENT FOR POWER RETICULATION 1 WIDE AND 1.4
- (EE).....EASEMENT FOR SERVICES 5 WIDE (DP 746154)
- (ES).....EASEMENT FOR SERVICES 10 WIDE & VARIABLE WIDTH
- (SS).....EASEMENT FOR SUBSTATION SITE 3 WIDE (DP1005048)

Surveyor : **BARRIE RICHARD GREEN**
of **LANDSURVY PTY LTD, 14 ENND STREET, TWEED HEADS, NSW**
Date of Survey : **16-02-2009**
Surveyor's Ref : **S8159**

PLAN OF EASEMENT
3 WIDE
LOT 1
DP 1



There are no statutory restraints in creating easements within Council owned operational land.

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

Compensation for the easement has been agreed in the sum of \$2,754, and Council has received the necessary documentation for the creation of the easement from Country Energy's legal representatives.

The documentation has been approved and it is now necessary for Council to resolve to approve the creation of the easement within Council land and to execute all necessary documentation under the Common Seal of Council.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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42 [EO-CM] Variation of Restriction on Use Created in DP 1120559 - 32
Kellehers Road, Pottsville

ORIGIN:

Design

FILE NO: DA2805/35

SUMMARY OF REPORT:

Council has received a request to vary a Restriction on Use created in DP 1120559 over Lot 272, where Council has the authority to vary, release or modify the Restriction.

The Restriction on Use registered over all Lots in DP 1120559 states:-

- “(a) On every lot except those lots marked “Duplex” on the Plan of Subdivision no main building shall be used for any purpose other than as a single dwelling house lot.*
- “(b) No granny flat shall be constructed unless it is within the main building and provided the granny flat does not exceed 1/3 of the floor area of the main building or have a gross floor area not exceeding 50 m2, whichever is the lesser.”*

The applicant, Creative Planning Solutions (CPS), is acting on behalf of the State Property Authority who is considering the purchase of the subject lot for the Department of Ageing, Disability and Home Care (DADHC) and the Department of Human Services (DHS).

The DADHC intends to develop the land for a group home and is seeking the modification of the Restriction over Lot 272 to ensure that there are no impediments to their intended development.

RECOMMENDATION:

That Council advises the applicant that it will not consider the modification of the Restriction of Use created over Lot 272 in DP 1120559 until the Department of Ageing, Disability and Home Care (DADHC) provides evidence and results of the public consultation.

REPORT:

Council has received a request to vary a Restriction on Use created in DP 1120559 over Lot 272, where Council has the authority to vary, release or modify the Restriction.

The Restriction on Use registered over all of the Lots in DP 1120559 states:

- “(a) On every lot except those lots marked “Duplex” on the Plan of Subdivision no main building shall be used for any purpose other than as a single dwelling house lot.
- (b) No granny flat shall be constructed unless it is within the main building and provided the granny flat does not exceed 1/3 of the floor area of the main building or have a gross floor area not exceeding 50 m², whichever is the lesser.”

The applicant, Creative Planning Solutions (CPS), is acting on behalf of the State Property Authority who are considering the purchase of the subject lot for the Department of Ageing, Disability and Home Care (DADHC) and the Department of Human Services (DHS).

The plan below shows the subject parcel highlighted in black:-



The DADHC intends to develop the land for a group home and is seeking the modification of the Restriction to ensure that there are no impediments to the intended development.

It is to be noted that the proposed development will not require development consent pursuant to SEPP (Infrastructure) 2007 and SEPP (Affordable Rental Housing) 2009.

The application is attached to this report and provides a very generalised description of the proposal, noting that group homes under the latter SEPP with 10 bedrooms or less are exempt. The application notes that the building proposed for the site will be a single dwelling, but used for a group home.

The proposed development will be within land zoned 2(a) Low Density Residential, and will be zoned R2 Low density Residential under the draft LEP. "Group homes" are identified as development 'permitted with consent' under the provisions of the Land Use Table within the draft LEP. Group homes are not prohibited within the zone of the current Tweed LEP.

The application for the modification was assessed against the following criteria to determine whether Council would have any objections to the variation of the Restriction:-

1. Had Council imposed a condition in the consent for the subdivision requiring the restriction on the parcel;
2. Does the proposal abide by current planning instruments; and
3. As the proposal will not require development consent, will there be an opportunity for public consultation prior to commencement.

Response:

1. A review of Consent 1152/2001DA shows that Council did not impose a requirement for the Restriction on the subdivision of land, known as the Black Rocks Estate at Pottsville in 2002. It would appear that the restriction arose out of an intention by the developer to direct the development of the estate by selecting specific parcels that would allow the construction of duplexes by noting such on the plan and creating the restriction on the residue parcels in the plan.

The plan shows that Lot 272, having an area of 939.7 m² was not marked with "DUP", see the plan below. It is to be noted that on this page of DP 1120559 that those lots that are marked "DUP", notably Lots 264 to 266 have areas over 1000m². These parcels are to the north of the subject land. However, Lots 275 and 276, across the road from Lot 272 have areas over 1200m².

Therefore the developer's imposition of the Restriction is viewed as arising from an intention by the developer to impose development standards on to the estate.

2. As noted in the discussion above, the proposal does not conflict with current planning instruments.
3. As the proposal will not require development consent, there are no provisions for public comment on the proposal. Clause 17(1)(d) of the Infrastructure SEPP provides that no consultation is required for exempt or compliant development.

Discussion

As noted above, there are no impediments to the proposal to modify the Restriction to allow group homes over Lot 272 from a planning perspective. However, as the proposal is to be undertaken by a public authority, the DADHC, there will be no opportunity for the public to comment on the proposal, nor does there appear to be any obligations on the authority to notify adjacent landowners who may be affected by the proposal. In this regard, it is recommended that Council not consider the request until the authority provides evidence of and results to the public consultation.

It is understood that the authority is in negotiations with the current landowner to purchase the land, and may not pursue the purchase should Council not approve the modification of the Restriction. However, this should not affect Council's requirement for public consultation. Should there be any objections to the proposal from the public, or more specifically, adjacent landowners, Council may be presumed to be the consent authority and be open to criticism for the lack of public consultation.

The applicant is seeking the modification of the Restriction so that it reads:-

“On every lot except those marked “Duplex” on the Plan of Subdivision no main building shall be used for any purpose other than as a single dwelling house lot or a group home lot.”

The applicant is, in essence, requesting that the Restriction be modified per se, however, should Council approve the modification, then the modification should only extend to Lot 272 and not the other affected lots, that is, all the Lots created in the plan, which numbered 23.

Recommendations

In light of the above discussions and the fact that the Authority is seeking Council's approval to the modification which will impact on the purchase of the subject lot, there are two alternative approaches that can be taken:-

1. Advise the applicant that Council will not consider the modification of the Restriction of Use created over Lot 272 in DP 1120559 until the DADHC provides evidence and results of public consultation. Upon receipt of this information a further report will be made to Council to report on the results of the consultation;

or

2. Advise the applicant that Council will approve the modification to the Restriction on Use created over Lot 272, but will not sign the documentation to register the modification until:-
 - (a) the Authority provides evidence of and results to public consultation in relation to the proposed development; and
 - (b) the Authority has purchased the land and will be proceeding with the proposal.

It is to be noted that the adoption of the first option does not address the Authority's pending purchase of the land.

The adoption of the second option addresses the pending purchase, but provides a qualification to the approval that public consultation must be undertaken. It is difficult to impose a further qualification that Council must be satisfied that there are no substantial objections to the development, as the Authority could argue that the group home development may fall within the parameters of a 'single' dwelling under the planning instruments. The request for the modification to the Restriction could be viewed as being unnecessary if the proposed building is less than 10 bedrooms within a single building and the application may be construed as being overly prudent.

Nonetheless, the former option is the preferred option in relation to providing Council with an opportunity to require public consultation for a development that has the potential to attract public interest, where Council is not the consent authority.

It may not be appropriate for Council to consider the modification prior to any public consultation occurring.

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. Creative Planning Solutions - Request for Modification of Section 88B Restrictions (ECM 14876758).
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43 [EO-CM] EC2010-019 Kingscliff Foreshore Protection Project Construction of Cudgen Headland Surf Life Saving Club Seawall

ORIGIN:

Design

FILE NO: EC2010-019

SUMMARY OF REPORT:

This report outlines the tender for construction of the Cudgen Headland Surf Life Saving Club Seawall. The work is part of the Kingscliff Foreshore Protection Project.

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 Australian Sheet Piling Pty Ltd for EC2010-019 – Kingscliff Foreshore Protection Project Construction of Cudgen Headland Surf Life Saving Club Seawall subject to a Part V determination being issued.

If a Part V determination is not issued prior to the Council meeting on 20 April 2010, a late addendum report will be presented with a Recommendation to defer awarding the Contract.

ATTACHMENT A is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

RECOMMENDATION:

That:-

- 1. The tender from Australian Sheet Piling Pty Ltd be accepted to the value of \$369,900 exclusive of GST for Tender EC2010-019 Kingscliff Foreshore Protection Project Construction of Cudgen Headland Surf Life Saving Club Seawall.**

2. **ATTACHMENT A** be treated as **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 EC2010-019 invited responses for the construction of the Cudgen Headland Surf Life Saving Club Seawall. The work is part of the Kingscliff Foreshore Protection Project.

Selection Criteria

Tenders were assessed based on the criteria listed below and as detailed in Clause 23 of the Conditions of Tendering.

Item	Criterion	Weighting %
1	Design & Innovation	20
2	Tender Price (Total Normalised Score)	40
3	Time Performance	10
4	Quality Assurance	10
5	Contract Experience	10
6	OHS and Risk Management	10
	Total	100

Tenders Received

A total of seven (7) responses for tender EC2010-019 were collected from the tender box and recorded immediately after the advertised closing time of 4.00pm 17 March 2010:-

Tenderer	ABN
Australian Sheet Piling Pty Ltd	52 096 820 941
Civil Team Engineering	34 118 683 186
Concrib Pty Ltd	40 010 401 484
Hannas Civil Engineering Pty Ltd	42 051 354 753
Lund Constructions Pty Ltd	31 060 365 586
Probuild Civil (QLD) Pty Ltd	46 010 870 587
Talon Civil	90 048 417 455

A late tender was received from Vibropile via facsimile on 19 March 2010. This submission was deemed non-conforming and was not considered further.

Tender Evaluation

The tender evaluation was conducted by Council's Tender Assessment Panel. 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 evaluation results, it is recommended that Tenderer Australian Sheet Piling Pty Ltd be nominated for EC2010-019 – Kingscliff Foreshore Protection Project Construction of Cudgen Headland Surf Life Saving Club Seawall, subject to a Part V determination being issued.

If a Part V determination is not issued prior to the Council meeting on 20 April 2010, a late addendum report will be presented with a Recommendation to defer awarding the Contract.

Details of Australian Sheet Piling Pty Ltd relative competitiveness is 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 for the project has been allocated from two sources. A \$198,500 grant for the work has been provided by the Department of Environment and Climate Change which is to be matched on a dollar for dollar basis from the 2009/2010 Council Budget for the Kingscliff Foreshore Protection Project.

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** - Supplementary Information EC2010-019 Kingscliff Foreshore Protection Project Construction of Cudgen Headland SLSC Seawall (DW 14872488).
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44 [EO-CM] EC2010-033 Expressions of Interest for the Leased Management Rights of the Tweed Regional Aquatic Centre

ORIGIN:

Recreation Services

FILE NO: EC2010-033

SUMMARY OF REPORT:

This report outlines the tender for an Expression of Interest for Leased Management Rights of the Tweed Regional, Aquatic Centre. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation included in **CONFIDENTIAL ATTACHMENT A**. A summary of the Selection Criteria is also included in the body of this report. It is recommended that Abermain Holdings, Belgravia Leisure, Blue Fit and DUSwimming be invited to submit a tender for the Leased Management Rights of the Tweed Regional, Aquatic Centre.

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. Council invites Abermain Holdings, Belgravia Leisure, Blue Fit and DUSwimming to submit a tender for the Leased Management Rights of the Tweed Regional Aquatic Centre.**
- 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 EC2010-033 invited Expressions of Interest for the:-

Leased management Rights of the Tweed Regional, Aquatic Centre.

The following selection criteria and weightings were determined prior to the issuing of the Tender:-

Item	Criterion	Weighting %
1	History in the aquatic and leisure venue management industry	20
2	Skills, qualifications and experience of the Principals lodging the EOI	10
3	Current and past contracts or management experience in the management or operation of comparable venues	20
4	Current and past contracts or management experience in the management or operation of comparable venues	20
5	Current and past contracts or management experience in the management or operation of comparable venues	30
	Total	100

Tenders Received

A total of seven responses were received for Tender EC2010-033:-

Abermain Holdings
Belgravia Leisure
Blue Fit
DUSwimming
Leanne Baker
Swim Fit
Swim World

Tender Evaluation

The Tender Evaluation was conducted by Council's Tender Panel, consisting of Patrick Knight, Stewart Brawley and Mark Upson. 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 evaluation of the expressions against the selection criteria, it is recommended that Abermain Holdings, Belgravia Leisure, Blue Fit and DUSwimming be invited to submit a tender for the Leased Management Rights of the Tweed Regional, Aquatic Centre

Details of Abermain Holdings, Belgravia Leisure, Blue Fit and DUSwimming's relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding is provided within the 20010/2011 Budget for Leased Management Rights of the Tweed Regional, Aquatic Centre.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. **Confidential Attachment A** - Supplementary Information EC2010-033 (ECM 148880154).
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45 [EO-CM] EC2010-017 Supply and Laying of Asphaltic Concrete Overlays

ORIGIN:

Works

FILE NO: EC2010-017

SUMMARY OF REPORT:

This report outlines the tender for EC2010-017 Supply and Laying of Asphaltic Concrete Overlays. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation 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 Suncoast Asphalt Pty Ltd for the supply and laying of asphaltic concrete overlays to various streets in the shire.

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

RECOMMENDATION:

That:-

1. The tender from Suncoast Asphalt Pty Ltd be accepted to the value of \$330,254.55 exclusive of GST for tender EC2010-017 Supply and Laying of Asphaltic Concrete Overlays.
2. The General Manager be given delegated authority to approve variations up to 20% above the initial tender price. Any variations to be reported to Council following completion of the works.
3. The **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 EC2010-017 invited responses for the resurfacing of a number of streets in the shire with asphaltic concrete overlays.

Funding for the works is made up from allocations in the general fund's Road Asphalt Resurfacing and the 2004/05 Rate Rise Asphalt Resheeting budgets.

Tenders Received

A total of four (4) responses were received for tender EC2010-017 Supply and Laying of Asphaltic Concrete Overlays. Tenders were received from the following:

- Boral Asphalt
- ELH Road and Bridge Construction
- Pioneer Road Services
- Suncoast Asphalt

Tender Evaluation

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

The following selection criteria and weightings were determined prior to the issuing of the Tender:-

Tender Price	60%
Time Performance	5%
Quality Assurance	10%
Environmental Management	10%
Current Commitments	5%
OHS and Risk Management	10%

Based on the Tender Evaluation, it is recommended that Suncoast Asphalt Pty Ltd be awarded contract EC2010-017 Supply and Laying of Asphaltic Concrete Overlays.

Details of Suncoast Asphalt Pty Ltd's relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the 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 2009/2010 Budget for these works from the Road Asphalt Resurfacing and 2004/05 Rate Rise Asphalt Resheeting budgets.

POLICY IMPLICATIONS:

The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contract 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** - Supplementary Information EC2010-017 Supply and Laying of Asphaltic Concrete Overlays (ECM 14861923).
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46 [EO-CM] Jack Evans Boat Harbour - EC2009-143 Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works

ORIGIN:

Planning & Infrastructure

FILE NO: GC12/3-2009143

SUMMARY OF REPORT:

Tenders were invited from three prequalified tenderers selected through an expressions of interest process for Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works for the Jack Evans Boat Harbour. Three tenders were received by the advertised closing date of 24 March 2010.

The Boat Harbour Upgrade has been the subject of numerous reports to Council. Council received 15 expressions of interest for this tender late in 2009 and at Council's meeting of 15 December 2009 Council considered a report relating to the expressions of interest submissions and resolved:

"That:-

1. *Council invite fully priced tenders from the following preferred Contractors for the Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works for the Jack Evans Boat Harbour:
- Seymour White Pty Ltd
- Neumanns Contractors Pty Ltd
- Multispan Pty Ltd*

2. *Council invite fully priced tenders from the following alternative Contractors for the Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works for the Jack Evans Boat Harbour should any preferred Contractor not be able or willing to tender (in order of preference):
- Abergeldie Constructions Pty Ltd
- GMW Urban Pty Ltd"*

In accordance with Council's resolution the three preferred Contractors were invited to submit a fully priced tender. These three tenders were received by the advertised closing date of 24 March 2010. The tender provided for two options of works to be priced – Stage 1A (or Work Package 1) only and also Stage 1A and Stage 1B (or Work Package 2). The tenders were scored by a Council officer assessment panel against prescribed criteria.

This report provides a recommendation of the preferred tenderer to perform the works.

