



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 July 2010

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

1 Minutes of the Ordinary and Confidential Meetings of Council held Tuesday 15 June 2010

RECOMMENDATION:

That the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 15 June 2010 be adopted as a true and accurate record of proceedings of that meeting with the following amendments (shown underlined and in bold type):

39. **Land Acquisition for Road - Palmvale Road, Palmvale**

415

Cr K Milne

Cr K Skinner

RESOLVED that:-

1. Council approves the acquisition of Lots 1-6 in DP 1151832 for public road **and the acquisition of Lots 7-11 in DP 1151832 for compensation purposes** and the compensation payable as noted in the resolution of the Council meeting dated 19 January 2010 and the transfer of road closure parcels being Lots 7-11 in DP 1151832 under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;
2. Lots 1-6 in DP 1151832 be dedicated as road following gazettal of the acquisition; and
3. All necessary documentation be executed under the Common Seal of Council.

3 **Estate of the late Walter Alwyn Peate Certificate of Title Volume 4755 Folio 91 and Trust Deed Numbered 86 Book 2761**

C34 (435)

Cr D Holdom

Cr B Longland

RESOLVED that

- 1 Council takes the necessary actions to recover the title deed and register a Notice of Death by instructing one of the legal service providers to pursue the appropriate avenues for the recovery of the title deed.
- 2 **All necessary documentation to be executed under the Common Seal 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 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 15 June 2010 (ECM 17849702)
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 15 June 2010 (ECM 17847508).
-

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.

Council officers are still liaising with the applicant on a number of unresolved issues but it is expected that the investigation of these matters will be finalised in the near future.

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: To be reported to a future Council Meeting.

16 February 2010

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

88

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council:

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

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

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

90

Cr B Longland

Cr J van Lieshout

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

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

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

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

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne
Cr K Skinner

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

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

18 MAY 2010-06-03

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

1

Cr D Holdom
Cr B Longland

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

Current Status: Meeting held, letter forwarded to Kingscliff Community Playgroup, awaiting response.

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

2

Cr K Skinner

Cr D Holdom

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

Current Status: Further investigations being undertaken.

15 JUNE 2010

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

383

Cr B Longland

Cr K Skinner

RESOLVED that: ...

2. Council officers bring back a report identifying the sources of funding to be donated to the Cabarita Beach Surf Life Saving Club.

Current Status: Funding sources to be investigated as part of September 2010 budget review.

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

395

AMENDMENT

Cr J van Lieshout

Cr W Polglase

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

Current Status: A Workshop was held on site and a further report is expected to be submitted to the August council meeting.

MAYORAL MINUTE

3 [MM] Mayoral Minute for the period 03 June to 05 July 2010

Councillors,

COMMITTEE MEETINGS:

Attended by the Mayor

- 16 Jun 2010 - Tweed River Art Gallery (TRAG) Board Meeting – TRAG, Mistral Rd, Murwillumbah
 - 17 Jun 2010 - NOROC Mayors' Meeting with Janelle Saffin, Justine Elliot and Anthony Albanese – Parliament House, Canberra
 - 23 Jun 2010 - Tweed River Art Gallery Foundation Meeting – TRAG, Mistral Road
-

INVITATIONS:

Attended by the Mayor

- 03 Jun 2010 - Northcoast TAFE Kingscliff, Agent Famile Visit - The Caldera Restaurant, Northcoast TAFE
 - 03 Jun 2010 - Black Douglas Ladies Bowls Masters - Sth Tweed Sports, Minjungbal Drive
 - 03 Jun 2010 - LJ Hooker Kingscliff 20 year anniversary - Kingscliff Bowls Club
 - 08 Jun 2010 - Tweed Heads Chamber of Commerce – Tweed Heads Bowls Club, Wharf Street, Tweed Heads
 - 10 Jun 2010 - Tweed Valley Respite, Dungay Opening Day - Jack Williams Place, Dungay (also attended by Crs Holdom & van Lieshout)
 - 12 Jun 2010 - Fun in the Park opening - Chris Cunningham Park, Tweed Heads
 - 15 Jun 2010 - Kingscliff and District Chamber of Commerce - Saltbar Beachbar & Bistro, Bells Boulevard, Kingscliff
 - 15 Jun 2010 - Tweed Community Based Preschools Project Meeting - Banora Point Community Centre, Lilly Pilly Room
 - 16 Jun 2010 - 4CRB Radio Talkback with the Mayor – 8 Stevenson Crt, Burleigh Heads
-