RECOMMENDATION:

That:-

- 1. Council awards the contract EC2009-143 Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works for the Jack Evans Boat Harbour to Multi Span Australia Pty Ltd for Work Package 2 (Stage 1A and Stage 1B) for the lump sum price of \$6,189,414.55 excluding GST.**
- 2. The General Manager be given delegated authority to approve variations up to 20% above the initial contract price.**
- 3. 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:

Introduction

Tender were called from three preferred Contractors for Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works for the Jack Evans Boat Harbour. Three fully priced tenders were received by the nominated closing date of 24 March 2009.

The Jack Evans Boat Harbour embellishment works has been the subject of numerous reports to Council. Council received 15 expressions of interest for this tender late in 2009 and at Council's meeting of 15 December 2009 Council considered a report relating to the expressions of interest submissions and resolved:

"That:-

1. *Council invite fully priced tenders from the following preferred Contractors for the Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works for the Jack Evans Boat Harbour:*
 - Seymour White Pty Ltd
 - Neumanns Contractors Pty Ltd
 - Multispan Pty Ltd

2. *Council invite fully priced tenders from the following alternative Contractors for the Foreshore, Boardwalk, Amenities Facilities, Landscaping and Associated Construction Works for the Jack Evans Boat Harbour should any preferred Contractor not be able or willing to tender (in order of preference):*
 - Abergeldie Constructions Pty Ltd
 - GMW Urban Pty Ltd"

In accordance with Council's resolution the three preferred Contractors were invited to submit a fully priced tender. These three tenders were received by the nominated closing date of 24 March 2010.

The scope of the proposed works includes the provision of all materials, plant and labour for the construction of the following:-

- Removal of some concrete paths, modular seabees revetment (paving) and foreshore rock revetment as required;
- Demolition as required;
- Dewatering as required;
- Minor drainage works;
- Trenching for footings;
- Harbour earthworks and sand earthworks for the "beach" area;
- Concrete and granite paving works including compacted granular basecourse;
- Foundation Piling (nominated steel screw piles);
- Reinforced concrete works (foundations, retaining walls, planters, ramps, blinding, steps, seats, edging);
- Precast concrete works (walls, decking, platforms, facing panels);
- Carpentry (timber boardwalk, decking, seating);

- Metalwork (balustrades, rails, bollards, seating, recycle and litter bins, gratings);
- Painting (timber decking, panels, steel edging);
- Landscaping (remove weeds, subgrade cultivation, topsoiling, bioretention zones and garden beds, instant turfing, mulching, tree / shrub placement and maintenance period);
- Rock revetment works;
- Irrigation works;
- Electrical equipment (light poles and luminaries, bench seat lighting, LED strip lighting, conduits);
- Electrical equipment (main switchboard, controls, general power and light, etc).
- Electrical cabling and wiring for lighting;
- Conduiting for electrical cabling and future CCTV;
- Site works including set-out, temporary works, earthworks, roads, drainage, landscaping, etc;
- Preparation of 'Work – As – Executed' drawings;
- Temporary site services and site facilities including the Principal's site office, access, drainage, amenities etc;
- Site services including water supply, underground telecommunications, sewer and power services; and
- Environmental protection (including erosion and sediment control and removal / treatment of unsuitable dewatering), monitoring and maintenance activities.

The construction of the kiosk and amenities buildings near the Twin Towns complex was not included in the scope of works due to budgetary constraints.

Tender lump sums were requested for two substages of the work titled Stage 1A and Stage 1B with a price to be submitted for Stage 1A component only (Work Package 1) and another price to be submitted for all works being both Stages 1A and 1B (Work Package 2). These substages were included in the tender documentation as it was considered that there would be insufficient funding available for all of the Stage 1 works. The Stage 1A/1B boundary is located at the rear of the Twin Towns complex with Stage 1A being from this line along the northern foreshore to Coral Street and Stage 1B being the southwestern side of the harbour.

Three tenders were received by the nominated closing date of 24 March 2009. Tenders were received from the following preferred Contractors:-

1. Multi Span Australia Pty Ltd
2. Neumann Contractors
3. Seymour White Constructions Pty Ltd

Council's day labour crew is currently finalising the construction of the following works:-

- major drainage including the installation of gross pollutant traps for water quality improvement;
- carpark and landforming components of the construction in the northern part of the site; and
- the primary retaining wall structure for the first story wall component of the future Goorimahbah parklands.

Tender Assessment Panel

Prior to Tenders being called an Assessment Panel was established to carry out the assessment of the tenders. The composition of the Panel was as follows:-

<i>John Zawadzki</i>	Tweed Shire Council Traffic Engineer (Chairperson)
<i>Ted Gibson</i>	Tweed Shire Council Contracts Engineer
<i>Robert Hanby</i>	Tweed Shire Council Construction Engineer
<i>Georgina Wright</i>	Consultant Landscape Architect
<i>Mathew Greenwood</i>	Tweed Shire Council Internal Auditor (Probity Advisor)

The general terms of reference for the Assessment Panel were as follows:-

- Assess the tenders submitted in accordance with the specified criteria;
- Undertake an individual initial assessment of the tender price and non-price data;
- Review any written responses;
- Identify and seek further clarifications (as required) from the tenders and review any qualifications and departures;
- Score all responses against the specified price and non-price assessment criteria and agreed assessment criteria weightings; and
- Summarise the tender score results and sign the summary documents as a true record of the decisions made.

Tender Evaluation

The tenders were assessed by the Assessment Panel against the criteria set out in the Tender document. This assessment is the subject of the Confidential Attachment. The attachment is listed as CONFIDENTIAL in accordance with Section 10A(2) (c) and (d) of the Local Government Act 1993, as discussion of the information in open Council would disclose commercial information, may prejudice the commercial position of the person who supplied it, or confer a commercial advantage on a competitor or reveal a trade secret.

The submissions were scored against various prescribed criteria which attracted various weightings as follows:-

Assessment Criteria	Weighting
Cost.	70%
Quality Management System compliance.	5%
OHS&R management system compliance.	5%
Environmental management compliance.	5%
Experience and level of performance of the applicant on similar work; management experience; collaborative experience.	5%
Demonstration by the applicant of available resources.	
Proposed delivery methodology.	10%

The cost criterion was weighted relatively highly in this tender since many other qualitative Contractors' attributes were previously assessed as part of the expressions of interest evaluation.

A detailed assessment sheet which provides the Assessment Panel's scores for the above criteria and an overall score for each submission is shown in the confidential attachment to this report.

In consideration of the tender lump sums the following was noted:-

- The expected life of the timber substructure for the proposed boardwalk (as tendered) is about 15 - 20 years. The life expectancy could be increased by substituting the timber substructure with a fibre composite substructure in those areas where the substructure is located within or close to the tidal zone, which constitutes approximately 80% of the entire boardwalk. The expected design life of a fibre composite substructure is a minimum of 40 years. The cost for the fibre composite substructure would be approximately \$540,000 additional to that tendered, however approximately \$1,000,000 in timber substructure replacement costs could be required over a 40 year period. Therefore there could be a relatively significant saving in the long term.
- Neumann Contractors proposed variations which would reduce their tendered lump sum by approximately \$1.6M, however these variations proposed a reduction in the scope of works which was considered not comparable for the purpose of tender evaluation when referenced to the other tenderers who proposed the full scope of works.

Probity

Council's internal auditor, who was a probity advisor as part of the Tender Evaluation Panel, is of the opinion that the tendering process has adequately addressed the five fundamentals of probity:-

- Best value for money
- Impartiality
- Dealing with conflicts of interest
- Accountability and transparency
- Confidentiality

The above opinion was achieved after the probity advisor provided probity advice to the evaluation panel, attended key meetings in the evaluation process and performed a variety of probity tests.

The scope of these tests covered the five fundamentals of probity over the following periods:-

- Prior to the issue of EOI,
- Prior to the closing date for proposals and
- During the assessment / evaluation of the submitted tenders.

Early Contractor Involvement

The tendering process adopted an Early Contractor Involvement (ECI) process for this project which enabled the selected tenderers to become fully aware of all obligations required under the contract to ensure that Council received tenders which offered the best value for money. This EOI process involved the conducting of two workshops held in January and February 2010. Alternative designs that offered project savings over the design detailed by the Landscape Architecture Consultants were discussed.

Expected Project Expenditure and Project Funding

The expected project expenditure for the overall project is as follows:-

EXPECTED PROJECT EXPENDITURES	Cost \$ Excl. GST
Contract Lump Sum	\$6,189,415
Contract Contingencies and Variations (≈ 10%)	\$618,941
Council works (major drainage, local carpark and additional landscaping)	\$2,000,000
TOTAL	\$8,808,357

The available budget for the proposed works is shown in the table below:-

EXPECTED PROJECT FUNDING	Cost \$ Excl. GST
Council [Loans] funding	\$5,000,000
NSW Department of Planning (Coastal Cycleway)	\$92,950
Council Section 94 (developer) Cycleway funds	\$92,950
Council Section 94 (CP26 casual)	\$1,000,000
Federal funding	\$1,818,182
TOTAL	\$8,004,082

POLICY IMPLICATIONS:

Letting this Contract will complete a significant part of the Tweed Heads Masterplan and create an outstanding regional attraction.

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** – Supplementary A - EC2009-143 (ECM 14879930).
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REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

47 [TCS-CM] Policy - Business Continuity Management

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

As a result of an external review of Council's Draft Business Continuity Plan a Policy has been developed to ensure that Council is able to continue to deliver its key services to residents following a significant business interruption event.

The proposed Policy is contained within the report for consideration by Council. In accordance with Section 161(2) of the Local Government Act 1993 it is deemed that as this Policy relates directly to the operations of Council there is no necessity to place the document on public exhibition.

RECOMMENDATION:

That :-

1. **The Business Continuity Management Policy Version 1.0 be adopted and included as a Corporate Policy in accordance with Section 161(2) of the Local Government Act 1993.**
2. **In accordance with Section 377 of the Local Government Act 1993 the General Manager be granted delegated authority in the event of the Business Continuity Plan being implemented to approve emergency expenditure to a limit of \$1 million, to be expended as required to maintain the operations of the Council.**

REPORT:

As a result of an external review of Council's Draft Business Continuity Plan a Policy has been developed to ensure that Council is able to continue to deliver its key services to residents following a significant business interruption event.

The policy seeks to put measures in place prior to a business interruption event and to identify actions to be taken during and following such an event to ensure that key services continue to be available to the residents of the Shire. As an aid in the operation of this plan various sub-plans are being developed to ensure that service delivery both internal and external can be maintained during a business interruption event.

The following Policy is provided for consideration by Council:



Policy

Business Continuity Management

Version 1.0

Adopted by Council at its meeting on xxx
Minute No xxx:

Division: Technology and Corporate Services
Section: Corporate Governance
File Reference:
Historical Reference:

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1 INTRODUCTION

1.1 PURPOSE

The purpose of this policy is to ensure that Council is able to continue to deliver its key services to residents following a significant business interruption event, such as the failure/loss of a major Council facility or the failure/loss of an external resource, such as telecommunications or power supply.

The terminology of Councillor contained in this policy also applies to an Administrator/s of Council, where applicable and with any legislative modification.

1.2 OBJECTIVES AND COVERAGE OF THE POLICY

The Business Continuity Management Policy seeks to put measures in place prior to a business interruption event and to identify actions to be taken during and following such an event, to ensure that key services continue to be available to the residents of the Shire.

This policy applies to all functions of Council and to all staff involved in the delivery of these functions, including Council officers, employees, visitors and contractors.

1.3 LEGISLATIVE COMPLIANCE

There is no current legislative requirement for the implementation of Business Continuity Management; however there would be an expectation that Council undertakes business continuity planning as part of its overall Governance responsibilities.

1.4 OTHER NSW GOVERNMENT POLICY PROVISIONS

Nil

1.5 DIVISION OF LOCAL GOVERNMENT CIRCULARS TO COUNCILS

Division of Local Government Circular 07-12, Business Continuity Plans was issued in April 2007. It notes that "Councils should ensure that they have in place a well developed business continuity plan that addresses the key risks to council's continued activities and provides a well articulated plan to minimise the potential impact of these risks."

1.6 ICAC PUBLICATIONS

Nil

1.7 DEFINITIONS¹

Business continuity management: Business Continuity Management provides for the availability of processes and resources in order to ensure the continued achievement of critical objectives.

Business interruption: Any event, whether anticipated (i.e., public service strike) or unanticipated (i.e., blackout) which disrupts the normal course of business operations at an organization location.

For definitions of other key BCM terminology, refer to Standards Australia's HB 221:2004 Business Continuity Management.

2 BUSINESS CONTINUITY MANAGEMENT

2.1 OVERALL INTENT

This Business Continuity Policy will help Council to ensure:

- The continuity of key services to the Tweed community;
- The well-being and safety of employees in their working environment;
- The protection of the organisation's assets and records.

2.2 BUSINESS CONTINUITY MANAGEMENT FRAMEWORK

Council will maintain a Business Continuity Management Framework, which will detail the whole of Council system to ensure continuity of key services following a business interruption event of sufficient magnitude to affect the ability of Council to deliver its services, either as a whole, or in part.

This whole of Council Business Continuity Management Framework will be underpinned by specific Business Continuity and Business Recovery Plans developed by Directorates for key services under their control.

This framework will include the following:

- Council's Business Continuity Policy
- Definition of the interrelationship between the various business continuity documents within Council
- Identification of key services to be maintained in the event of a business interruption event. This will be supported by a Business Impact Analysis and will state acceptable service levels e.g. maximum acceptable outage times
- Responsibilities for training of staff and regular testing of the plans
- Responsibilities and timing for reviews of the plans
- Reference to specific plans developed by Directorates

¹ Standards Australia's HB 221:2004 *Business Continuity Management*

2.3 BUSINESS CONTINUITY PLANS

Each Director is responsible for developing Business Continuity Plans and Business Recovery Plans to support identified critical services under their control. These plans should support the levels of service determined, on a whole of Council basis, in the Business Continuity Management Framework.

It is the responsibility of each Director to ensure that staff receive adequate training and that plans are kept current and that they undertake review, testing and maintenance of these plans, as required by the Business Continuity Plan Framework document.

2.4 RESPONSIBILITIES

1. Manager Corporate Governance is responsible for overseeing the management and assessment of risk across Council. On the advice of the Risk Management Committee will set the policy for Council's business continuity management.
2. Manager Corporate Governance is responsible for the implementation of business continuity management, including the oversight of appropriate documentation and the setting of requirements for training, testing and monitoring of the business continuity plans.
3. Directors are the Business Continuity Plan owners with responsibility for ensuring that all critical functions under their responsibility have been identified and that Business Continuity and Recovery Plans are established, maintained and reviewed.
4. All staff of Council are expected to recognise the importance of business continuity, to be familiar with the provisions of this policy, and to support the processes that will manage appropriately any threat to business continuity.

2.5 SUPPORTING DOCUMENTS

- Business Continuity Management Framework
- Risk Management Policy
- Risk Management Framework
- Critical Incident Management Policy
- Critical Incident Management Procedure
- Emergency Response Procedures
- Disaster Management Plans

3 OTHER MATTERS

3.1 STATUS OF THE POLICY

The provisions of the Business Continuity Management Policy shall remain valid until revoked or amended by Council.

Part of the Roles and Responsibilities recommendations contained within the Business Continuity Plan is for the General Manager (Business Continuity Director) to have a delegation to expend funds in the event of an emergency and to enable this Council is required to extend this delegation to the General Manager.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

In accordance with the Business Continuity Plan and associated delegation requirements.

POLICY IMPLICATIONS:

Business Continuity Management Policy will become a Corporate Policy of Council.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

48 [TCS-CM] Policy - Enterprise Risk Management

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

An external review of Council's Risk Management practices has been undertaken. As a result of this review an Enterprise Risk Management policy is proposed which is designed to communicate Council's commitment to managing enterprise-wide risks and establish clear responsibilities to ensure that all levels of Council, management and staff are aware of and responsible for the management of risk.

In accordance with Section 161(2) of the Local Government Act 1993 it is deemed that as this Policy relates directly to the operations of Council there is no necessity to place the document on public exhibition.

The proposed policy is submitted for consideration by Council.

RECOMMENDATION:

That the Enterprise Risk Management Policy Version 1.0 be adopted as a Corporate Policy of Council in accordance with Section 161(2) of the Local Government Act 1993.

REPORT:

An external review of Council's Risk Management practices has been undertaken by the firm InConsult. As a result of this review an Enterprise Risk Management policy is proposed which is designed to communicate Council's commitment to managing enterprise-wide risks and establish clear responsibilities to ensure that all levels of Council, management and staff are aware of and responsible for the management of risk.

The proposed Policy is as follows:

The cover page has a dark blue background with abstract, lighter blue wavy shapes at the bottom. The text is white and positioned in the upper right and lower right areas.

Policy

Enterprise Risk Management
Version 1.0

Adopted by Council at its meeting on xxx
Minute No: xxx

Division: Technology and Corporate Services
Section: Corporate Governance
File Reference:
Historical Reference: xxx

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Enterprise Risk Management

1. INTRODUCTION

Risk is defined as the effect of uncertainty on objectives.

Tweed Shire Council understands that large, unmitigated risks can adversely impact its stakeholders and its ability to achieve strategic, operational, financial and regulatory objectives.

Risk management involves coordinated activities to direct and control the organisation with regard to risk. It is a systematic process that involves establishing the context of risk management, identifying risks, analysing risks, addressing risks, periodically monitoring risks and communication and consultation. Risk management explicitly addresses uncertainty but, whilst it is based on the best available information, it does not eliminate all risk. The application of risk management thinking, principles and practices aims to help Council deliver quality services, improve decision-making, set priorities for competing demands/resources, minimise the impact of adversity and loss, ensure regulatory compliance and support the achievement of objectives.

2. PURPOSE

The purpose of this Enterprise Risk Management Policy is to communicate Council's commitment to managing enterprise-wide risks and establish clear responsibilities to ensure that all levels of Council, management and staff are aware of and responsible for the management of risk.

3. SCOPE

This policy applies to all councillors, directors, management, staff, contractors and volunteers across all Council activities and processes.

4. POLICY STATEMENT

4.1 MANDATE AND COMMITMENT

Tweed Shire Council is committed to the formal, systematic, structured and proactive management of risks across the organisation.

Council recognises that whilst risk is inherent in all its activities, the management of risk is good business practice, creates value, is integral to sound corporate governance and in some instances, a mandatory legal requirement. In particular, effective risk management can lead to better decision-making and planning as well as better identification of opportunities and threats.

4.2 RISK MANAGEMENT FRAMEWORK

Council's risk management framework is a set of components that provides the foundations and organisational arrangements for designing, implementing, monitoring reviewing and continually improving risk management throughout the organisation.

Council is committed to maintaining an effective, efficient and tailored risk management framework that consists of:

- this policy
- a risk management plan
- supporting policies that complement risk management such as fraud prevention, business continuity management, OH&S management systems and code of conduct.

The framework will enable:

- a formal, structured approach to risk management that is appropriate to the organisation's activities and operating environment;
- a risk management approach consistent with the principles of AS/NZS ISO 31000:2009;

4.3 RISK APPETITE

Risk appetite is the amount and type of risk that an organisation is prepared to pursue, retain or take. It is expressed in the form of a risk appetite statement which covers a number of critical risk categories. The current risk appetite statement is:

Financial

1. *There is no appetite for decisions that have a significant negative impact on Council's long term financial sustainability*

Legal and Regulatory

2. *There is no appetite for non compliance with legal, professional and regulatory requirements*

Human Resources

3. *There is no appetite for compromising staff safety and welfare*

Operational

4. *In considering opportunities a disciplined approach to the management of risk must be taken.*
5. *Council's approach to managing risk should set an example to the rest of the community.*
6. *There is considerable appetite for improvements to service delivery*
7. *There is considerable appetite for improved efficiency of Council operations*

Environmental

8. *There is considerable appetite for decisions that promote ecologically sustainable development*

4.4 IMPLEMENTING RISK MANAGEMENT

Council is committed to ensuring that a strong risk management culture exists and will develop and maintain a risk management plan that:

- aligns risk management processes to Council's existing planning and operational processes;
- allocates sufficient funding and resources to risk management activities;
- provides staff with appropriate training in risk management principles;
- assigns clear responsibilities to staff at all levels for managing risk;
- embeds key controls to manage risks into business processes;
- establishes appropriate mechanisms for measuring and reporting risk management performance;
- communicates risk management policies, plans and issues to staff and other stakeholders;
- takes human and cultural factors into account; and
- is dynamic, iterative and facilitates continual improvement

4.5 ACCOUNTABILITIES AND RESPONSIBILITIES FOR MANAGING RISK

Council is ultimately responsible for adopting and committing to this risk management policy, identifying and monitoring emerging risks and fully considering risk management issues contained in Council reports.

The **Risk Management Committee** is responsible for establishing and reviewing the framework for identifying, monitoring and managing significant business risks.

The **General Manager** is responsible for leading the development of an enterprise risk management culture across the organisation and ensuring that the Risk Management Policy and Plan are being effectively implemented.

The **Executive Management Team** is responsible for considering urgent, sensitive and/or complex risk management issues that cannot be resolved by staff, the Risk Management Committee or the Corporate Management Team.

The **Corporate Management Team** is responsible for adopting and periodically reviewing Council's Risk Management Plan, considering and discussing risk management issues and initiatives brought to its attention by the Risk Management Committee and providing feedback to the Risk Management Committee on risk management issues.

The **Manager Corporate Governance** is responsible for ensuring that all administrative requirements necessary for the implementation of the Risk Management Plan across Council are in place.

Directors are responsible for ensuring that the Risk Management Policy and Plan are being effectively implemented within their areas of responsibility.

Internal Audit will periodically review the risk management framework, including the internal controls designed to manage risk.

Managers at all levels, are the risk owners and are required to create an environment where the management of risk is accepted as the personal responsibility of all staff, volunteers and contractors. Managers are accountable for the implementation and maintenance of sound risk management processes and structures within their area of responsibility in conformity with Council's risk management framework.

All **staff** are required to act at all times in a manner which does not place at risk the health and safety of themselves or any other person in the workplace. Staff are responsible and accountable for taking practical steps to minimise Council's exposure to risks including contractual, legal and professional liability in so far as is reasonably practicable within their area of activity and responsibility.

5. EFFECTIVE DATE

[Insert date of adoption by Council]

6. REVIEW DATE

This policy will be reviewed within 12 months of the election of each new Council or more frequently in the event of any material changes in circumstances.

Following the adoption of this policy appropriate intervention and service levels will be determined through a network of training and workshop sessions conducted with staff.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Financial resources are available within the Risk Management expenses area of the budget to undertake the requirements associated with Enterprise Risk Management.

POLICY IMPLICATIONS:

Will become a Policy of Council and will aid in risk management practices being undertaken in accordance with the principles of AS/NZ ISO 31000:2009.

This may have implications having regarding to Council's resolution of 22 January 2003.

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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49 [TCS-CM] Monthly Investment Report for Period Ending 31 March 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

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 \$121,130,909 invested as at 31 March 2010 and the accrued net return on these funds was \$489,575 or 4.85% annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 March 2010 totalling \$121,130,909 be received and noted.

REPORT:

Report for Period Ending 31 March 2010

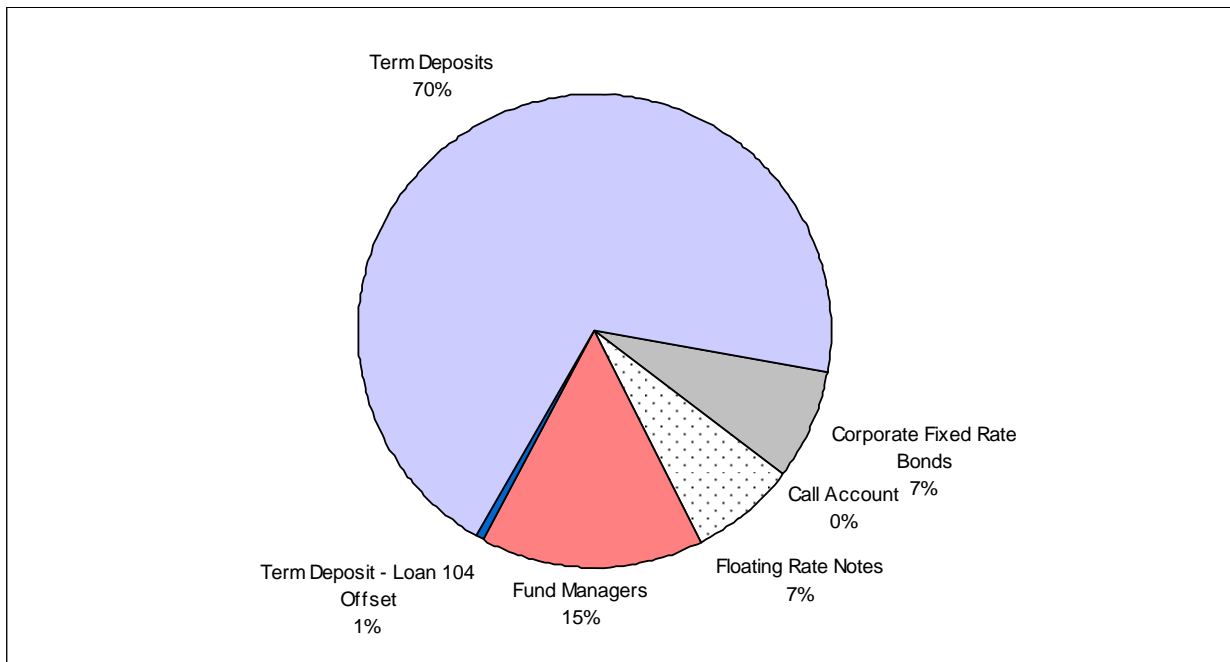
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

1. RESTRICTED FUNDS AS AT 31 MARCH 2010

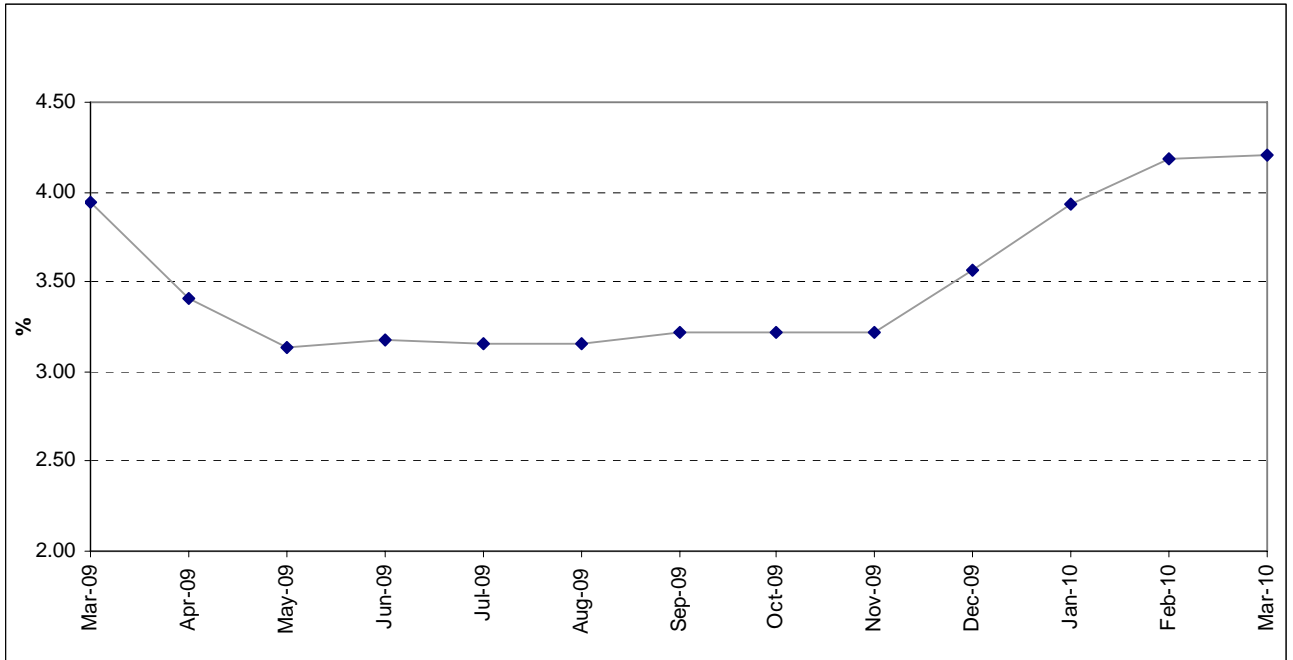
Description	(\$'000)			Total
	General Fund	Water Fund	Sewer Fund	
Externally Restricted	15,427	13,980	14,908	44,315
Crown Caravan Parks	10,145			10,145
Developer Contributions	29,762	19,327		49,089
Domestic Waste Management	8,035			8,035
Grants	3,794			3,794
Internally Restricted	13,816			13,816
Employee Leave Entitlements	1,685			1,685
Grants	2,535			2,535
Unexpended Loans	5,889			5,889
Total	91,088	33,307	14,908	139,303

Note: Restricted Funds Summary next update September 2010

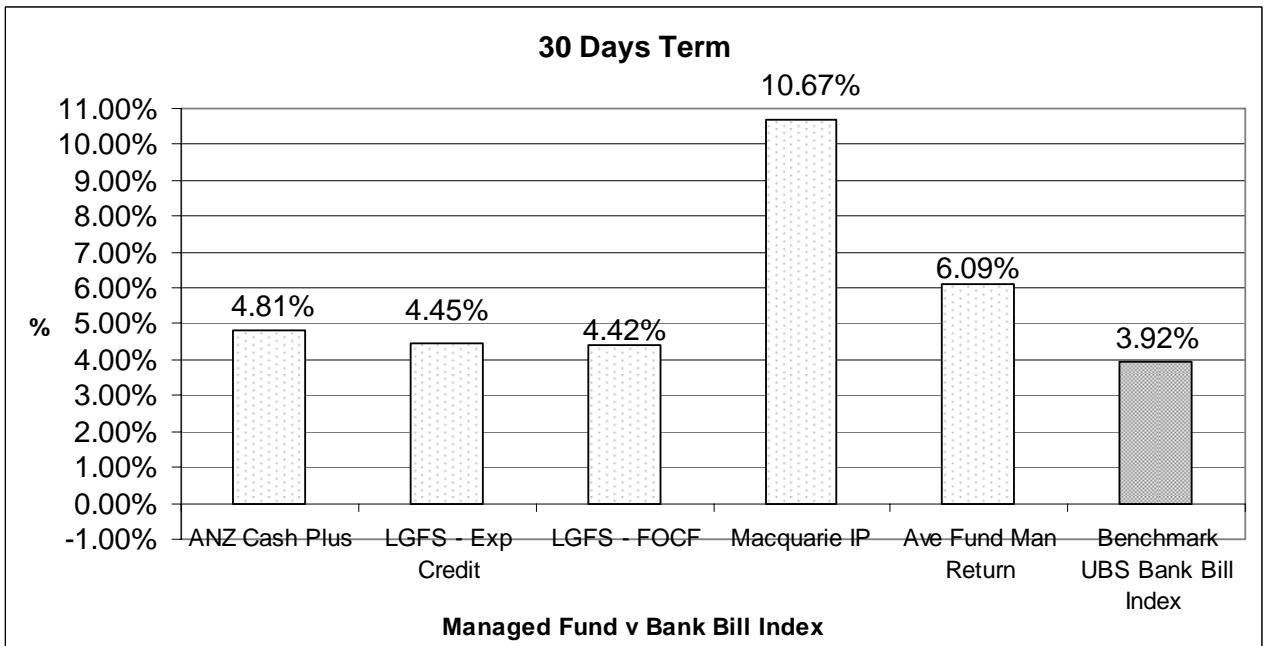
2. CURRENT INVESTMENT PORTFOLIO BY CATEGORY



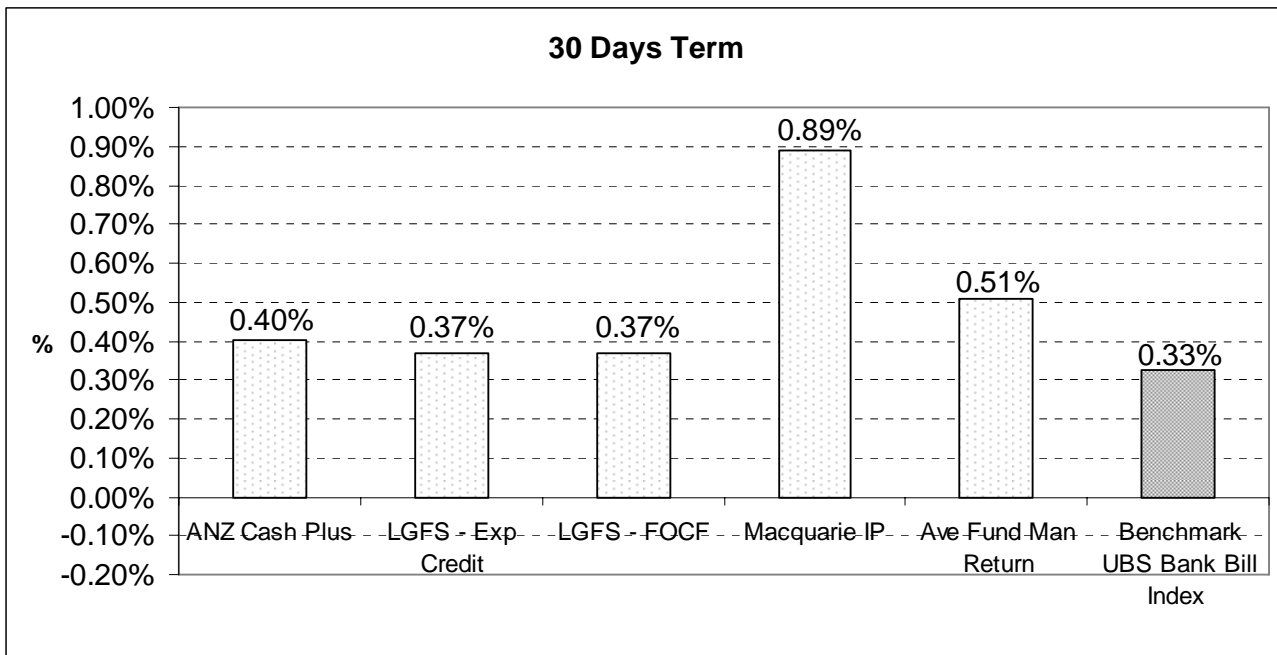
3. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)