- 20 Jun 2010 - Concert by Liza Beamish & Lachlan Baker – Tweed Heads Civic Centre, Cnr Wharf & Brett Streets
- 22 Jun 2010 - Official Opening of Bray Park Water Treatment Plant – Durroon Avenue, Bray Park
- 22 Jun 2010 - Murwillumbah Lions Club 62nd Changeover Dinner – Murwillumbah Services Club
- 25 Jun 2010 - Opening of Salon Refuse and new exhibitions for Friends of the Gallery - Tweed River Art Gallery, Mistral Rd, Murwillumbah
- 26 Jun 2010 - Tweed Unlimited Arts Open Day – Pioneer Street, Banora Point
- 26 Jun 2010 - Tweed Hospital Auxiliary Charity Auction– Recreation Park, Corner Recreation & Florence Streets, Tweed Heads
- 26 Jun 2010 - Fingal Rovers SLSC Presentation Night, Fingal Rovers Clubhouse, Fingal Head
- 27 Jun 2010 - Tweed River Jockey Club Chairman's Lunch - Murwillumbah Race Course, Bistro Lounge
- 27 Jun 2010 - Tweed Heads South Rotary Club Meeting – Tweed Sports Club, Minjungbal Drive
- 29 Jun 2010 - Citizenship Ceremony, 34 new citizens – Tweed Heads Civic Centre Auditorium, Corner Wharf & Brett Streets
- 30 Jun 2010 - 4CRB Radio Talkback with the Mayor – 8 Stevenson Crt, Burleigh Heads
- 01 Jul 2010 - Rotary Tweed/Coolangatta Changeover Dinner – Anzac Room, Twin Towns Services Club, Wharf Street
- 02 Jul 2010 - Murwillumbah Chamber of Commerce Breakfast – Murwillumbah Services Club
- 02 Jul 2010 - Aboriginal Advisory Committee Meeting – Minjungbal Museum, Cnr Kirkwood Road & Parry Street, Tweed Heads South (also attended by Cr Holdom)
- 02 Jul 2010 - Tweed River Art Gallery “Une Soiree a Paris”, Opening of Salon Refuse for Gallery Foundation members – TRAG, Mistral Rd, Murwillumbah
- 03 Jul 2010 - Murwillumbah Rotary Changeover Dinner – Murwillumbah Services Club, Commercial Rd
- 04 Jul 2010 - National Reserve Forces Memorial Day laying of wreath – Murwillumbah Cenotaph, Tumbulgum Rd

- 04 Jul 2010 - Rotary Tweed/Coolangatta Galaxy of Stars Variety Show – Twin Towns, Tweed Heads
- 05 Jul 2010 - Banora Point Residents Association Meeting – Banora Point Community Centre

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

- None

Inability to Attend by or on behalf of the Mayor

- 10 Jun 2010 - Telstra Countrywide 10 year anniversary – Lismore Turf Club Function Centre
- 16 Jun 2010 - Presentation by Anthony Watts, Meteorologist and Professor Bob Carter, Climate Scientist – Sheraton Mirage Hotel, Seaworld Drive, Main Beach, Gold Coast
- 24 Jun 2010 - Kingscliff Lions Changeover Dinner – Cudgen Leagues Club
- 25 Jun 2010 - Murwillumbah Theatre Company production of Caravan – Cudgen Leagues Club
- 02 Jul 2010 - Tweed Heads South Rotary Changeover Dinner – South Tweed Heads Sports Club
- 03 Jul 2010 - Far North Coast Law Society Ball – Ballina RSL Club
- 03 Jul 2010 - PCYC State of Origin Sports Dinner – Cudgen Leagues Club, 3 Womin Bay Rd, Kingscliff

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 04 Jun 2010 - North Coast Energy Forum – Bellingen (attended by Cr Milne)
- 18 Jun 2010 - Australian Council of Local Government Plenary Meeting, Prime Minister and Mayors – Parliament House, Canberra

Information on Conferences to be held

- 16 -17 Aug 2010 One Association Convention 2010 – Star City, Sydney
-

SIGNING OF DOCUMENTS BY THE MAYOR:

- 22 Jun 2010 - Loan Agreements – Westpac Banking Corporation
- 22 Jun 2010 - Section 88B Instrument – Easement for Water Supply – Lot 7, DP819194, Loders Road, Duranbah
- 28 Jun 2010 - Transfer Releasing Easement – Lot 1147, DP1115395, Seabreeze Boulevard, Pottsville

RECOMMENDATION:

That:-

1. **The Mayoral Minute for the period 03 June to 05 July 2010 be received and noted.**
 2. **The attendance of Councillors at nominated Conferences be authorised.**
-

4 [MM-CM] Mayoral Minute - Pacific Highway Taskforce

Councillors,

The Pacific Highway Taskforce chaired by Mayor, Cr Richie Williamson of Clarence Valley Council, has written to Council seeking input on the idea of a *“Day of Remembrance”*.

The idea behind this concept is the common thread of the Pacific Highway, the lives that have been lost on this Highway and those affected by this loss as well as the emergency personnel who attend the various accidents.

The proposed *“Day of Remembrance”* would:

- Give recognition to Emergency Service Personnel
- Give family members and loved ones the opportunity to participate
- Highlight the need for additional financial resources for roads

This proposed day would be held in each local government area on the same day each year, possibly in commencing in February 2011.

The Pacific Highway taskforce has an objective for the Pacific Highway between Hexham and the Queensland Border to be upgraded to dual carriageway by 2016.

Council can choose to support the proposed day or alternatively advise the taskforce that Council wishes to not participate in such a proposal.

RECOMMENDATION:

That Council provides advice to the Pacific Highway Taskforce that it provides positive support for the concept of the *“Day of Remembrance”*

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ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

5 [GM-CM] Recent Capital Grants Announcements

ORIGIN:

Business and Economic Development

SUMMARY OF REPORT:

Recently two significant grant programs for capital works projects were announced. Firstly, the NSW State Government announced a second round for the NSW Community Building Partnership Grants 2010 and the Federal Government announced the Federal Government announced a third round of the Regional and Local Infrastructure Program. These two grant programs represent a potential of \$1.35 million of capital works projects for the Tweed.

RECOMMENDATION:

That Council:

- 1. Supports the Murwillumbah Community Centre Inc making application for \$400,000 or part thereof under the NSW Community Building Partnerships Grants for the Lismore Electorate.**
- 2. Supports the Fingal Surf Life Saving Club making application for \$200,000 under the NSW Community Building Partnerships Grants for the Tweed Electorate.**
- 3. Supports the Pottsville Beach Neighbourhood Centre making application for \$200,000 under the NSW Community Building Partnerships Grants for the Tweed Electorate.**
- 4. Makes an application for \$550,000 for the Murwillumbah Community Centre Inc under the third round of the Federal Government Regional and Local Infrastructure Program.**

REPORT:

NSW Community Building Partnerships Grants 2010

The NSW Government last week announced a second round (Round 2) to the Community Partnerships Grants. Find following an overview of the grant and some background for consideration in determining appropriate projects for this grant.

- Community Building Partnership Grants 2010 (Round 2) are available from the NSW State Government
- This year's allocations are \$400,000 for Tweed and \$400,000 for Lismore State Electorates
- Local Government Authorities and not for profit community groups are eligible to apply
- Eligible Projects;
 - construction of new capital works
 - refurbishment, repairs and maintenance to existing capital facilities or
 - the purchase of capital equipment with a life expectancy of 15+ years that enables the delivery of new or enhanced community services.
- Local Government Authorities and not for profit community groups are eligible to apply
- Department of Fair Trading will determine if the projects are eligible and then referred to each local member independently for preferred selection. The Independent Review Committee will review the members selection on merit
- **Applications close on 23 July 2010**

Both of Council's applications to round 1 were for public facilities upgrades to Council parks in the Tweed and were both unsuccessful. Round 1 Grant Allocations were as follows;

Community Building Partnership

Fund allocation - \$400,000

Tweed

Applicant	App.No	Project Description	Funding proposed
Bilambil Community Preschool	114	Roadworks at Bilambil Road, Bilambil	\$75,216.00
Burringbar District Sports Club	247	Building a better Burringbar base	\$25,000.00
Cabarita Beach Surf Life Saving Club	177	Construction of a viewing deck, Cabarita Beach	\$20,000.00
Casuarina Beach Rugby Club Inc	1977	Purchasing sun shelters	\$16,000.00
Casuarina Hockey Club	2462	Casuarina Hockey Club House	\$90,000.00
Combined Neighbourhood Watch	227	The (ASSET) equipment required, Kingscliff	\$5,000.00
Cugden Headland Surf Life Saving Club	2368	Redevelopment of training room, Kingscliff	\$70,000.00
Kingscliff Mini School	551	The foyer area, Kingscliff	\$25,950.00
Pottsville Beach Neighbourhood Centre	1357	Construction of a youth mentoring and recycling shed, Pottsville	\$84,000.00

Fund allocation - \$400,000

Lismore

Applicant	App.No	Project Description	Funding proposed
Australian Red Cross	1058	Upgrade of the parking area, Red Cross, Lismore	\$10,578.70
Dunoon & District Sports & Recreation Club Ltd.	1971	Earthworks & Floodlighting Balizer Oval, Dunoon	\$30,000.00
Lions Club Australia (Tabulam Branch)	718	Bonalbo Community Netball	\$65,989.00
Lismore Little Athletics	675	All weather cover, South Lismore	\$19,500.00
Lismore Soup Kitchen	750	Establishing low cost accommodation for marginalised people, Lismore	\$54,000.00
Lismore Theatre Company Inc	2162	Replacement of the kitchen, Goonellabah	\$8,000.00
Lismore Thistles Soccer Club Inc	2085	Concrete pad viewing pad and eventual base for balcony, Lismore	\$15,000.00
Mt Warning Community Preschool	1871	Upgrade the eco-cubby learning centre, Uki	\$5,000.00
Murwillumbah Netball Association	1639	Re-surfacing of two netball courts - Knox Park, Murwillumbah	\$24,985.00
Murwillumbah Tennis Club	649	Upgrade of two existing clay tennis courts to synthetic clay	\$61,215.00
Nimbin Agricultural & Industrial Society Inc	783	Internal refurbishment of the showground, Nimbin	\$29,513.00
Nimbin Community Centre Inc	1205	Construction of a heritage landscape amenity, Nimbin	\$5,000.00
Scout Association of Australia (NSW)	563	Refurbishment of the 1st Lismore Scout Group Hall, Lismore	\$23,820.00
Scout Association of Australia (NSW)	656	Murwillumbah Scout Group, the refurbishment of the Scout Hall, Murwillumbah	\$6,552.00
Tyalgum Literary Institute & Progress Association	1243	Repair to prevent further exterior and interior water damage, Tyalgum	\$30,000.00
Uki Public Hall & Recreation Reserve Trust	2290	Restoration of Uki Public Hall, Uki	\$10,000.00
Uki Village & Districts Residents Association	1250	Construction of a multi purpose outdoor stage facility, Uki	\$20,500.00

No allocations from the first round of Community Building Partnership for Tweed and Lismore electorates were awarded to any local government. All funds were dispersed amongst community organisations. It is proposed that in this round Council not make direct application but support list allocate resources and support to specific projects whose principal application will be made by the relevant community organisation.

Regional and Local Community Infrastructure Program Grants - Round 3

On Friday 18 June 2010 the Federal Government announced a third round of funding to the Regional and Local Community Infrastructure Program (RLCIP) grants. This funding in previous rounds has been allocated as follows.

Round 1

\$250m Allocated	TSC Share \$1.293m
\$550m Strategic	TSC Share Nil

Round 2

\$100m Allocated	TSC Share \$550,000
\$120m Strategic	TSC Share Nil

Round 3

\$100m Allocated	TSC Share \$551,000
* There is no Strategic Allocation in Round 3.	

Tweed Shire Council has been allocated \$551,000 for Round 3 RLCIP grant.