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	3.00%	\$548,884	\$551,080	\$0	Monthly
LGFS - Enhanced Cash	n/a	31.22%	\$5,720,962	\$5,742,163	\$52,493	Monthly
LGFS - FOCF	AA-	35.66%	\$6,533,808	\$6,557,834	\$68,842	Quarterly
Macquarie IP	A	30.12%	\$5,491,762	\$5,539,260	\$0	Quarterly
Total		100%	\$18,295,417	\$18,390,336	\$121,335	

7. DIRECT SECURITIES

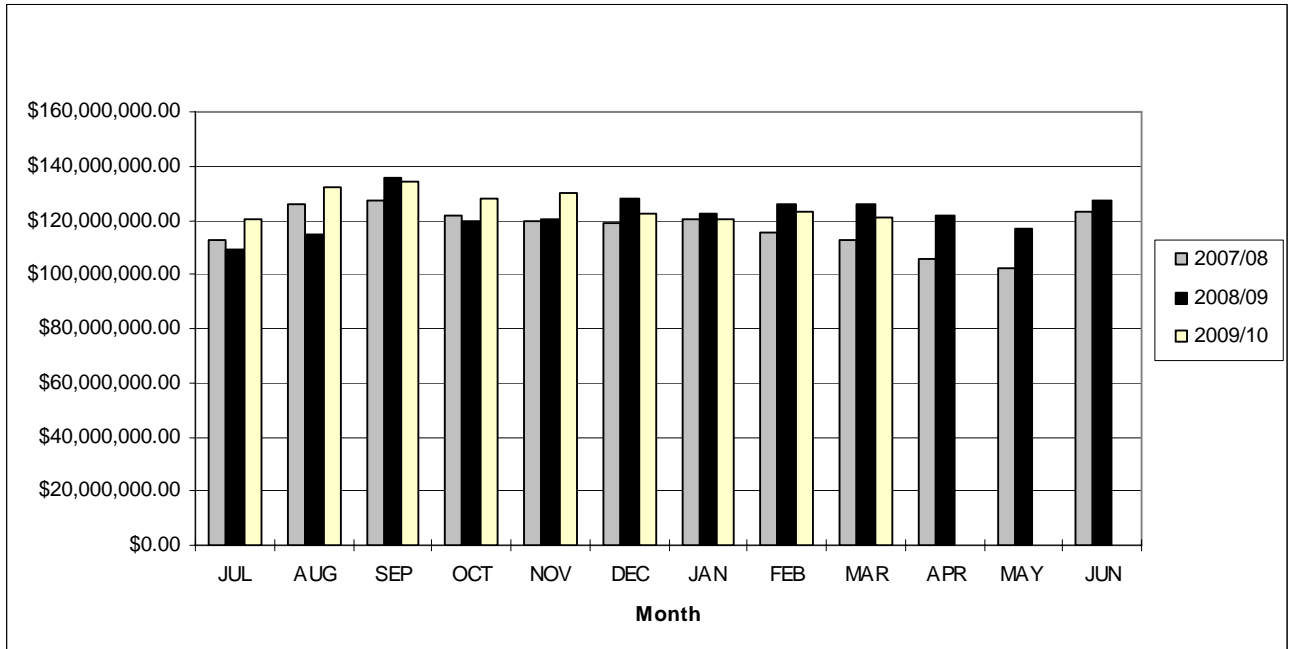
Investment Type	Final Maturity	Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Credit Rating
Bond	08/11/2011	ANZ	1,000,000.00	1,039,240.00	5.15	AA
Bond	22/04/2013	ANZ	1,000,000.00	1,099,570.00	8.65	AA
FRN	17/08/2010	ANZ	1,000,000.00	996,583.00	4.46	AA
Bond	02/12/2010	Bank of Queensland	1,500,000.00	1,524,090.00	5.55	BBB+
Bond	02/12/2010	Bank of Queensland	1,000,000.00	1,016,060.00	6.00	BBB+
FRN	20/07/2010	CBA	1,000,000.00	1,008,547.34	4.47	AA
FRN	21/01/2011	CBA	1,000,000.00	1,009,493.18	4.66	AA
FRN	17/04/2012	CBA	1,000,000.00	1,020,638.89	4.41	AA
FRN	23/11/2012	Deutsche Bank	1,000,000.00	871,175.00	5.13	A+
FRN	24/01/2011	Macquarie/HSBC	2,000,000.00	1,987,440.73	4.83	A
FRN	08/03/2012	Members Equity	2,000,000.00	1,914,280.00	5.32	BBB-
Bond	22/01/2018	CBA Zero Coupon Bond	2,000,000.00	2,280,000.00	7.28	AA
Bond	24/09/2012	Westpac	1,000,000.00	1,027,290.00	4.90	AA
Bond	24/09/2012	Westpac	1,000,000.00	1,027,290.00	5.15	AA
ABS = Asset Backed Security		Total	17,500,000.00	17,821,698.14	5.43	
Bond = Fixed Rate Bond						
CDO = Collateralised Debt Obligation						
FRN = Floating Rate Note						

8. TERM DEPOSITS AS AT 31 MARCH 2010

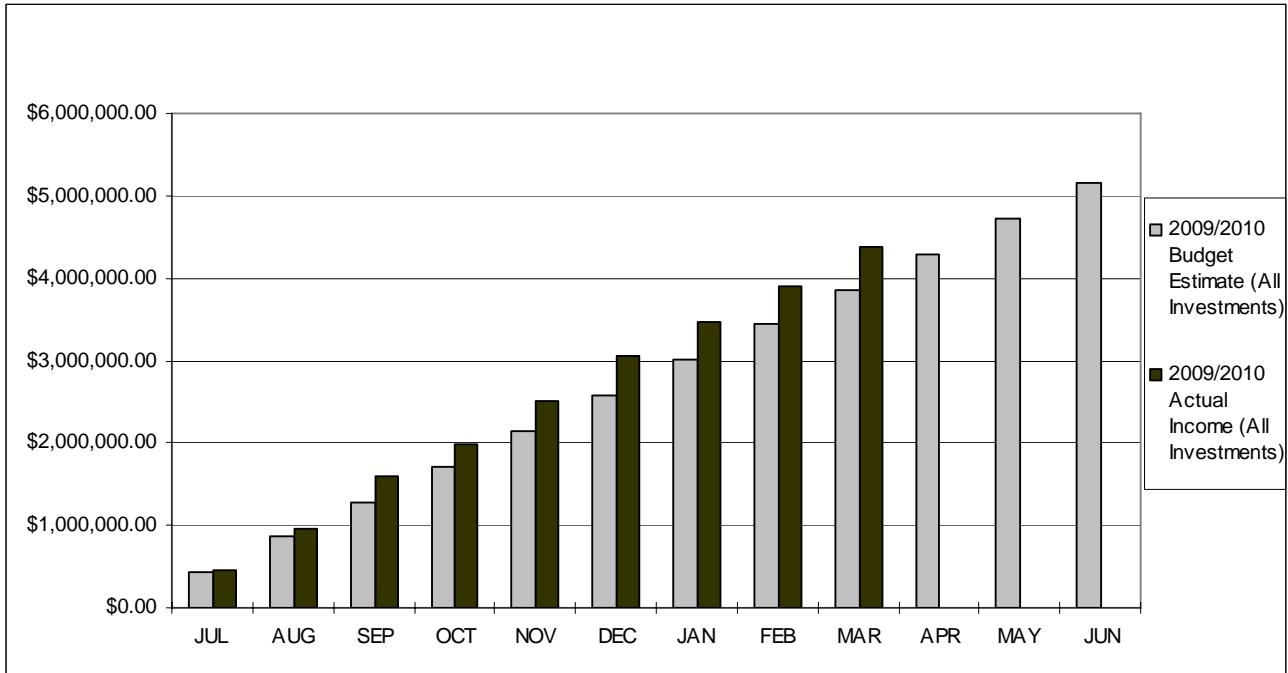
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE
05-Jan-10	06-Apr-10	Police & Nurses Credit Society Ltd	1,000,000.00	91	6.000	14,958.90
12-Jan-10	12-Apr-10	LGFS Savings & Loans Credit Union	2,000,000.00	90	4.890	24,115.07
11-Jan-10	13-Apr-10	SGE Cr Union	1,000,000.00	92	6.200	15,627.40
14-Jan-10	13-Apr-10	CBA	1,000,000.00	89	6.100	14,873.97
28-Oct-09	28-Apr-10	IMB	868,875.00	182	4.505	19,517.79
18-Feb-10	18-May-10	QLD Police CU	1,000,000.00	89	5.377	13,110.31
25-Feb-10	18-May-10	ANZ	1,000,000.00	82	5.920	13,299.73
27-May-09	27-May-10	LGFS	2,000,000.00	365	4.450	89,000.00
01-Mar-10	28-May-10	QLD Country CU	5,000,000.00	88	5.170	62,323.29
19-Feb-10	15-Jun-10	Suncorp Metway	1,000,000.00	116	6.000	19,068.49
09-Feb-10	15-Jun-10	CUA	2,000,000.00	126	6.050	41,769.86
17-Feb-10	22-Jun-10	LGFS	1,000,000.00	125	5.940	20,342.47
22-Mar-10	22-Jun-10	New England CU	1,000,000.00	92	5.040	12,703.56
19-Feb-10	22-Jun-10	Westpac Bank	1,000,000.00	123	6.000	20,219.18
03-Feb-10	05-Jul-10	Westpac Bank	3,000,000.00	152	6.600	82,454.79
11-Jan-10	13-Jul-10	Bank of QLD	2,000,000.00	183	6.600	66,180.82
12-Jan-10	20-Jul-10	Suncorp Metway	2,000,000.00	189	6.400	66,279.45
16-Sep-09	20-Jul-10	Suncorp Metway	2,000,000.00	307	5.200	87,473.97
16-Sep-09	20-Jul-10	Suncorp Metway	2,000,000.00	307	5.200	87,473.97
03-Feb-10	03-Aug-10	Suncorp Metway	2,000,000.00	307	5.200	87,473.97
17-Feb-10	03-Aug-10	Metway	3,000,000.00	181	6.500	96,698.63
21-Aug-09	24-Aug-10	Westpac Bank	3,000,000.00	167	6.600	90,591.78
01-Sep-09	01-Sep-10	Bank of QLD	2,000,000.00	368	5.300	106,871.23
11-Feb-10	07-Sep-10	NAB	4,000,000.00	365	5.530	221,200.00
10-Dec-09	14-Sep-10	Citibank	1,000,000.00	208	6.280	35,787.40
19-Jan-10	21-Sep-10	Westpac Bank	1,000,000.00	278	6.750	51,410.96
07-Oct-09	05-Oct-10	Westpac Bank	2,000,000.00	245	6.630	89,005.48
05-Nov-09	05-Oct-10	Suncorp Metway	1,000,000.00	363	6.010	59,770.68
09-Feb-10	12-Oct-10	Westpac Bank	2,000,000.00	334	6.260	114,566.58
20-Oct-09	19-Oct-10	Westpac Bank	2,000,000.00	245	6.800	91,287.67
20-Oct-09	19-Oct-10	Bank of QLD	1,000,000.00	364	6.050	60,334.25
17-Feb-10	26-Oct-10	Bankwest	1,000,000.00	364	6.000	59,835.62
23-Feb-10	09-Nov-10	Westpac Bank	2,000,000.00	251	6.760	92,973.15
02-Mar-10	16-Nov-10	Bank of QLD	2,000,000.00	259	6.300	89,408.22
02-Mar-10	29-Nov-10	IMB	1,000,000.00	259	6.290	44,633.15
04-Mar-10	30-Nov-10	ANZ	3,000,000.00	272	6.250	139,726.03
01-Dec-09	07-Dec-10	ANZ	4,000,000.00	272	6.300	187,791.78
10-Dec-09	14-Dec-10	Westpac Bank	2,000,000.00	370	6.800	137,863.01
03-Dec-09	14-Dec-10	NAB	1,000,000.00	369	6.650	67,228.77
05-Jan-10	21-Dec-10	Westpac Bank	1,000,000.00	376	7.050	72,624.66
16-Dec-09	21-Dec-10	Suncorp Metway	1,000,000.00	350	6.900	66,164.38
		Westpac Bank	1,000,000.00	370	7.000	70,958.90

Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE
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 (BCU)	2,000,000.00	730	4.700	188,000.00
09-Mar-10	08-Mar-11	Bananacoast CU	1,000,000.00	364	6.850	68,312.33
02-Apr-08	01-Apr-11	Suncorp Metway	3,000,000.00	1095	8.300	747,000.00
12-Nov-08	11-Nov-11	Suncorp Metway	4,000,000.00	1094	6.880	824,846.03
12-Nov-08	16-Nov-11	Investec Bank	1,000,000.00	1099	6.880	207,153.97
			84,868,875.00			6.104

9. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED

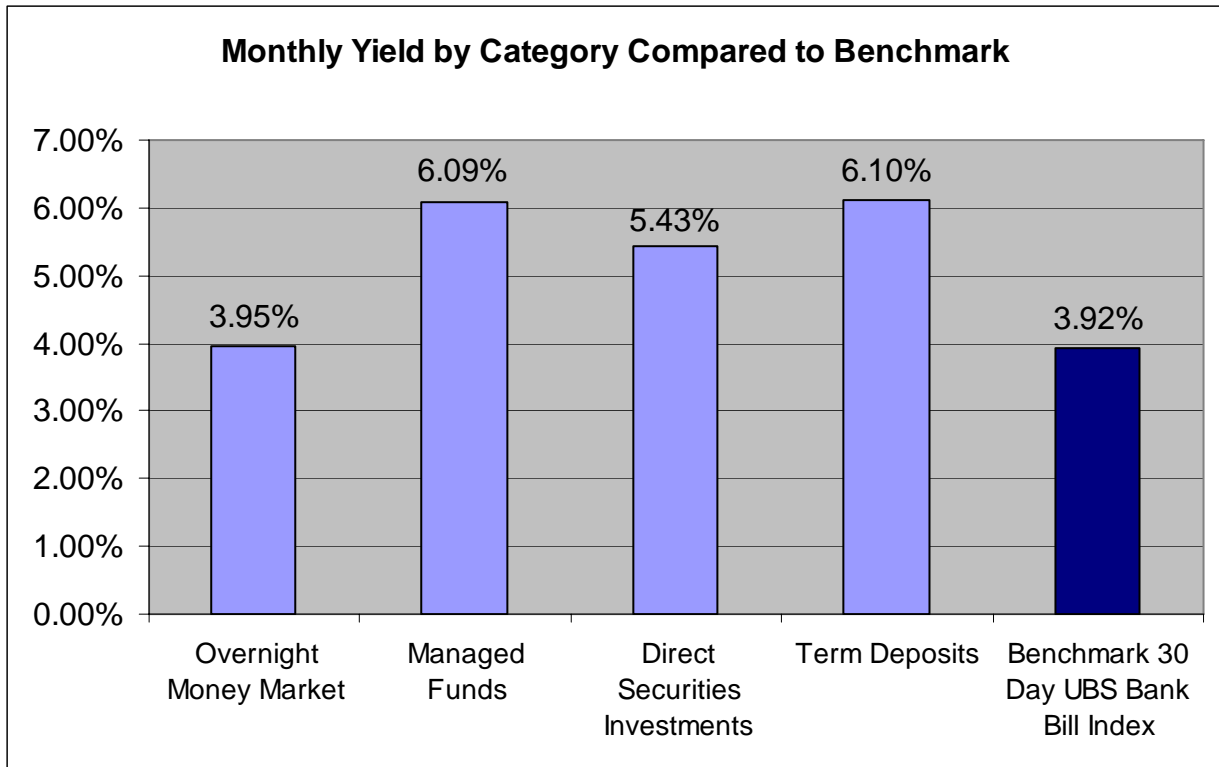


10. TOTAL PORTFOLIO INCOME YEAR TO DATE



11. PERFORMANCE BY CATEGORY

Category	Face Value	Market Value	Average Yield	Above/(Below) 30 day BBSW Benchmark
Overnight Money Market	\$50,000.00	\$50,000.00	3.95%	0.03%
Managed Funds	\$18,390,336.11	\$18,390,336.11	6.09%	2.17%
Direct Securities Investments	\$19,500,000.00	\$17,821,698.14	5.43%	1.51%
Term Deposits	\$84,868,875.00	\$84,868,875.00	6.10%	2.18%
Benchmark 30 Day UBS Bank Bill Index	\$122,809,211.11	\$121,130,909.25	3.92%	Benchmark 30 Day UBS Bank Bill Index



12. SECTION 94 DEVELOPER CONTRIBUTIONS - MONTHLY BALANCES & RECEIPTS REPORT - PERIOD ENDING 31 MARCH 2010

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	DCP3 Open Space	-3,704,679.35	
02	Western Drainage	-458,367.95	
03	DCP3 Community Facilities	-33,310.74	
04	TRCP	-11,648,913.32	-58,140.00
05	O/Space	-1,320,786.52	-16,658.00
06	Contribution Street Trees	-186,313.95	-7,128.00
07	West K'Cliff	-817,877.64	
10	Cobaki Lakes	162.67	
11	Libraries	-1,554,562.38	-21,775.00
12	Bus Shelters	-26,620.54	-1,624.00
13	Cemeteries	-8,053.68	-3,326.00
14	Mebbin Springs	-68,958.69	
15	Community Facilities	-1,243,176.53	-1,152.00
16	Surf Lifesaving	-402,200.47	-2,912.00
18	Council Admin - Tech Support	-1,677,324.67	-50,014.97
19	Kings Beach	-1,051,670.19	
20	Seabreeze Estate	-575.30	
22	Shirewide Cycleways	-466,769.98	-11,901.00

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
23	Shirewide Carparking	-1,747,434.11	
25	Salt Development	-779,209.94	
26	Plan 26 Shirewide Open Space	-4,015,715.39	-126,988.00
27	Tweed Hds Masterplan & Streetscaping	-76,904.08	
28	Seaside City	645.38	
91	DCP14	-82,525.27	
92	Public Reserve Contributions	-103,749.45	
94	Terranora Village Footpath	113,949.00	
95	Bilambil Heights	-494,188.26	
96	Community Fac Shire Wide	-68,721.96	
98	Marana Park Roundabout	0.00	
Total		-31,923,853.31	-301,618.97

13. ECONOMIC COMMENTARY

Global Economy

The global economy is growing, and world GDP is expected to rise at close to trend pace in 2010 and 2011. The expansion is still hesitant in the major countries, due to the continuing legacy of the financial crisis, resulting in ongoing excess capacity. In Asia, where financial sectors are not impaired, growth has continued to be quite strong, contributing to pressure on prices for raw materials. The authorities in several countries outside the major industrial economies have now started to reduce the degree of stimulus to their economies.