Council Projects Eligible for Grant Funding

Below is a list of potential grant projects identified in the Corporate Management Team Grants Report:

Project	Project Value \$
Coastal Landscape Strategy (BBQs, picnic shelters)	400,000
Murwillumbah Community Centre	3,160,000
Auditoria upgrade	1,155,000
Integrated Customer Service Centre	
Cabarita CCTV Project	150,000
Pottsville CCTV Project	180,000
Tweed Heads CCTV Project	150,000
Kingscliff CCTV Stage 2	100,000
<i>Fingal SLSC</i>	<i>750,000</i>
Murwillumbah Museum	3,000,000
Kingscliff Community Centre upgrade	
Sports Fields Capital Works	600,000
Depot Road, Kings Forest	600,000
Budd Park Rock Revetment (Murwillumbah)	400,000
Tweed River Regional Museum	8,200,000

Project	Project Value \$
Jack Evans Boat Harbour Stage 2	
Kingscliff CBD Precinct	See Below
Murwillumbah BMX Park Upgrade including play equipment	\$90,000
Cabarita Sk8 Park Stage 2	200,000
Kingscliff Skate Park	300,000
Murwillumbah Skate Park Upgrade	150,000
Cabarita Main Street	500,000
Tweed River Estuary	
Land for Wildlife	
Kingscliff Western Drainage Scheme	
World Heritage Rainforest Centre Redevelopment	1,000,000
Arkininstall Park Upgrade	1,200,000
Pottsville Beach Neighbourhood Centre	1,000,000

Fingal Rovers Surf Lifesaving Club

On 21 May the Fingal Rovers Surf Lifesaving Club approached Council to consider a capital contribution towards a club house upgrade at Fingal Heads. The club claim the existing club house is run down and sub standard to other club facilities in the region. Council has made a commitment of \$100,000 from S.94 funds but this will not adequately cover any significant capital works. Of this amount, \$55,000 has been expended to date on preliminary work involving architectural, engineering and applications.

This report proposes to actively support the Fingal Surf Lifesaving Club in a funding application towards their club house upgrade for \$200,000 under the Community Building Partnership for the Tweed electorate allocation.

Murwillumbah Community Centre

Council was unsuccessful in achieving any funding for the Murwillumbah Community Centre application under round two of the RLCIP Strategic Projects grants. This project is considered to be a very important project for Murwillumbah and the rural Tweed region. Currently Council has committed \$700,000 along with \$300,000 of community funds for the project.

This report proposes to offer Murwillumbah Community Centre Inc support to their redevelopment project. Firstly, by proposing to allocate the total amount of \$551,000, from the Federal Governments RLCIP grant towards the project. Secondly, by offering support to submit a grant funding application to the Community Building Partnerships grant program for the Lismore electorate.

Pottsville Beach Neighbourhood Community Centre

The Pottsville Beach Neighbourhood Community Centre were allocated \$84 000 towards capital upgrades to their centre from the last round of Community Building Partnership. To supplement this amount to bring the development to fruition it is proposed to support the Pottsville Beach Neighbourhood Community Centre in a grant application for the Community Building Partnership for \$200,000.

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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6 [GM-CM] Tender for Provision of Economic Development and Tourism Promotion Services – AC2010-073

ORIGIN:

Business and Economic Development

SUMMARY OF REPORT:

At its meeting on 16 March 2010 Council resolved to offer an extension to the existing contracts for both Tweed Tourism and Tweed Economic Development Corporation for a period of three (3) months to 30 September 2010. It was also resolved to tender for the provision of these services.

This report summarises the submitted tenders and the tender evaluation process to date.

Due to the timeframe involved with the tender process and the presentations by the tenderers not concluding until Monday, 12 July 2010, a final analysis of the tenders has not been able to be completed for this report.

The final analysis will be the subject of an addendum report.

RECOMMENDATION:

That this matter be subject to an addendum report.

REPORT:

Background

Currently Council outsources the provision of Economic Development and Tourism Promotion Services through two (2) independent organisations, Tweed Economic Development Corporation (TEDC) and Tweed Tourism. Council holds a funding and performance agreement with both organisations. These contracts were to lapse after 30 June 2010.

At its meeting of 16 March 2010 Council resolved to offer an extension to the existing contracts for a period of three (3) months. These extended contracts will now expire on 30 September 2010.

Council engaged the University of Sydney Centre for Local Government to undertake a review of the provision of these services for Council. During this review it was identified that the Division of Local Government required Dubbo City Council to undertake a tender process prior to entering into a contract for the provision of economic development services as required by tendering provisions in Section 55 of the Local Government Act 1993.

On taking legal advice and reviewing the Centre for Local Government's report, Council on 16 March, resolved to go to tender for the provision of economic development and tourism promotion services.

Tender Process

A call for tenders was advertised on 25 May 2010. The tender closed in Council's tender box on Wednesday 23 June at 4pm. Five (5) tenders have been received for this tender. These were:

- .id (informed decisions)
- RPS
- Southern Cross University
- Tweed Economic Development Corporation
- Tweed Tourism

Scope of Works

As part of the Centre for Local Government's review a workshop was held on 23 February 2010. At this workshop the core areas of economic development and tourism promotion that Council intended to outsource were discussed. The outcomes of this workshop were presented to Council at its meeting on 16 March 2010. Below is a summary of the review of functions which were agreed to be outsourced as part of the tender process.

Summary of services and preferred method of delivery

Public tender to deliver the following services:

- Investigate and develop tourism product
- Marketing and promotion of Tweed for business investment
- Demographic and statistical research
- Operate Visitor Information Centres
- Prepare strategic tourism marketing and promotion plans (4 years)
- Detailed tourism marketing and promotion plan (1 year)
- Maintain and enhance tourism PR function.

Professional services contract to deliver the following projects:

- Health and ageing
- Telecommunications infrastructure
- Tweed agriculture and food production
- Other industry development initiatives
- Skills development.

In house Council function:

- Transport infrastructure
- Tweed Heads CBD revitalisation project
- Murwillumbah Master Plan
- Water infrastructure
- Employment generating lands.

With direction given by Council, the following Scope of Works was attached to the Request for Tender documents.

PART A. TOURISM PROMOTION	
PART A1. Investigate and develop tourism product	
•	Within six (6) months from the date of contract undertake or commission research to identify new and existing tourism products suitable for development in the Tweed
•	Present findings to Council
•	Undertake or commission market research into shortlisted tourism products identified by Council
•	Within twelve (12) months from the date of contract present a draft tourism product development strategy to council for endorsement
•	Following endorsement of the strategy, proceed to develop identified and agreed tourism products.
PART A2. Operate Tweed Heads and Murwillumbah Visitor Information Centres	
•	On behalf of Council, provide visitor information services at current premises located at Murwillumbah and Tweed Heads so as to satisfy the requirements of the Visitor Information Centre (VIC) accreditation
•	Contain VIC operational costs through using an appropriately trained workforce
•	Provide an on-line booking system for accommodation bookings
•	Co-operate with tourist operators in the Tweed to ensure tourism services are promoted through the VICs
•	Produce on an annual basis an effective visitors information guide and relevant tourism information.
PART A3. Preparation and Delivery of Tourism Marketing and Promotion Strategies Plans and Related Public Relations Activities	
•	Within six (6) months from the date of contract prepare for Council's approval a four year Strategic and Marketing and Promotions Plan
•	Within twelve (12) months from the date of contract prepare for Council's approval an annual Operational Marketing and Promotions Plan
•	Develop and regularly maintain a contemporary, effective and efficient website providing current visitor information and services
•	On Council's behalf, pursue closer links with other industry bodies and tourism providers, including but not limited to Northern Rivers Tourism, Tourism NSW, Tourism Australia, Ballina and Byron Shire Councils in the development of joint marketing and promotional activities
•	Track and monitor the effectiveness of the promotional activities through editorial evaluation and other appropriate means.
PART B. ECONOMIC DEVELOPMENT	
PART B1. Marketing and Promotion of Tweed for Business Investment	
•	Within six (6) months from the date of contract prepare for Council's approval a marketing strategy to promote the Tweed with the objective of encouraging new businesses and ventures to the area and provision of assistance to the expansion of existing businesses in the Tweed
•	Once approved, deliver the marketing strategy on behalf of Council.
PART B2. Demographic and Statistical Research for Business Investment	
•	Access and analyse current Census, ABS and other data as it becomes available and report on how the data affects economic development in the Tweed
•	Monitor local, regional, national, and international demographic trends and statistics and report on the impact on economic development in the Tweed
•	Provide other statistical analysis and information.

Table 1: *Scope of Works AC2010-073*

A full copy of the scope of works is presented in a separate attachment to this report.

Tender Assessment Panel

Prior to Tenders being called a Tender Assessment Panel and a Tender Assessment Plan was established to carry out the assessment of the tenders. The objective of the tender evaluation process was to identify the tenders that offer best value for money for each of the items and combinations of items. The panel undertook the following objectives:

- Evaluate each portion of each tender in accordance with the evaluation plan
- Consider combinations of parts of work in accordance with the plan
- Comply with principles of probity and fairness to all tenderers
- Produce an evaluation report and recommendation for Council.

As a result of the competitiveness of the tenders received for Part B the Tender Assessment Panel decided to allow all tenderers to make a presentation. These presentations were kept brief and the Panel members requested clarification on specific details.

Due to the timeframe involved with the tender process and the presentations by the tenderers not concluding until Monday, 12 July 2010, a final analysis of the tenders has not been able to be completed for this report.

Probity

Prior to the commencement of the Tender process Council's General Manager engaged NSW Public Works to act as probity officer in respect to the tender. To ensure that all Councillors and senior staff associated with the process were fully aware of the requirements and responsibilities to maintain probity through the process a probity workshop was run on 13 May 2010.

As part of NSW Public Works input to the process they have conducted an audit of probity and conduct in respect of this tender. The probity report prepared by the Department will be included in the addendum report.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Variation to the 2010/2011 adopted 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. Scope of Works – Tender AC2010-073 (ECM18886543)
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REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

7 [PR-CM] Draft Tweed Local Environmental Plans - Update on Negotiations with Department of Planning - Status Up-date Strategy for Moving Forward

ORIGIN:

Planning Reforms

FILE NO: GT1/LEP/2000 Pt10

SUMMARY OF REPORT:

This report provides an update of recent actions and seeks Council's endorsement for Council officers to further pursue with the NSW Department of Planning (DOP) a series of major outstanding issues relating to the Draft Tweed Local Environmental Plan 2010 and Draft Tweed City Centres Local Environmental Plan 2009.

This report was preceded by a meeting in Sydney in May 2010 between Council and Department staff and a Councillor workshop, which was also attended by Department staff on 8 June, both of which related to the implementation of the State Government's Standard Instrument Order (local environmental plans) 2006 and the impacts arising from the standardisation of the Tweed LEP, which is considered to be undermining the 'local' connection of the LEP to the Tweed Shire.

As identified through the submissions on the recent public exhibition of the Draft LEPs and the meetings with the DOP, both the Tweed community and Councillors have expressed strong concerns with the Standard Template's imposition of unsatisfactory LEP controls in respect of the proposed environmental zones, the related environmental assessment and compliance clauses, height and floor space ratio, and lack of certainty for future rural lands development.