Global financial markets are functioning much better than they were a year ago and the extraordinary support from governments and central banks is gradually being wound back. Credit conditions remain difficult in some major countries as banks continue to face loan losses associated with the period of economic weakness. The concerns regarding some sovereigns appear to have been contained at this stage.

Domestic Economy

The Reserve Bank of Australia (RBA) increased the cash rate to 4.25% on 6 April, noting "With the risk of serious economic contraction in Australia having passed some time ago, the Board has been lessening the degree of monetary stimulus that was put in place when the outlook appeared to be much weaker. Lenders have generally raised rates a little more than the cash rate."

Interest rates to most borrowers nonetheless have been somewhat lower than average. The Board judges that with growth likely to be around trend and inflation close to target over the coming year, it is appropriate for interest rates to be closer to average. Today's decision is a further step in that process."

Australia's terms of trade are rising, adding to incomes and fostering a build-up in investment in the resources sector. Under these conditions, output growth over the year ahead is likely to exceed that seen last year, even though the effects of earlier expansionary policy measures will be diminishing. The rate of unemployment appears to have peaked at a much lower level than earlier expected. The process of business sector de-leveraging is moderating, with the pace of the decline in business credit lessening and indications that lenders are starting to become more willing to lend to some borrowers. Credit for housing has been expanding at a solid pace. New loan approvals for housing have moderated over recent months as interest rates have risen and the impact of large grants to first-home buyers has tailed off. Nonetheless, at this point the market for established dwellings is still characterised by considerable buoyancy, with prices continuing to increase in the early part of 2010.

Council's Investment Portfolio Performance

All investment categories out-performed the UBS 30 day bank bill benchmark this month. Overall, the investment portfolio has returned an average 2.19% pa above the 30 day UBS bank bill index for the last 12 month period.

70% of available funds are now invested in term deposits with managed funds being slowly reduced to take advantage of higher 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 \$121,130,909.23 invested as at 31 March 2010 and the accrued net return on these funds was \$489,575.18 or 4.85% annualised for the month.

14. INVESTMENT SUMMARY AS AT 31 MARCH 2010

GENERAL FUND

COLLATERISED DEBT OBLIGATIONS	0.00	
COMMERCIAL PAPER	0.00	
CORPORATE FIXED RATE BONDS	9,013,540.00	
FLOATING RATE NOTES	8,808,158.14	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	3,835,235.00	
TERM DEPOSIT - LOAN 104 OFFSET	868,875.00	
TERM DEPOSITS	52,000,000.00	
CALL ACCOUNT	50,000.00	74,575,808.14

WATER FUND

TERM DEPOSITS	22,000,000.00	
FUND MANAGERS	11,789,537.47	33,789,537.47

SEWERAGE FUND

TERM DEPOSITS	10,000,000.00	
FUND MANAGERS	2,765,563.62	12,765,563.62

TOTAL INVESTMENTS 121,130,909.23

It should be noted that the General Funds investments of \$74 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.

50 [TCS-CM] Tweed Futures 2004/2024 Strategic Plan

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The Tweed Futures 2004/2024 Strategic Plan that was adopted in September 2004 stated:

“Tweed 4/24 will be updated every 4-5 years to respond to changing circumstances and new information. The first update will take place after the next local government elections in late 2008.

With the introduction of Integrated Planning and Reporting and the resultant Community Strategic Plan to be implemented effective 1 July 2011, in line with Council nominating as a Group 2 Council for reporting purposes, a comprehensive review of the Tweed Futures 04/24 Priorities Action Plan has been undertaken.

An outcome of this review is that the outstanding and ongoing priorities of the Tweed Futures 04/24 Strategic Plan will form the basis of the Community Strategic Plan that is currently under development.

Therefore, the Tweed Futures 2004/2024 Strategic Plan will be finalised as of this review and ongoing and outstanding actions taken up within the Community Strategic Plan.

RECOMMENDATION:

That:

- 1. The review of Tweed Futures 2004/2024 Strategic Plan be noted and the outstanding and ongoing actions identified within this plan be transferred to form the basis of the Community Strategic Plan.**
- 2. The Tweed Futures 2004/2024 Strategic Plan document be finalised effective from the date of this Council meeting.**

REPORT:

The Tweed Futures 2004/2024 Strategic Plan that was adopted in September 2004 stated:

“Tweed 4/24 will be updated every 4-5 years to respond to changing circumstances and new information. The first update will take place after the next local government elections in late 2008.

With the introduction of Integrated Planning and Reporting and the resultant Community Strategic Plan to be implemented effective 1 July 2011, in line with Council nominating as a Group 2 Council for reporting purposes, a comprehensive review of the Tweed Futures 04/24 Priorities Action Plan has been undertaken.

An outcome of this review is that the outstanding and ongoing priorities of the Tweed Futures 04/24 Strategic Plan will form the basis of the Community Strategic Plan that is currently under development. There is a distinct advantage in moving these action items to the new document in that there was extensive community consultation and feedback in the preparation of the initial Tweed Futures document. An attachment to this report is a review of the thirty seven (37) action items disclosing responses and status of each item.

The Community Strategic Plan currently under development will be based around the following themes, which are very similar to those that formed the content of the Tweed Futures document:

- Civic Leadership
- Supporting Community Life
- Strengthening the Economy
- Caring for the Environment
- Infrastructure

The ongoing and outstanding action items will be easily integrated into the new document and themes, without losing the emphasis that was placed on them in the preparation of the original plan.

As a result of this review the Tweed Futures 2004/2024 Strategic Plan will be finalised and all who were involved in the preparation are acknowledged for their valued input as this document has established a footprint for the future of the Tweed.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Review and update in accordance with the review requirements of the Tweed Futures 2004/2024 Strategic Plan.

POLICY IMPLICATIONS:

Transfer of actions will accord with the preparation of the Community strategic Plan as a Group 2 council, with an effective implementation of 1 July 2011.

UNDER SEPARATE COVER:

1. Tweed Futures Action Plan Review (DW 14883166)
-

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51 [TCS-CM] Policy - Refund Transaction Version 1.0

ORIGIN:

Director

SUMMARY OF REPORT:

Council is frequently requested to refund overpayment of service application charges/ fees or where a development application or an application for service is withdrawn. In undertaking such request, Council incurs an administration cost, which is not always recovered.

There are a number of charges or fees for service which should attract an administration fee for the processing of a refund. Further, except provided by legislation or where the initial work is significant there should be a consistent administration fee for the processing of the refund of charge, fee for service including administering a refund for an overpayment.

Section 608(1) of the Local Government Act 1993, enables Council to charge and recover an approved fee for any service it provides.

RECOMMENDATION

That:-

- 1. Council approves the inclusion in the draft 2010/2011 Fees and Charges of a Refund Administration Fee structure as follows:**
 - a. A \$20.00 Administration Fee will apply to all refunds due to overpayments where the applicant is at error.**
 - b. A \$20.00 Administration Fee will apply to the following services when the application is withdrawn/cancelled in writing from the applicant once lodged in Council's system:**
 - 603 & 149 (2) (5) Certificates**
 - Dwelling Entitlement Search**
 - Dwelling Consent Search**
 - Drainage Diagram**
 - Swimming Pool Certificate**
 - Outstanding Notices Building or Health**
 - Caravan Parks, Camping Grounds, Manufactured Homes.**
 - Section 68 Stormwater Drainage Works**
 - Section 138 Driveway Access to Property**
 - Water Services**
 - Freedom of Information Request**

- c. A \$60.00 Administration Fee will apply to the following services when the application is withdrawn/cancelled in writing from the applicant once lodged in Council's system:
- Building Information
 - Construction Certificate Fees
 - Complying Development Certificate Fees
 - Sewer Application
 - On Site Sewage Management System Application
 - Stormwater Application
- d. Building Certificate Fee – 75% of original fee
- e. Development Application Fees - calculated by Town Planner or Building Surveyor as per Section 52 Environmental Planning and Assessment Regulation 2000
2. The Refund Transaction Policy be advertised in conjunction with the Draft Management Plan, Draft Fees and Charges, Draft Revenue Policy and Draft Budget.

REPORT:

Council is frequently requested to refund overpayment of service application charges/ fees or where a development application or an application for service is withdrawn. In undertaking such request, Council incurs an administration cost, which is not always recovered.

There are a number of charges or fees for service which should attract an administration fee for the processing of a refund. Further, except provided by legislation or where the initial work is significant there should be a consistent administration fee for the processing of the refund of charge, fee for service including administering a refund for an overpayment.

Section 608(1) of the Local Government Act 1993, enables Council to charge and recover an approved fee for any service it provides.

Council is currently charging the following fees for refunds:

Service	Fee for Service	Refund Administration Fee
Building Certificate Fee	From \$210	75% of original fee
Building Information	\$72	\$60.00
Development Application Fees	Varying	calculated by Town Planner or Building Surveyor as per Section 52 of Environmental Planning and Assessment Regulation 2000
Sewer Application	\$107.50 or \$207.00	\$60.00
On Site Sewer Management	\$218 or \$500	\$60.00
Water Services	Varying	\$20.00
Construction Certificate Fees	Varying	\$60.00
Complying development Certificate Fees	Varying	\$60.00

Council frequently receives payments from individuals which require refunding due to: a) payments being in excess of the Council relevant fee or b) as a result of an application being withdrawn.

To ensure a uniform approach throughout Council the following is proposed to form part of a new Refund Transaction Policy. A proposed new administration fee structure includes an administration fee for refunding an overpayment and withdrawn application/s and should be incorporated into the draft 2010/2011 Fees and Charges.

Refund Procedure

- Where an application is submitted in writing it is to be withdrawn in writing including requests for refund;
- Refunds to be in the form of EFT or cheque only, excepting the Art Gallery, Tweed Heads and Kingscliff Swimming Pools where refunds are given by cash, or EFTPOS due to the nature and low value of the transaction;
- Refunds to be issued only in the name appearing on Council's receipt record unless the person on the receipt authorises in writing another person or entity;
- Copy of receipt to be attached to refund request.

A) Underpayments

Council will not accept underpayment for any application or service.

B) Refunds for overpayment

A \$20 Administration Fee will apply to all refunds due to overpayments where the applicant is at error.

C) Refunds for withdrawals

- i) a \$20.00 Administration Fee will apply to the following services when the application is withdrawn/cancelled in writing from the applicant once lodged in Council's system:
 - 603 & 149 (2) (5) Certificates
 - Dwelling Entitlement Search
 - Dwelling Consent Search
 - Drainage Diagram
 - Swimming Pool Certificate
 - Outstanding Notices Building or Health
 - Caravan Parks, Camping Grounds, Manufactured Homes.
 - Section 68 Stormwater Drainage Works
 - Section 138 Driveway Access to Property
 - Water Services
 - Freedom of Information Request

- ii) A \$60.00, Administration Fee will apply to the following services when the application is withdrawn/cancelled in writing from the applicant once lodged in Council's system:
 - Building Information
 - Construction Certificate
 - Complying Development Certificate
 - Sewer Application
 - On Site Sewage Management System Application
 - Stormwater Application

The proposed new fee structure does not apply to payments in relation to:

- General Fund rates
- Domestic/ Non Domestic Waste Management and Sanitary Charges
- Water Access and Volumetric Charges
- Sewer Access, Special, Usage and Trade Waste Charges
- Annual On Site Sewerage Management Fee
- Bonds and Security Deposits

The proposed new Policy is as follows:



Policy

Refund Transaction
Version 1.0

Adopted by Council at its meeting on xx
Minute No: xx

Division:	Technology and Corporate Services
Section:	Financial Services
File Reference:	N/A
Historical Reference:	N/A

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Refund Transaction

Purpose

To formalise the practice of refund transactions and create uniform practices across Council.

Statement

Council is frequently requested to refund overpayment of service application charges/ fees or where a development application or an application for service is withdrawn. In undertaking such request, Council incurs an administration cost, which is not always recovered.

Procedures

- Council will not accept underpayment for any application or service.
- Where an application is submitted in writing it is to be withdrawn in writing including requests for refund;
- Refunds to be in the form of EFT or cheque only, excepting the Art Gallery, Tweed Heads and Kingscliff Swimming Pools where refunds are given by cash, or EFTPOS due to the nature and low value of the transaction;
- Refunds to be issued only in the name appearing on Council's receipt record unless the person on the receipt authorises in writing another person or entity;
- Copy of receipt to be attached to refund request.

Associated Fee

- a. An Administration Fee¹ will apply to all refunds due to overpayments where the applicant is at error.
- b. An Administration Fee² will apply to the following services when the application is withdrawn/cancelled in writing from the applicant once lodged in Council's system:
 - 603 & 149 (2) (5) Certificates
 - Dwelling Entitlement Search
 - Dwelling Consent Search
 - Drainage Diagram
 - Swimming Pool Certificate *
 - Outstanding Notices Building or Health
 - Caravan Parks, Camping Grounds, Manufactured Homes.
 - Section 68 Stormwater Drainage Works
 - Section 138 Driveway Access to Property *
 - Water Services
 - Freedom of Information Request

* No refund will apply where an inspection has been undertaken.

¹ Refer to Council's Fees and Charges

² Refer to Council's Fees and Charges

- c. An Administration Fee³ will apply to the following services when the application is withdrawn/cancelled in writing from the applicant once lodged in Council's system:
- Building Information
 - Construction Certificate
 - Complying Development Certificate
 - Sewer Application
 - On Site Sewage Management System Application
 - Stormwater Application
- d. Building Certificate Fee – 75% of original fee
- e. Development Application Fees - calculated by Town Planner or Building Surveyor as per Section 52 Environmental Planning and Assessment Regulation 2000.

Exclusions

The proposed new fee structure does not apply to payments in relation to:

- General Fund rates
- Domestic/ Non Domestic Waste Management and Sanitary Charges
- Water Access and Volumetric Charges
- Sewer Access, Special, Usage and Trade Waste Charges
- Annual On Site Sewerage Management Fee
- Bonds and Security Deposits

³ Refer to Council's Fees and Charges

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Section 608(1) of the Local Government Act 1993, enables Council to charge and recover an approved fee for any service it provides.

The proposed administration fee will not result in any additional revenue, but rather is being introduced to recoup labour and administration costs already incurred by council in commencing a service which is either overpaid or later withdrawn by the applicant.

POLICY IMPLICATIONS:

The attached Refund Transaction Policy is a new Policy to be advertised in conjunction with the Draft Management Plan, Draft Fees and Charges, Draft Revenue Policy and Draft Budget.

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.

52 [TCS-CM] 2010/2013 Draft Management Plan, incorporating the 2010/2011 Draft Budget, Draft Revenue Policy and Draft Fees and Charges

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The 2010/2013 Draft Management Plan is part of the process of providing clear purpose and direction in the management planning of Council's proposed activities, functions and services over the next three years. The Plan incorporates the 2010/2011 Draft Budget with a total expenditure of \$203 million, Draft Revenue Policy and Draft Fees and Charges.

The Minister for Local Government, under Section 508A of the Local Government Act 1993, determined in 2007 that the percentage by which Tweed Shire Council may increase its general income for 2010/2011 is 8.5% above that for 2009/2010, which includes year five of Council's 7 Year Infrastructure and Services Plan.

The 2010/2011 Draft Budget has an extensive capital works expenditure program of \$72 million that will support growth and community needs in the Shire.

In accordance with Section 405 of the Local Government Act 1993, Council must give public notice of the preparation of the Draft Management Plan and publicly exhibit the Plan for not less than twenty-eight (28) days. This report formalises this requirement.

RECOMMENDATION:

That:

- 1. Council places the 2010/2013 Draft Management Plan, incorporating the 2010/2011 Draft Budget, Draft Revenue Policy and Draft Fees and Charges on exhibition for public comment from Friday 23 April 2010 to Monday 24 May 2010.**
- 2. Copies of the 2010/2013 Draft Management Plan, 2010/2011 Draft Budget, Draft Revenue Policy and Draft Fees & Charges be available on Council's website, at the Civic Centre offices and libraries and copies provided to each of the resident, community and business groups detailed in the report.**

REPORT:

1. What is the Management Plan?

Council's Management Plan is the strategic mechanism within which planning, financial policy making and management takes place.