Whilst the DOP has shown a willingness in the recent meetings to compromise on previous policy and LEP drafting positions, there are still some critical issues to be responded to, prior to a decision being made to the extent of any required Draft LEP changes and subsequent requirements for re-exhibition.

It is expected that further advice will be received from the DOP in upcoming weeks which will inform a further report to Council, providing Council with the broader context of a comprehensive review of the public exhibition submissions, and subsequent recommendations for Council for a preferred course of action in advancing any changes and public exhibition of the Draft LEPs.

RECOMMENDATION:

That:

- 1. The report on Draft Local Environmental Plan – Update on Negotiations with Department of Planning - Strategy for Moving Forward be received and noted.**

- 2. Council supports Council officers in their pursuit of appropriate and necessary resolution to the issues raised in this report relating to the draft Tweed Local Environmental Plans.**

REPORT:

On 12 May 2010 Council officer's met with senior Department of Planning staff to discuss the implementation issue arising from the transition of the Tweed Local Environmental Plan into the State Government's Standard Instrument Order (local environmental plans) 2006 'template'.

Attached to this report is a copy of the Agenda raised at that meeting.

The issues raised in the Agenda were presented by Council and Department of Planning staff at the Councillors workshop of 8 June 2010. This provided the Department staff an opportunity to address the concerns raised in-line with the response received from the Deputy Director-General, Mr Tom Gellibrand, on 3 June, which is also attached to this report.

FUTURE FUNDING OPTIONS – LEP BACKGROUND STUDIES

Further funding was announced on 15 June 2010 by the Director-General of Planning, Mr Sam Haddad, under the NSW Government's 2010/11 budget, supporting \$2.9 million to assist in the delivery of new comprehensive LEPs; \$2 million to deliver planning policy to help create well-designed and vibrant communities around public transport, and \$2 million to review and update greenfield land release sequencing and policy, over a 2-year period.

Council officers will be seeking additional funding once the application and procedural arrangements have been finalised by the Department, for a range of projects to assist with delivering improved accessibility and lifestyle choice in the Tweed housing market, including rural land residential investigation.

DRAFT TWEED LEP 2010 & TWEED CITY CENTRES PLAN 2009 - STATUS

The draft Plans were publicly exhibited for an extended period of about 90 days and approximately 400 public submissions were received. About 55 of those submissions relate specifically to the draft Tweed City Centre Plan.

Following the close of exhibition and the subsequent Council-Department meetings and Councillors workshop work has begun on reviewing the submissions, re-strategising the environmental protection zoning and redrafting local clauses to address key local issues.

The Deputy Director-General (DDG) reaffirmed the Department's commitment to work with Council to resolve the issues raised and to expedite the gazettal of the draft LEPs. Council officers welcomed the renewed commitment by the DDG to assist with the drafting of an LEP that would strengthen the aim, objectives and implementation of the Tweed's broader strategic planning framework however, have raised concern about the Department's preference to proceed with the draft LEPs irrespective of identifiable concerns and issues with the 'template' on the basis that they may be resolved by a further and later planning proposal.

No further correspondence has been received from the Department since the Councillor workshop of 8 June and Council officers are still working toward preparing additional information to support the concerns raised.

It is anticipated that a further report on the public submissions will be reported to the August Council meeting. It is likely that revised Plans addressing how the issues raised have been addressed will be completed by September at the earliest.

REFRESHER AND STATUS OF KEY AREAS OF CONCERN

Reference to the May 12 meeting agenda provided as Attachment 1 highlights and provides a brief discussion on range of key issues. For the purposes of this report several of the more prominent issues and how Council officers are responding to them is discussed below.

Environmental Protection and Regulation of Land Clearing

The Draft LEP 2010 sought to implement Council's adopted approach to environmental protection and management that was originally devised and reflected in the Tweed LEP 2000 and draft LEP Amendment 21 of 2005.

Between 2006/2007 extensive discussions took place between Council officers and the Department of Planning (DoP) in attempting to advance Tweed's environmental protection and management objectives. Throughout these discussions, the DoP actively sought to impose the Standard Template model clauses upon Council, and to limit Council's use of local clauses in its Draft LEP. This effectively undermined the original intent and objectives of the earlier environmental protection and management (EPM) approach.

Council officers were of the view that there was no mandate or sufficient time to enable the EPM strategy to be reworked and instead formed the view that the better option, taking into consideration the compressed timeframe being imposed by the Minister among others, was to permit the public exhibition process to proceed and to allow that process to further expose the issues, and as expected this occurred very early in the exhibition process.

Following the close of public exhibition and further discussions with the Department, which has resulted in their partial support for a redesign of the EPM strategy approach, Council officers are now well placed to broaden the use of the environmental protection zonings provided under the template and to recapture the intent of the initial EPM strategy.

The basis of the new zoning strategy will be to recoup the 5600ha of environmentally zoned land lost under the draft Plan; the retention of the increased environmentally zoned areas along the Tweed Coast, and the additional extension of the environmental zoning on steep lands. The approach being investigated is seen to have the overarching advantage in that zoning will better reflect the environmental and vegetation qualities of the land, which should result with the high quality attributes being protected under the most stringent environmental zone (E2 environmental conservation) and the introduction of two additional environmental zones to reflect less significant but important lands. Correspondingly, there is a sliding scale of permitted land-uses reflective of the objectives of each zone.

The additional issue arising under the implementation of the 'template' is the removal of Council's ability to regulate clearing of native vegetation on non-urban land. The Department of Planning is currently seeking legal opinion on this issue to establish the lawfulness of the existence and concurrent operation of two separate and independent statutes operating to control the same subject matter (native vegetation). In the meantime Council officers are proceeding on the basis of the current basis of coexistent provisions.

Council officers acknowledge that there are limitations with the current environmental mapping and investigations and that further studies will need to be undertaken as part of the Stage 2 draft LEP. The Department has indicated that further funding may be available in the next round of Planning Reform Funding, which is likely to take effect in the second half of 2010. This is discussed above.

Rural Lands Investigation

The rural lands subdivisional lots size has been a contentious and important issue for many Tweed residents and landowners. The investigation of reviewing the viability, necessity and relevance of the minimum lot size on rural land is widely accepted as requiring a rural lands strategy, which was beyond the scope of works prepared in support of the Stage 1 draft LEP.

As discussed above, future and further funding has been allocated in the NSW Government's budget to assist with the implementation of councils draft LEPs under the Planning Reform Funding scheme. Council officers will be making application when appropriate to seek funding for a range of background studies to assist in the preparation of the Stage 2 draft LEP, which is seen to be the 'comprehensive' component.

In the meantime, Council officers are investigating options under the current template zoning hierarchy. One option being assessed is the implementation of a reduced lot size based on the existing lots size pattern and distribution in combination with the soil classification mapping. In particular, owing to previous planning schemes under the Tweed IDOs and Tweed LEP 1987 a significant number of properties along the major collector roads were lawfully subdivided to sizes significantly below the current 40ha prescription. About 65% of rural zoned properties are currently less than 10ha with about 85% less than 40ha. Of note, the majority of those smaller properties are located adjacent to a major collector road.

Utilising the standard instrument order to better effect it is possible to zone specified rural land as "RU4 Rural Small Holdings" rather than the current blanket approach to implementing "RU2 Rural Landscape". The template approach with lot size mapping also enables a range of lot sizes to be allocated, unlike the present system of prescribing the lot size (linked to the use for residential dwellings) in the land-use table, which limits it to a single minimum lot size.

The effect of this approach is to realign the Tweed LEP with the development pattern that has actually occurred on the ground resulting from intentional past planning schemes. This is a legitimate process that can align the planning scheme with the existing and future intended use of rural land in a way consistent with how other, in particular residential and commercial, zoned land is managed. This process if adopted will enable a better and more accurate holistic reflection of the current use and pattern of development across the Shire, however, it will still necessitate a rural lands investigation study to be undertaken.

It is expected that a strategy will be formulated for a future report to Council in September.

Height of Buildings

As highlighted by way of example in the background discussion of this report the height of buildings provisions and methodology being pursued by the Department of Planning, and not necessarily by the legislation (Standard Instrument Order (local environmental plans) 2006), presents several difficulties for the Tweed.

Council officers have provided a very clear argument to the Department on the issues and concluding that it would be inappropriate for Tweed to proceed in-line with the Departments current views, in particular with respect to the ambiguity in the drafting of the relevant provisions and the reliance on the existing ground level as a measure for the height of buildings.

Council's Urban Designer is preparing additional illustrative material to further aid the Department with its appreciation of the issues being raised.

In the meantime, Council officers are reviewing the heights under the Tweed DCP generally, which informed the heights used in the draft Tweed LEP. In particular more recent and detailed work on the locality plans for Area E, Cabarita, Pottsville and Hastings Point, have highlighted that the building heights provided by Council's consultant in the preparation of the Tweed DCP Section A1 – Residential Housing Code, are not reflective of the actual heights required to achieve the prescribed building types.

In relation to the draft Tweed Head City Centre LEP the Department of Planning is reviewing the building heights under that draft LEP, resulting from objection from Gold Coast Airport because on potential building intrusion into operational airspace. This is matter is further discussed below.

It is expected that a revised strategy will also be reported to a future Council meeting in September.

General Administrative Elements of the Standard Instrument

As highlighted in the attached meeting agenda of 12 May there several areas of the standard instrument that require further assessment. Most notably is the dictionary of terms which provides the definitions of land-use terms and there hierarchal relationship and connection.

The Department of Planning released a consultation draft in March 2010 based on potential draft amendments to the standard instrument. It has also been releasing, progressively, additional "model" clauses for use a 'local' clauses. Council officers have reviewed the draft 'potential' amendments and advised the Department many of the administrative nuances and ambiguities will be removed if those amendments are made.

Council officers expressed their view categorically at the Councillors workshop of 8 June that it would be inappropriate to proceed with a draft LEP until such time that the standard instrument was amended. In this regard, Council officers are conscious of the potential difficulties that Council's Planning Department and development industry will encounter with its day-to-day implementation and management.

Aircraft Operations - Noise

This issue predominantly relates to the draft Tweed City Centres LEP. Notwithstanding the advice and recommendation of Council officers the Department of Planning, who took responsibility for drafting the LEP as part of the Cities Task Force project, failed to include the relevant aircraft operations provisions. In addition, the Gold Coast Airport (GCA) has raised objection to the suitability of the revised provisions provided in the standard instrument.

The Department of Planning in consultation with the relevant Commonwealth aviation authority is reviewing the clauses. The Department is also consulting directly with GCA on the request of Council officers with the view to reaching a negotiated resolution that the Council will be in a position to support.

Public Consultation - Exhibition

It is evident from the volume and depth of the public submission received during the public exhibition period of the draft Tweed LEPs that there is significant interest in the planning process being undertaken and its potential outcome. More specifically the complexities of adapting the Tweed LEP 2000 to the new Standard Template format are creating significant concerns for the local community.

This is particularly evident with the some significant draft changes presented to the environmental protection zones.