The Management Plan is Council's primary business planning document.

2. Management Plan - 2010/2013

The Management Plan provides a three-year program aimed at effectively meeting the expected needs of the community. The Plan states Council's vision, mission, projects and initiatives that Council proposes to undertake during 2010/2011 and priorities for 2011/2012 and 2012/2013.

Each project or initiative has attached to it performance management measures and target dates, which will be used to determine how Council is performing during the 2010/2011 component of the Plan.

Regular status reports are provided to Council within 8 weeks after the end of each quarter highlighting the extent to which the performance targets set by the Council's current Management Plan have been achieved during that quarter.

This Draft Management Plan has been prepared on the themes of:

- Civic leadership;
- Supporting Community Life;
- Strengthening the Economy;
- Caring for the Environment; and
- Infrastructure.

These themes will form the basis of the new Community Strategic Plan to be implemented effective from 1 July 2011 as part of the new integrated planning and reporting framework.

3. Community Consultation

The next stage of the Management Plan process involves seeking feedback from the community, as to their views on the Draft Plan. To facilitate this process the Draft Management Plan and supporting documents will be placed on public display on Council's website www.tweed.nsw.gov.au, Tweed Heads and Murwillumbah Civic Centres and libraries at Tweed Heads, Murwillumbah and Kingscliff.

To comply with the *Management Planning for NSW Local Government guidelines*, Council will be inviting local Chambers of Commerce, Ratepayers/Residents Associations/Community Groups in the Shire, to provide feedback on the 2010/2013 Draft Management Plan. To assist in this feedback process, copies of the Draft Plan will be forwarded to each of the following groups:

Banora Point & District Residents Association
Cabarita Beach/Bogangar Residents Association
Caldera Environment Centre
Casuarina Residents Association
Chinderah & District Residents Association
Cudgen Progress Association
Fingal Head Community Association
Friends of Terranora
Hastings Point Residents Association
Kingscliff Ratepayers & Residents Association
Mooball & District Moovers
Murwillumbah & District Chamber of Commerce
Murwillumbah Ratepayers & Residents Association
Pottsville Beach Business Association
Pottsville Community Association
SALT Village Residents Association
Tweed Coast Chamber of Commerce
Tweed District Residents & Ratepayers Association
Tweed Economic Development Corporation
Tweed Heads Chamber of Commerce
Tweed Landcare
Tweed Tourism
Tyalgum District Community Association
Uki Village & District Residents Association

Ratepayers and residents are encouraged to express their views on the Plan to Council, and are able to seek clarification of issues associated with the various projects and initiatives from the appropriate Council officers.

Submissions received will be considered by Council at its proposed meeting of Tuesday 15 June 2010, with the view to finalising and adopting the 2010/2013 Draft Management Plan, incorporating the 2010/2011 Draft Budget, Draft Revenue Policy and Draft Fees and Charges.

4. Project Highlights from the 2010/2013 Draft Management Plan

Listed below are key project highlights to be undertaken in the 2010/2011 financial period:

Community capital works projects;

- Murwillumbah Community Centre redevelopment \$1,000,000
- Kingscliff library extensions \$3,000,000
- Tweed Heads, Jack Evans Boat Harbour works \$3,700,000
- Arkinstall Park Regional Sports Facilities stage 1 works \$2,488,400

Roads and Transport works;

- Snake Creek Bridge \$800,000
- Road Drainage works \$1,115,238
- Uki traffic calming \$15,000

Water and Sewer works;

- Water Main works \$5,115,000
- Sewer Main works \$3,026,000
- Sewer Pumping Stations works \$1,744,500
- Banora Point Wastewater Treatment Plant Upgrade \$28,063,243
- Burringbar / Mooball Sewerage Scheme \$6,397,000
- Tyalgum Waste Water Treatment Plant \$1,432,000

Environmental Projects;

- Tweed Coast Koala Plan of Management \$70,000
- Tweed Coast Estuary Management Plan Review \$100,000
- Bush Futures Implementation \$498,000

Efficiencies to Council Operations

- ePlanning Complying Development Role Model Site
 - Upgrade of Property Management system \$135,000
 - Spatially correct cadastre with data exchange to LPMA \$85,000
- Contact Service Centre Implementation \$135,000

Planning Reform

- Stage 2 Local Environmental Plan – Rural Lands Study 2011 \$170,000
- Hastings Point Locality Plan (adoption) 2010 \$5,000
- Development Control Plan and Section 94 Plan (Area E) Terranora (Public Exhibition) 2010 \$0
- New Locality Plans for Tyalgum and Kingscliff (Public Exhibition) 2011 \$70,000
- Development Control Plan for Master planned Estates (Public Exhibition) 2011 \$20,000
- Development Control Plan for Rural Tourism (Public Exhibition) 2011 \$40,000
- Affordable Housing Strategy (Public Exhibition) 2011 \$70,000

5. 7 Year Infrastructure and Services Plan

The 2010/2013 Draft Management Plan and 2010/2011 Draft Budget incorporate projects due to be delivered in Year 5 of the 7 Year Infrastructure and Services Plan. This Plan commenced in 2006/2007 and the Minister for Local Government on 15 August 2007 gave approval for a special variation to general income under Section 508A of the Local Government Act 1993 for years 2008/2009 to 2012/2013 for a structured increase above the Ministerial allowable increase in General Income as follows:

- 2008/2009 is 9.50% above that for 2007/2008
- 2009/2010 is 9.50% above that for 2008/2009
- 2010/2011 is 8.50% above that for 2009/2010
- 2011/2012 is 7.50% above that for 2010/2011
- 2012/2013 is 7.50% above that for 2011/2012

As part of the Draft Management Plan and Budget process, a review of the 7 Year Infrastructure and Services Plan in relation to project costs and project timing has been undertaken with the following program changes made as a result of this review:

Project	Cost	Action	Comment
Museum Tweed Heads	\$3,000,000	Defer to 2011/2012	Project cannot proceed until the new LEP is adopted which permits use on the proposed site.
Museum Murwillumbah	\$1,000,000	Defer to 2011/2012	Project subject to Development approval and sourcing of additional funding.
Kingscliff Caravan Park amenities	\$500,000	Defer to 2011/2012	This project cannot commence until sand nourishment is completed.
Coastline Management Plan	\$2,200,000	Defer to 2011/2012	Project subject to sourcing sand supply and related Development approval.
Coastline Management Plan	\$3,500,000	Defer to 2012/2013	As above.
Council Accommodation	\$5,832,376	Deleted	A review of Council's Developer Contribution Plans by the Department of Planning has resulted in CP 18 being suspended resulting in a large reduction in funds into this Plan. An application is currently being made to continue this Plan until such time as the loan component has been repaid.
Tweed Coast Depot	\$5,500,000	Deleted	A review of Council's Developer Contribution Plans by the Department of Planning has resulted in CP 18 being suspended resulting in a large reduction in funds into this Plan. An application is currently being made to continue this Plan until such time as the loan component has been repaid.
Regional all access playground	\$350,000	Defer to 11/12	Planning for this facility is not sufficiently advanced to facilitate construction before 2011/2012.
Botanical Gardens	\$100,000	Defer to 2011/2012	As above.
Tweed Heads Master Plan	\$3,000,000	Reduce to \$1,000,000	At this time insufficient funds are available in this Plan as estimated in the original 7 year Plan.

Project	Cost	Action	Comment
Tweed Heads Master Plan	\$800,000	Additional funding	To fund works in 2010/2011 program
Cudgen Creek Bridge	\$1,400,000	Defer to 2012/2013	A recent upgrade to the bridge deck has delayed the need for this work to be completed until 2012/13.

6. Legal Requirements

Section 402 of the Local Government Act 1993, provides that during each year a Council must prepare a Draft Management Plan with respect to:

- Council's activities for at least the next three years; and
- The Council Revenue Policy for the next year.

The Act further provides that the Draft Management Plan must contain the following statements with respect to the Council's activities for the period to which it relates: -

- A statement of the principal activities that the Council proposes to conduct;
- A statement of the objectives and performance targets for each of its principal activities;
- A statement by which the Council proposes to achieve these targets;
- A statement of the manner in which the Council proposes to assess its performance in respect to each of its principal activities; and
- Statements with respect to such other matters as may be prescribed by the regulations.

The act requires the statement of principal activities to include the following particulars: -

- Capital works projects to be undertaken;
- Services to be provided;
- Asset replacement programs to be implemented;
- Sales of assets;
- Activities of a business or commercial nature;
- Human Resource activities (such as training programs);
- Activities to properly manage, develop, protect, enhance and conserve the environment in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- Activities in response to and to address priorities identified in, the Council's current comprehensive report as to the state of the environment and any other relevant reports;
- Programs to be undertaken by the Council to implement its equal employment opportunity plan; and
- Details of access and equity strategies identified in the Social Plan and other plans that are integral to social justice and which enhance community wellbeing.

Section 405 of the Local Government Act 1993 requires Council to give public notice of its Draft Management Plan and place on exhibition for not less than twenty-eight (28) days.

Council, in accordance with Section 406 of the Local Government Act 1993 must, prior to 30 June 2010, adopt the Management Plan for 2010/2013.

7. Budget Overview

The intention of the Local Government Act is that financial planning is an integral part of the Management Plan and Council must show how it proposes to fund the activities it plans to undertake.

The Draft Management Plan includes details of sources, amounts and the basis of calculation of proposed revenue to be raised in the next year (s.404). These details are supported by a detailed estimate of Council's income and expenditure (s.404(1)). A general estimate of income and expenditure for the second and subsequent years covered by the Management Plan has also been prepared (s.404(4)).

8. The Budget Summary

The budget provides information on the types of services that Council proposes to provide during the 2010/2011 financial year and at what level.

As a financial plan, the budget outlines how much the Council services will cost and how they will be funded. The budget includes appropriations from operational funds for capital projects and the cost impact of the maintenance of these projects is reflected in the document.

9. Council's Financial Plan (2010/2011)

The Minister for Local Government, under Section 508A of the Local Government Act 1993, determined in 2007 that the percentage by which Tweed Shire Council may increase its general income for 2010/2011 is 8.5% above that for 2009/2010, which includes year five of Council's 7 Year Infrastructure and Services Plan.

The budget as presented is balanced. If any surplus funds become available from operations during the year, they will be applied to increase the level of accumulated funds or to offset increased expenditure in other operations.

10. Budget Format

Program Budgeting provides both a financial and management analysis of the individual programs and services offered by Council and in conjunction with the various program objectives and performance measures allow an ongoing review of services related back to the individual program objective. Extensive use of activity based costing is used to support this process.

The Financial Strategies segment of the strategic component of the Management Plan outlines the key financial strategies, which have been incorporated into the development of the budget. Such strategies include: -

- To maintain a Balanced Budget;
- To maximise income from all sources, subject to the stated policies of Council;
- To provide works and services at levels commensurate with budget allocation;
- To restrain expenditure, wherever possible;
- To achieve economy of operation; and
- To optimise the return on funds and investments.

11. Revenue Policy

1. The Local Government Act insists upon greater reliance on user charges and less reliance on rates.
2. Council's Revenue Policy aims to balance these considerations with its community service obligations.

The Revenue Policy for a charge or fee identifies: -

- Cost relating to a particular service or function of local government;
- Any revenue which may be earmarked for that service or function; and
- Options for recovering the cost of a service or function.

Council exists to provide services for the benefit of the local community. Therefore it should operate in an efficient manner. The provision of services must take account of a number of major characteristics of local government including: -

- A large part of its revenue comes from ratepayers who understandably expect a certain level and quality of service for payment of rates;
- Local Government policies, budget and pricing;
- Local Government receives grants from other tiers of government which often prescribes policies and pricing practices;
- Commonwealth and State Legislation are prescriptive in certain areas in relation to the powers of local government; and
- A responsibility of allocating revenues in the most efficient and effective manner.

Variation to General Income for 2010/2011

Proposed 2010/2011 Rate Structure (Minimum Rates)

	2010/11	2009/10
	\$	\$
Ordinary Rate:-		
Residential	810.60	747.10
Business	866.25	798.40
Farmland	810.60	747.10
Sewerage Charge	568.00	527.00
Water Access Charge	106.00	102.00
Domestic Waste Management		
Domestic Waste Service Charge	99.20	102.90
Domestic Waste Management Charge	47.35	48.70
Waste Minimisation and Recycling Charge	60.30	41.20
Landfill Management Charge	25.00	25.00
Minimum Rate	1,716.45	1,593.90
Pensioner Rebate	425.00	425.00
Net Pensioner Minimum Rate	1,291.45	1,168.90

12. Fees and Charges

What services can be charged for?

The following questions are addressed when considering the level of fees and charges covered in the Draft Revenue Policy:

- Which groups (persons or entities) will benefit from the service?
- Can this target group be charged for the service?
- Should this target group be charged for the service?
- How will the target group be charged?
- Will the target group pay, or will other groups be forced to subsidise the provision of the service?

Fees and Charges have been increased by 2.9% except for statutory charges set by the State Government. A complete list of the Draft Fees and Charges for 2010/2011 is an attachment to this report and is recommended for placement on public exhibition.

New Fees and Charges

Council is proposing to implement a new refund administration fee structure with the Draft Policy being placed on public exhibition in conjunction with the Draft Management Plan and Draft Revenue Policy following the April Council Meeting.

13. Conclusion

In preparing the Budget, every effort has been made to address the objectives and strategies of the Draft Management Plan and is presented after review by Council's senior officers.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

In accordance with Section 402 of the Local Government Act 1993 preparation of the Draft Management Plan.

A balanced budget of \$203 million and a Capital Works Program of \$72 million is proposed for the financial period 2010/2011.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Draft 2010/2013 Management Plan (ECM 14883564)
 2. Draft 2010/2011 Budget (ECM 14880123)
 3. Draft 2010/2011 Fees and Charges (ECM 14880124)
 4. Draft 2010/2011 Revenue Policy and Statement (ECM 14880122).
-

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

53 [SUB-AAC] Minutes of the Tweed Shire Council Aboriginal Advisory Committee meeting Committee Meeting held Friday 5 March 2010

Venue:

Minjungbal Museum, Kirkwood Road Tweed Heads South

Time:

9am

Present:

Councillor Holdom (Tweed Shire Council), David Oxenham (Tweed Shire Council), Garth Lena (Minjungbal Museum), Jackie McDonald (TWAECG), Desrae Rotumah (Tweed Coop/Minjungbal Museum), Joyce Summers (Canowindra), Maureen Logan (Community Elder),

Guests Observers:

Councillor Milne (Tweed Shire Council), Lester Bostock (Visitor), Dr Glenda Nalder (Community), Heather Hancock (SCU) and Damien Jacobsen (SCU).

Apologies:

Beck Couch, Rick Nolan, Aunty Bakoi Boulton, Jeanette Saunders and Christine Morgan

Moved: Jackie McDonald

Seconded: Joyce Summers

RESOLVED that the apologies be accepted

Carried unanimously

The Chair was declared vacant and nominations were called. Councillor Holdom was nominated and was unanimously elected to Chair the meeting

Councillor Holdom opened the meeting with a welcome to all present and paid respect to Elders past and present

Minutes of Previous Meeting:

Moved: Maureen Logan

Seconded: Garth Lena

RESOLVED that the Minutes of the Tweed Shire Council Aboriginal Advisory Committee meeting held Friday 5 February 2010 be accepted as a true and accurate record of the proceedings with the follow three amendments

Carried unanimously

Amendment 1

Item from Meeting held Friday 6 November

BA 2 David Oxenham -Tweed Shire Council Tweed Water Supply Augmentation

Third page

Working Group in December 2009. Council's understanding is that the Aboriginal Advisory Committee prefers for Council to continue to consult directly to the Aboriginal Advisory Committee rather than through the Community Working Group. Ms McDonald expressed some concern over the community being asked to choose an option of which all will result in the destruction of Aboriginal Cultural Heritage. David Oxenham advised that the Community Working Group had met 3 times. They are currently discussing environmental and social impacts of the options. Council continues to send [Ms McDonald](#) and Kyle Slabb all information from the Community Working Group to remain informed. There are another 2 more meetings. Public information sessions are to be held from 2pm-7pm at Tweed Heads 10/02, Murwillumbah 18/02, and Pottsville 23/02. The CWG will prepare a report with recommendations to Council and the community.

Amendment 2

Item from Meeting held Friday 2 October 2009

BA 4 Draft Tweed Shire Aboriginal Cultural Heritage Information for Council's web site – Interim Development Application Process

Third page

Councillor Milne noted that perhaps a shire wide Cultural Heritage Study [would assist this process](#).

Amendment 3

GB 4 Draft Terranora/Cobaki Management Plan

Ms McDonald advised that updates on Cultural Heritage [issues and or new information](#) need to be provided re: Draft Terranora Cobaki Management Plan.

Item to be deferred until the March meeting

Business Arising:

Item from Meeting held Friday 5 February 2010

BA 1 Southern Cross University Research Project – Cultural Fisheries in Northern NSW

Mr Damien Jacobsen introduced himself to the committee and recapped what was discussed at the last committee meeting.

Mr Jacobsen advised that the workshop will be held on Thursday 18 March 2010 and it is hoped that many local community members will attend the workshop

Item from Meeting held Friday 5 September 2007

BA 2 Memorandum of Understanding (MOU)

Ms McDonald advised the Committee that the Tweed Wollumbin Aboriginal Education Consultative Group has issues with the Memorandum of Understanding and tabled an amendment on behalf of the organisation.

General discussion was undertaken.

Ms Mye was instructed to amend the Memorandum of Understanding and email out to members as soon as possible and this item to be placed on Friday 9 April 2010 agenda.

Item from Meeting held Friday 6 November 2009

BA 3 Fingal Boat Harbour - Regional Local Community Infrastructure Plan

Ms Mye tabled correspondence which she received from Mr Ian Bentley requesting that two Aboriginal Committee members be nominated who reside at Fingal meet with him on site re: Southern Fingal Boat Harbour Redevelopment.

Garth Lena and Maureen Logan were nominated and Dr Glenda Nalder advised that she would also attend.

Item from Meeting held Friday 5 February 2010

BA 4 Draft Far North Coast Regional Conservation Plan

Mr David Oxenham advised the Committee that Council had forwarded correspondence to DECCW however Council had not received a response to date.

General discussion was undertaken

Moved: Garth Lena

Seconded: Jackie McDonald

RESOLUTION that Council write to Department of Environment, Climate Change and Water (DECCW) stating that whilst it is acknowledge that past and contemporary history is acknowledge there appears to be no translation of these principles into clear defined actions, directions and improved outcomes and to whom is responsible for these implementations of these direct actions.

Further to that the Aboriginal Advisory Committee extends an invitation to a representative of DECCW to attend a future Committee meeting.

Carried unanimously

Item from Meeting held Friday 5 February 2010

BA 5 Terranora/Cobaki Broadwater Aboriginal Cultural Heritage Management Plan

Item deferred until Friday 9 April 2010

Item from Meeting held Friday 5 February 2010

BA 6 Travis McCarron Memorial Park

Mr David Oxenham advised that the naming of parks is addressed by Council in confidential meetings.

Councillor Holdom advised that she has been communicating with Kirsty and Ricky McCarron.

Discussion was undertaken

Item from Meeting held Friday 6 November

BA 7 David Oxenham -Tweed Shire Council Tweed Water Supply Augmentation

Mr Oxenham advised the Committee of where the process is currently at and advised the Committee that a Community Meeting will be facilitated on Wednesday 24 March 2010 at Minjungbal Museum. Mr Oxenham acknowledged that Des Williams attended a Water Meeting held at Uki on Saturday 27 February 2010.

Dr Glenda Nalder enquired about compensation from Council if Cultural Heritage sites are destroyed during the building process.

General discussion was undertaken

Moved: Maureen Logan

Seconded: Garth Lena

RESOLVED that Business Arising from Friday 5 February 2010 meeting has been dealt with

Carried unanimously

Agenda Items:

AI 1 Heather Hancock Southern Cross University – Associate Professor of Midwifery

Ms Hancock gave a brief background on herself and her role at Southern Cross University. Ms Hancock advised the Committee that there will be an Official Launch of the Bachelor of Midwifery in June 2010 (final date to be confirmed), Lakeside Drive, Southern Cross Campus. Ms Hancock advised the Committee that the Bachelor of Midwifery commenced two weeks in the local area.

Ms Hancock enquired about the local Aboriginal women performing a special ceremony at the Official Launch.

The Committee suggested that Ms Hancock meet with the ladies from Canowindra re: the ceremony.

Councillor Holdom suggested that Ms Hancock address the Tweed Shire Council Councillors at Community Access re: same.

Ms Mye was instructed to place this item on the Friday 9 April 2010 agenda.

Cr Holdom left the meeting.

AI 2 4 Lot Industrial Subdivision – DA09/0006

Councillor Milne advised the Committee of her concerns in regard to the Industrial Subdivision.

Councillor Milne advised that if the Subdivision proceeds, fish habitat, plant life and waterways will be affected.

General discussion was undertaken.

Moved: Councillor Milne

Seconded: Garth Lena

RECOMMENDATION that Council provide further information about issues relating to Ozone Street to inform future planning

Carried unanimously

AI 3 Tweed Coast Regional Crown Reserve Plan of Management

Item deferred until Friday 9 April 2010

AI 4 Arkinstall Park, South Tweed Heads

Ms Desrae Rotumah enquired about the redevelopment of Arkinstall Park.

General discussion was undertaken

The Committee suggested to forward an invite to the appropriate Council Officer to a future Committee meeting to discuss the proposed redevelopment.

General Business:

GB 1 60 Tringa Street, Tweed Heads West

Ms McDonald advised the Committee that 60 Tringa Street Tweed Heads West was approved for development many years ago.

Ms McDonald advised that residents of Tringa Street have just received new notification in regard to the development and she has concerns that if a Cultural Heritage Assessment is not performed that the Community might lose Cultural Heritage items.

General discussion was undertaken

Moved: Jackie McDonald

Seconded Garth Lena

RECOMMENDATION that Council consider a Cultural Heritage Assessment being performed on the proposed section 96 Development Application, Industrial Development site, 60 Tringa Street, Tweed Heads West

Carried unanimously

GB 2 Local Environment Plan (LEP)

Councillor Milne advised that the Local Environment Plan is on display and it is very important that people view the plan.

General discussion was undertaken

Moved: Councillor Milne

Seconded: Garth Lena

RECOMMENDATION that Council extends the LEP Exhibition period for a further two months

Carried unanimously

Moved: Councillor Milne

Seconded: Garth Lena

RESOLUTION that the appropriate Council Officer attends the next Aboriginal Advisory Committee meeting to discuss the LEP

Carried unanimously

GB 3 Process between TBLALC and TSC re: damage to Significant Sites

Councillor Holdom advised the Committee that Councils Officers and two representatives of TBLALC meant to discuss a process in regard to Aboriginal Cultural Heritage/Significant Sites being damaged.

Councillor Holdom advised that commencing immediately that Councils Officers will investigate any damage to Cultural Heritage/Significant Sites, advise DECCW and within 48 hours TBLALC will be notified.

Mr Des Williams advised that Ms Mye has a list of Knowledge Holders/Traditional Owners for the area and she would contact each person notifying them of any damage found. Mr Williams advised that TBLALC has primary care but would not exclude the Community.

The Aboriginal Advisory Committee will be advised at Committee meetings.

General discussion was undertaken

GB4 Councillor Holdom Recommendations to Councils

Item deferred until Friday 9 April 2010

GB 5 "Between River and Sea" - Historical Images of Kingscliff

Item deferred until Friday 9 April 2010

GB 6 Peter Boyd – CMA

Item deferred until Friday 9 April 2010

GB 7 Tweed Shire South Sea Islander Recognition Day 25th August 2010

Ms Mye tabled correspondence which she received from Ms L Togo.

Ms Mye was instructed to invite Ms Togo along to a future meeting

GB 8 2010 Unity Festival

Ms Mye tabled correspondence which was received from the Unity Festival requesting a letter of support.

General discussion was undertaking.

The Committee thought due to circumstances it is best left for the moment

Moved: Desrae Rotumah

Seconded: Joyce Summers

RESOLVED that inward and out going correspondence has been received and noted

Carried unanimously

Next Meeting:

The next meeting of the Tweed Shire Council Aboriginal Advisory Committee meeting Committee will be held Friday 9 April 2010.

The meeting closed at 1.35pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

AI 2 4 Lot Industrial Subdivision – DA09/0006

The recommendation was put forward by the Committee to recognise the potential impact of this development on fish habitat plant life and the adjoining waterway.

GB 1 60 Tringa Street, Tweed Heads West
Nil.

GB 2 Local Environment Plan (LEP)

Council at its meeting of 16 March 2010 extended the LEP exhibition period by one month.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

AI 2 4 Lot Industrial Subdivision – DA09/0006

Recommendation that Council notes the concerns of the Aboriginal Advisory Committee in relation to the Ozone Street development on the potential impact of the adjoining waterway.

GB 1 60 Tringa Street, Tweed Heads West

As per the Committee's recommendation, being that, Council considers a Cultural Heritage Assessment being performed on the proposed section 96 Development Application, Industrial Development site, 60 Tringa Street, Tweed Heads West.

GB 2 Local Environment Plan (LEP)

Recommendation that Council recognises the request from the Aboriginal Advisory Committee to extend the LEP exhibition period by two months and notes that at its meeting of 16 March 2010, Council extended the period by one month.

54 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 25 March 2010

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 10.30am

PRESENT:

Committee Members: Cr Barry Longland (Deputy Mayor), Ms Liz Smith, Roads and Traffic Authority, Snr Constable Paul Henderson, NSW Police, Mr Col Brooks representing Mr Thomas George MP, Member for Lismore, Mr Rod Bates representing 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 Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed, Mr Paul Brouwer.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 18 February 2010 be adopted as a true and accurate record of proceedings of that meeting

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC] Schedule of Outstanding Resolutions 25 March 2010

From Meeting held 26 November 2009

1. [LTC] Eyles Avenue, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3999809; Traffic - Committee; School Zones; Parking Zones; Safety; Eyles Avenue; Schools - Murwillumbah Public

SUMMARY OF REPORT:

From Meeting held 27/8/09 (Item B1)

Concern has been raised with cars parking in Eyles Avenue on the school side.

"These vehicles are causing problems for buses accessing the School Bus Zone. Could 'No Parking' at School finishing times be implemented here?"

Council officers will investigate this site and report to the meeting.

COMMITTEE ADVICE:

That:-

1. Council officers discuss with the School representatives the possibility of extending the 'No Parking' zone on the eastern side of Eyles Avenue to the intersection with Prince Street.
2. This item be placed on the Schedule of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 27 August 2009 and 24 September 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 26 November 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 17 December 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 18 February 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 25 March 2010 remain on the list of Outstanding Resolutions.

-
3. [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 B7 from Local Traffic Committee meeting held 27 August 2009 and 24 September 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B7 from Local Traffic Committee meeting held 26 November 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B7 from Local Traffic Committee meeting held 17 December 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 18 February 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 25 March 2010 remain on the list of Outstanding Resolutions.

4. [LTC] Tomewin Road, Dungay

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3948848; Traffic - Committee; Speed Zones; Tomewin Road; Dungay Creek Road

SUMMARY OF REPORT:

From Meeting held 27/8/09 (Item B9)

At the Local Traffic Committee meeting on 25 June 2009 the Police Representative requested that a speed limit review of Tomewin Road, north of Dungay Creek Road be undertaken with a view to adopting a fixed speed zone along this road.

Tomewin Road north of Dungay Creek Road is currently signposted as derestricted speed limit however its alignment inhibits speeds greater than about 70 km/hr.

Council's traffic data shows the following counts for Tomewin Road (at the tick gates - May 2008):-

756 vehicles per day with an 85th percentile speed of 58 km/hr.

It is suggested that the Roads and Traffic Authority of NSW conducts a speed limit review of Tomewin Road north of Dungay Creek Road.

Accident statistics for the 5 year period from July 2003 to June 2008 show 18 crashes on Tomewin Road with 14 of those being off path on curve, 16 were single vehicle and 4 of the crashes were motorcyclists, with 1 motorcyclist being a fatality.

COMMITTEE ADVICE:

That the Roads and Traffic Authority of NSW be requested to conduct a speed limit review of Tomewin Road north of Dungay Creek Road.

Current Status: That Item B9 from Local Traffic Committee meeting held 24 September 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B9 from Local Traffic Committee meeting held 26 November 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B9 from Local Traffic Committee meeting held 17 December 2009 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 18 February 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item B1 from Local Traffic Committee meeting held 25 March 2010 remain on the list of Outstanding Resolutions.

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Unnamed Road off Coronation Avenue, Pottsville

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 13587785; Coronation Avenue; Loading Zones; Parking Zones

SUMMARY OF REPORT:

The as yet unnamed road off Coronation Avenue, Pottsville has been upgraded to enable access to the rear of the newly constructed shops.

The Committee has previously approved a loading zone on Coronation Avenue for this development which is only operational at night.

This request is to install a loading zone in the unnamed lane adjacent to the development, to enable deliveries during the day. At the end of the unnamed lane there is a vehicle turnaround area that requires prohibitive parking signage to ensure that this area is clear to function as intended.

Liz Smith arrived at 10.50am

The request is for:-

1. A loading zone posted as 9.00am - 5.00pm Mon - Fri, 9.00am - 12pm Sat on the unnamed lane off Coronation Avenue, Pottsville adjacent to the shops.
2. "No Parking" signage be installed in the vehicle turnaround area in the unnamed lane off Coronation Avenue, Pottsville.

The Committee considered that a day time loading zone on Coronation Avenue within the existing 'evenings only' loading zone was a more appropriate location. The length of the loading zone to be one small delivery vehicle space. This space is to be immediately east of the unnamed road / Coronation Avenue intersection and be sign posted '9.00am - 5.00pm Mon - Fri, 9.00am - 12pm Sat.' It was also recommended that a sight board be placed at the end of the unnamed road.

RECOMMENDATION TO COMMITTEE:

That:-

1. A loading zone posted as 9.00am - 5.00pm Mon - Fri, 9.00am - 12pm Sat on the unnamed lane off Coronation Avenue, Pottsville adjacent to the shops.

2. "No Parking" signage be installed in the vehicle turnaround area in the unnamed lane off Coronation Avenue, Pottsville.

RECOMMENDATION TO COUNCIL:

That:-

1. A loading zone posted as '9.00am - 5.00pm Mon - Fri, 9.00am - 12pm Sat' on Coronation Avenue, Pottsville be installed adjacent to the recently constructed shops to cater for a small commercial vehicle only.
2. The existing 'evenings only' loading zone be shortened to accommodate the daytime loading zone in (1) above.
3. "No Parking" signage be installed in the vehicle turnaround area in the unnamed lane off Coronation Avenue, Pottsville.

FOR VOTE - Councillor Barry Longland, Snr Constable Paul Henderson, Liz Smith, Rod Bates

PRESENT. DID NOT VOTE - Col Brooks

A2 [LTC] Prospero Street, South Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 13495992; 13478864; Prospero Street; - Traffic - Committee; Postage Matters; Signs - Traffic Issues; Traffic - Parking Zones

SUMMARY OF REPORT:

Request received for the traffic sign at the Licensed Post Office in Prospero Street, South Murwillumbah to be amended to read "No Stopping Mail Zone 2.30-4.30pm only" and "15 mins parking" at other times.

A Mail Zone was installed at this location following a request from Australia Post. No spaces were lost as a result of this installation. It is considered that the mixing of regulatory signage is undesirable and confusing to users, however it may be practical to limit the all hours application of the current Mail Zone.

RECOMMENDATION TO COMMITTEE

That the existing Mail Zone located in Prospero Street, South Murwillumbah be amended by including the following hours of operation:-

"2.30pm - 4.30pm Monday - Friday"

RECOMMENDATION TO COUNCIL

That:-

1. The existing Mail Zone located in Prospero Street, South Murwillumbah be amended by including the following hours of operation:-
"2.30pm - 4.30pm Monday - Friday"
2. The mail zone also be marked as 15 minute time limited parking 9.00am to 2.30pm Monday to Friday.

FOR VOTE - Councillor Barry Longland, Snr Constable Paul Henderson, Liz Smith, Col Brooks

PRESENT. DID NOT VOTE - Rod Bates

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] Battle on the Border 2010

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 13785790; Traffic - Committee; Safety; Road - Closures - Temporary; Bicycle Matters

SUMMARY OF REPORT:

Battle on the Border 2010 Road Course Specification has been received for events in 2010.

The proposed races are as follows:-

Thurs	Time Trial	10.00am to 10.50am	15km	Tyalgum Hall out and back
29		11.00am to 1.00pm	28km	
April				

Two time trials are proposed along the following roads:-

Coolman Street, Cudgerie Street, Tyalgum Road and return.

A temporary road closure has been requested for Coolman Street between 10.00am and 1.00pm on Thursday 29 April 2010.

Council Meeting held Tuesday 20 April 2010

Sat May	1	Terrible Time Trial Road Race Champs (U19) Road Race Champs (U19)	7.00am to 10.10am 9.30am to 12.39pm Under19 Men 9.50am to 11.56am Under 19 Women	5km 123km 71km	Stokers Siding Hall North out and back Stokers Siding, Crabbes Creek Road, Mistral Road Stokers Siding, Mooball Hotel, Mistral Road
		Rapid Road Race (Tour de Tweed)	10.00am to 4.35pm TOUR All Divisions. Divisions in total	82 - 123 km 29 - 58km 10 (U17 & U15)	Stokers Siding, Smiths Creek Road, Bakers Road

Four road races are proposed along the following roads:-

Stokers Road, Smiths Creek Road, Tweed Valley Way, Mistral Road, Kyogle Road and Bakers Road.

The Forest Hill Climb (end of Bakers Road) has safety concerns in relation to narrow pavement width and vehicle sight distances.

The applicants have requested a temporary speed limit reduction to 60km/h on Kyogle Road from Byangum Bridge to Smiths Creek Road for south/west bound traffic between 11.00am to 2.00pm.

A temporary road closure has been requested for Stokers Road from Stokers Siding to Mistral Road from 9.30am to 2.00pm on Saturday 1 May 2010.

Sun May	2	Epic Road Race (Tour de Tweed) World Selection Road Race (Under 19) World Selection Road Race (Under 19) GranFondo (189km social ride) GranFondo (136km social ride) GranFondo (100.74km social ride) PiccoloFondo (56.16km social ride)	7.45am to 1.45pm TOUR 8.00am to 10.50am Under 19 Men 8.10am to 10.25am Under 19 Women 9.00am to 3.18pm 9.30am to 2.19pm 12.00pm to 3.34pm 2.00pm to 4.14pm	43 - 121 km 108km 76km 189km 136km 100km 56km	Tweed Coast Road, Tweed Valley Way, Scott Street Casuarina Way, Mistral Road, Forest Hill, Mt Warning Road (finish at car park) Casuarina Way, Mistral Road, Forest Hill, Mt Warning Road (finish at car park) Bells Boulevard, Tyalgum Road, Nimbin Road, Tomewin Road, Casuarina Way Bells Boulevard, Mooball, Tyalgum Road, Tomewin Road, Plantation Road Bells Boulevard, Burringbar Rg, Tyalgum Road, Plantation Road Bells Boulevard, Tweed Coast Road, Tweed Valley Way, Casuarina Way
		MinoreFondo (11.02km social ride)	2.15pm to 3.00pm	11km	Bells Boulevard, Viking Street, Cudgen Road, Dianella Drive

Eight road races are proposed along the following roads:-

Tweed Coast Road, Tweed Valley Way, Scott Street, Casuarina Way, Mistral Road, Bakers Road, Byangum Road, Mt Warning Road, Forest Hill, Mt Warning, Eviron Road. Bells Boulevard, Tyalgum Road, Nimbin Road, Tomewin Road, Casuarina Way. Mooball Road, Plantation Road. Tweed Valley Way, Smiths Creek Road. Viking Street, Cudgen Road, Dianella Drive, Duranbah Road, Donalyn Court, Farrants Hill Road, Clothiers Creek Road, Kyogle Road. Other roads are involved. Please refer to the attachments for the GranFondo map routes.

The applicants have requested a temporary speed limit reduction to 60km/h on:-

- Kyogle Road from Byangum Bridge to Smiths Creek Road for south/west bound traffic between 8.45am to 11.00am.
- Tweed Coast Road from Cudgen Road to Rosewood Avenue, Cabarita between 7.30am to 4.00pm.
- Clothiers Creek Road and Rosewood Avenue, Cabarita between 7.30am to 4.00pm.
- Tweed Coast Road Cabarita to Wooyung between 7.30am to 4.00pm.

Mon 3	Criterion (14	8.00am to 3.10pm	Closed Circuit	Salt Park, Bells Boulevard
May	divisions)	TOUR		

The Criterion is proposed along the following roads:-

Bells Boulevard, Pass Street, Shipstern Street, Saltwater Crescent, Casuarina Way.

The applicants have requested that these roads be temporarily closed on Monday 3 May 2010 from 7.00am to 4.00pm (apart from Casuarina Way) which will be under traffic control management.

*John Zawadzki left the meeting at 11.30am and handed over the Chair to Ray Clark
Cr Longland left the meeting at 11.30am*

The Roads and Traffic Authority of NSW Representative raised concern with the lack of data in relation to temporary speed zones and that a Traffic Management Plan has not been provided.

Cr Longland returned to the meeting at 11.35am

COMMITTEE ADVICE:

That the temporary road closures on Coolman Street, Tyalgum, Stokers Road, Stokers Siding, Bells Boulevard, Pass Street, Shipstern Street, Saltwater Crescent, and partial closure of Casuarina Way be supported. This is subject to the submission of the following:-

1. The submission of adequate traffic management plans and traffic control plans;
2. Evidence of extensive community consultation;
3. Standard conditions of approval; and

4. NSW Police approval.

traffic management plans, traffic control plans and proof of extensive community consultation and NSW Police approval incorporating standard conditions.

B2 [LTC] Lions Greenback Tailor Fishing Competition

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 12629977; 13579228; Pandanus Parade; Traffic - Committee; Lions;
Roads - Closures - Temporary; Festivals - Other

SUMMARY OF REPORT:

Request received for the temporary road closure of Pandanus Parade Cabarita Beach for the Lions Greenback Tailor fishing Competition on the 12 and 13 June 2010 (long weekend).

The times of closure are proposed to be:-

From early Saturday morning 12 June until 1.30pm allowing for sign on.

From early Sunday morning until mid afternoon, allowing access for the competitors to weigh their catches, the VRA and the Surf Club vehicles on display, along with 3 vehicles showcasing the major sponsors.

Emergency vehicles will have access to the site at all times

COMMITTEE ADVICE:

That the Committee has no objection to the proposed temporary road closure of Pandanus Parade from 6.30am Saturday 12 June to 1:30pm and Sunday 13 June from 6.30am to 3.30pm, subject to standard conditions of approval and prior liaison between the event organisers and affected businesses.

B3 [LTC] Duranbah Road, Duranbah

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 13139007; Duranbah Road; Traffic - Committee; Safety - Speed Zones;
LN 8999

SUMMARY OF REPORT:

Request received regarding the speed of traffic near 213 Duranbah Road, Duranbah.

".... Approx 400m down the road north the 80 kmh speed limit changes to "drive to suit conditions". As it is quite a good stretch of road past our property we have cars speeding past at 100km and over and the Quarry trucks as well drive too fast and will cause major damage.... We had a fatality before Christmas just before the "drive to suit conditions" sign but I believe changing the road to 80kmh is a positive step in slowing down traffic on this road."

The correspondent has advised of the poor alignment of Duranbah Road relative to the driveway and does not want to relocate the driveway to a more suitable location.

The request for speed limits is a matter which requires referral to the Roads and Traffic Authority of NSW. Council officers will inspect the location of the driveway and report to the meeting.

Speed limits are generally not reduced to address isolated hazards such as driveways however the Committee agreed that a review of the speed limit in this area should be conducted.

COMMITTEE ADVICE:

That the speed limit along this section of Duranbah Road in general be referred to the Roads and Traffic Authority of NSW for their assessment and advice to the Committee.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 22 April 2010 in the Mt Warning Meeting Room commencing at 10.30am.

There being no further business the Meeting terminated at 12.20pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 (LTCJ Unnamed Road off Coronation Avenue, Pottsville

Nil.

A2 (LTCJ Prospero Street, South Murwillumbah

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

As per the Committee's recommendations being:

A1 (LTCJ Unnamed Road off Coronation Avenue, Pottsville)

1. ***A loading zone posted as '9.00am - 5.00pm Mon - Fri, 9.00am - 12pm Sat' on Coronation Avenue, Pottsville be installed adjacent to the recently constructed shops to cater for a small commercial vehicle only.***
2. ***The existing 'evenings only' loading zone be shortened to accommodate the daytime loading zone in (1) above.***
3. ***"No Parking" signage be installed in the vehicle turnaround area in the unnamed lane off Coronation Avenue, Pottsville.***

A2 (LTCJ Prospero Street, South Murwillumbah)

1. ***The existing Mail Zone located in Prospero Street, South Murwillumbah be amended by including the following hours of operation:-***
"2.30pm - 4.30pm Monday - Friday"
 2. ***The mail zone also be marked as 15 minute time limited parking 9.00am to 2.30pm Monday to Friday.***
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55 [SUBCOM] Minutes of Subcommittees Not Requiring a Decision of Council

UNDER SEPARATE COVER:

- 1. Minutes of the Disability Access Advisory Committee Meeting held Wednesday 17 March 2010 (ECM 14572546)**
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ORDERS OF THE DAY

- 56 [NOR-Crs J van Lieshout, W Polglase and P Youngblutt] Vegetation Clearing at Lot 4 DP 1106447 Tweed Coast Road, Chinderah**

NOTICE OF RESCISSION:

Councillors J van Lieshout, W Polglase and P Youngblutt move that Council resolution at Minute No 151 in relation to Item 19 of the Meeting held 16 March 2010 being:

".... that a Penalty Infringement Notice (PIN) be issued to the owner of Lot 4 DP 1106447 Tweed Coast Road, Chinderah for breach of Council's Tree Preservation Orders."

be rescinded.

- 57 [NOM-Cr B Longland] Memorial - Vicinity Byangum Bridge**

NOTICE OF MOTION:

Councillor B Longland moves that Council brings forward a report on the feasibility of establishing a suitable memorial to the Hatton family on Council land in the vicinity of the Byangum Bridge. The memorial to be centred around a replanted seedling taken from the original "Hatton's fig tree" adjacent to Kyogle Rd at Byangum which has to be removed for safety reasons. Council should consult with the Uki & South Arm Historical Society to determine a suitable dedication for the newly planted fig tree.

- 58 [NOM-Cr D Holdom) Far North Coast Regional Strategy - Environmental Zone Reduction(s)**

NOTICE OF MOTION:

Councillor D Holdom moves that the General Manager invites and attends a meeting between all General Managers, as identified in the "Far North Coast Regional Strategy", to discuss any matters that each Council may have with regard to possible Environmental Zone reduction/s etc, across their individual Shires and as the councils that form the collective as defined in and by the Far North Coast Regional Strategy, the Mayor from each Council is to also attend the said meeting with their respective General Manager.

59 [NOM-Cr K Milne] Section 94 Plans

NOTICE OF MOTION:

Councillor K Milne moves that Council investigates the possible engagement consultants through the Institute of Sustainable Futures and Social Advocacy Networks to review Council's section 94 plans.

60 [NOM-Cr K Milne] Population Committee

NOTICE OF MOTION:

Councillor K Milne moves that Council establish a Population Advisory Committee to address population issues for the Tweed Shire.

61 [NOM-Cr K Milne] Sustainable Water Options

NOTICE OF MOTION:

Councillor K Milne moves that Council prepares a report on the legislative impediments that inhibit Council from achieving improved outcomes for the environment, waterway health and impact on the community in relation to Council's proposed water management strategies.

62 [NOM-Cr K Milne] Local Environment Plan Exhibition Extension

NOTICE OF MOTION:

Councillor K Milne moves that the exhibition of the draft Tweed Local Environment Plan 2010 be extended for a further two months until the end of June 2010 due to the complexity of the documents, the significant implications for the Tweed, and the need to ensure that the Tweed environment is provided with protection appropriate to its internationally significant status.

63 [NOM-Cr K Milne) Local Environment Plan Fact Sheets

NOTICE OF MOTION:

Councillor K Milne moves that Council provides fact sheets outlining the changes and implications of the draft Local Environment Plan (LEP) and makes these available as soon as possible in the locations where the LEP is exhibited.

64 [NOM-Cr K Milne) Local Environment Plan Public Consultation

NOTICE OF MOTION:

Councillor K Milne moves that:-

1. Council conducts an open public forum on all aspects and implications of the draft Local Environment Plan (LEP).
 2. This forum to follow the style of the rural zoning workshop, including a presentation by staff and open forum discussion time held at the Murwillumbah and Tweed Auditoriums.
-

65 [NOM-Cr K Milne] Food Policy

NOTICE OF MOTION:

Councillor K Milne moves that Tweed Shire Council prepares a report on the potential to develop a Food Policy.

The aim of this Food Policy would be to promote health and sustainability and improve access to fresh local foods.

It links with sustainability: health, access to shops/fresh food, breast feeding promotion & facilities, community gardens, strategies to reduce food miles, transport, promotion and purchase of fresh local produce, supporting local economy, biodiversity, waste minimisation, food markets, home delivery service etc.

The policy could include the following aspects:

- i) That the sustainability of food, ethical food production and food miles is addressed in food procurement/tender policies for council operated food services and when catering meals and meetings.
- ii) Where possible, purchase and promote consumption of fresh local food supply from within the Tweed, or from at least within 100 KMs of the Shire
- iii) Council should consider food security their planning e.g. access to shops, community food gardens.
- iv) Improve opportunities for recycling food waste locally.

Further, that Tweed Council supports 'food security' in the region:

- Ensure that food security remains a basic objective, along with water, energy, housing and transport, for a Sustainable LGA.
- Contribute to development of a Food Policy (as in Toronto, Knoxville)
- Tweed Purchasing and Tender Policies include commitment to purchase foods for all council services and use that are:
 - fresh locally produced foods from the Tweed Shire
 - ethically produced foods
 - free range chicken and eggs (avoid caged birds)
 - avoid 'unsustainable fisheries'

- non GMO foods and/or
- Fair Trade foods from developing countries
- Avoid use of trans fats
- Organic (when not prohibitive in price)
- Identify suitable buildings, such as warehouses, to accommodate food distribution centres for emergency food aid.
- Encourage food outlets within walking distance of residential areas selling essential food items, fresh fruit and vegetables, and food co-ops in shopping centres and precincts.
- Planning instruments and policies be used to support Farmers Markets.
- Identification of potential food growing areas within the LGA. There are opportunities for urban farming and growing food in cities, and many examples of this both locally and internationally, with the opportunity to contribute to local fresh food supply.
- The provision of 'urban agriculture' as a permissible use under the LEP would allow the establishment of community gardens and city farms on land that is vacant and unproductive, including cleared land in schools, hospitals, parkland, church grounds etc. (Community gardens produce food with environmental benefits and important social and health benefits for participants, bringing members of the community together)
- Plan for community food gardens in Seniors Living SEPPS and multi unit dwellings
- Develop guidelines for food growing on 'Green Roofs'
- New street and park planting could incorporate food producing trees

UNDER SEPARATE COVER:

1. Background-Food Policies (ECM 14879767).
-

66 [NOM-Cr K Milne] Investment Opportunities

NOTICE OF MOTION:

Councillor K Milne moves that:-

1. Council prepares a report on the possibility of engaging an investment consultant to maximise Council's income base.
 2. A key element of such an investment strategy would be a focus on sustainable, ethical and low impact activities potentially partnering with disadvantaged groups.
 3. A list of Council owned properties with potential investment opportunities to be provided but this should not focus on selling these properties but rather enhancing their current use.
-

67 [NOM-Cr K Milne] Banora Point Highway Upgrade

NOTICE OF MOTION:

Councillor K Milne moves that Council undertakes a preliminary review of the Banora Point Upgrade in regard to the environment, landscaping plans, Water Sensitive Urban Design, visual impact from the river, sustainable use of materials, graffiti potential and flooding.

68 [NOM-Cr K Milne] Rowing and Canoeing Policy

NOTICE OF MOTION:

Councillor K Milne moves that Council develops a policy to promote the opportunities for rowing and canoeing on the Tweed River in light of the Olympic grade level of the Rowing Course at Murwillumbah and the ideal natural attributes of the Waterways.

69 [NOM-Cr K Milne] Tweed Wetlands

NOTICE OF MOTION:

Councillor K Milne moves that Council holds a workshop on the state of the Tweed Wetlands and pressures from development such as at Waterlily Close Nunderi.

70 [NOM-Cr K Milne] Food Stalls and the Tweed Road Contributions Plan

NOTICE OF MOTION:

Councillor K Milne moves that Council conducts a workshop on the Tweed Road Contributions Plan with a view to ascertaining whether this plan is prohibitive to encouraging local food stalls.

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QUESTIONS ON NOTICE

71 [QT-Cr K Milne] Breaches

QUESTION ON NOTICE:

Councillor K Milne asked can the Director Planning and Regulation outline Council's policy for development breaches of the Environmental Planning and Assessment Act and the imposition of fines for developers.

72 [QT-Cr K Milne] Cobaki Infrastructure

QUESTION ON NOTICE:

Councillor K Milne asked can the General Manager provide details on any real or potential costs implications for Tweed ratepayers through the infrastructure requirements of Cobaki Lakes development?

73 [QT-Cr K Milne] Draft Local Environment Plan Implications

QUESTION ON NOTICE:

Councillor K Milne asked can the Director Planning and Regulation outline any proposed changes to the current planning controls with the draft Local Environment Plan that have major implications for the Tweed environment or residents other than those already identified through previous questions.

74 [QT-Cr K Milne] Implications in the draft Local Environment Plan for Koala Habitat and the Koala Plan of Management

QUESTION ON NOTICE:

Councillor K Milne asked can the Director Planning and Regulation outline the implications of the draft Local Environment Plan (dLEP) for reduced protection for koala habitat and corridors and the potential for reduced effectiveness of the forthcoming Koala Plan of Management under the new controls proposed in the dLEP.

75 [QT-Cr K Milne] Compliance Issues Cobaki Lakes and Kings Forest

QUESTION ON NOTICE:

Councillor K Milne asked can the Director Planning and Regulation provide details of inspections to monitor compliance issues at Kings Forest and Cobaki Lakes over the last two years and any updates or outcomes of these inspections, including the adequacy of current erosion and sediment control measures utilised, especially in light of concerns for the Cobaki Broadwater?

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

- 1 [PR-CM] Unauthorised Earthworks and Clearing at Lot 2 DP 871483, Lot 14 DP 252178, Lot 1 DP 871483, No. 975 Tomewin Road, Tomewin**

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

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

- 2 [EO-CM] Land Acquisition for Road - Centennial Drive, Pottsville**

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)

- 3 [EO-CM] Acquisition of Land for Road - Brooks Road, Kynnumboon**

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)

4 [EO-CM] Urban Addressing - Bilambil Heights

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)