Given the significance of these concerns, and the likely substantive changes required, it is the officers view that there will be a need to re-exhibit the draft Tweed LEPs.

CONCLUSION:

The review of the public submission and key areas of concern with the standard instrument is progressing. Because of the need to reallocate resource to other key areas of responsibility with the Planning Reforms Unit the review is expected to several months.

It is expected that an update on the public submission review will be reported to the Council meeting in August with a further more detailed report on the proposed strategies in September.

The issues raised in this report and previously with the Department of Planning and Councillors are very significant and require a careful and considered approach and resolution. Council officers have expressed the view that there is nothing to be gained by progressing the draft Tweed LEPs on the basis of the provisions and rational that has been vigorously pursued by the Department to-date.

The Deputy Director-General, Mr Tom Gellibrand, and reaffirmed that Department's commitment to work constructively with Council to achieve the gazettal of the Tweed LEPs. Council officers have welcomed the renewed commitment on the basis that those issues raised are properly considered and resolved to ensure that the Tweed's planning scheme is both reflective and capable of implementing the Tweed's broader strategic policy.

Based on the level of amendment required to align the draft Tweed LEPs with the Tweed's planning needs the re-exhibition of the draft Plans is seen as a necessary ingredient, particularly with respect to gauging the community's acceptance to the proposed amendments.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

There is resource and financial implications arising from the continuation of the preparation of the draft Tweed LEPs however, there is a corresponding commitment from the Planning Reform Unit to manage those implications.

POLICY IMPLICATIONS:

The draft Tweed LEPs should not result in adverse policy implication but should improve on the overall efficiency and relevance of the Council's strategic planning 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. Council Agenda – Meeting with Department of Planning 12 May 2010 (ECM 18888785)
 2. Letter dated 3 June 2010 from Deputy Director-General, Tom Gellibrand (ECM 18889836)
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8 [PR-CM] Planning Reform Work Program

ORIGIN:

Planning Reforms

FILE NO: GT1/LEP/2006 Pt10

SUMMARY OF REPORT:

This report seeks Council's endorsement of the Planning Reforms work program 2010/2013 and associated amendments to Council's Fees and Charges 2010/2011.

This report was preceded by a Councillor workshop relating to the revision of the works program held on 8 June, which also included a presentation of issues on the Draft LEP 2010 by both Council officers and Department of Planning staff.

The report acknowledges the competing resource commitments and limitations that were raised at the June workshop and arising from Council's commitment to improving strategic land-use planning for the Tweed, as well as the need to allocate resourcing for shorter-term development through planning proposals originating from the private sector.

The report concludes that it is essential to maintain the works program, which was first adopted by Council on 16 June 2009, to assist with the ongoing resource allocation to key strategic projects, and for providing greater certainty in the timing and allocation of resources for accepting private planning proposals. It is an essential project management tool and assists staff in providing greater certainty through more accurate estimates of resource capability for any major developer in their preparation of commercial scheduling and planning for future projects and forecasts.

RECOMMENDATION:

That:

- 1. Council endorses the Planning Reforms - Work Program 2010/2013 identified as Tables 1-3 in this report, and**
- 2. Council advertises the fees and charges identified within Table 4 of this report relating to planning proposals in accordance with Section 610F of the Local Government Act, 1993.**

REPORT:

As part of the on-going project management of Council's strategic land-use planning resources the Planning Reform Unit works program is reviewed annually and where appropriate revised to reflect and 'match' resource-to-commitment. The work program was first adopted by Council on 16 June 2009 and a mid-term status update was reported to the Council meeting of 20 October 2009.

Preceding this report a Councillor's workshop was held on 8 June 2010 to enable Council officers to provide an up-date on the work program and how project commitment targets were being met as well as providing an overview of the current funding allocation for existing and future projects; a copy of the workshop agenda is attached to this report for reference. In particular, Council officers discussed both the impact and on-going commitments to the Draft Tweed LEP 2010 and potential future funding options arising under the State Government's Planning Reform Funding Project.

Further funding was announced on 15 June 2010 by the Director-General of Planning, Mr Sam Haddad, under the NSW Government's 2010/11 budget, supporting \$2.9 million to assist in the delivery of new comprehensive LEPs; \$2 million to deliver planning policy to help create well-designed and vibrant communities around public transport, and \$2 million to review and update greenfield land release sequencing and policy, over a 2-year period.

Council officers will be seeking additional funding once the application and procedural arrangements have been finalised by the Department, for a range of projects to assist with delivering improved accessibility and lifestyle choice in the Tweed housing market, including rural residential investigation.

In the meantime, the revised works program has taken into account four key project constraining and opportunity factors:

- i. total PRU staff resources
- ii. committed resource allocation
- iii. existing funding & commitments
- iv. potential future funding

Based on those four elements and the feedback from the June Councillor's workshop the tables below provide a proposed work program for the period 2010-2013.

Table 1 Work Program (1 July – 30 June) 2010/2011 - Estimated Project Delivery

PROJECT CATEGORY	PROJECT TITLE	BUDGET ALLOCATION	STATUS ESTIMATE
High order strategic Plans	Draft Stage 1 LEP 2010	\$3,021	Continuation – 60% complete
	Draft Tweed Heads LEP	\$17,035	Continuation – 60% complete
	Review of Tweed DCP – "alignment" with new LEP	NIL	On hold – insufficient resources to undertake review – 0% complete. This may need to be deferred to the 2011/2012 program.
Locality Based Plans	Draft Tweed Heads "Cities Taskforce" Masterplan & DCP	Combined funding with Tweed Heads LEP	Continuation – 90% complete

PROJECT CATEGORY	PROJECT TITLE	BUDGET ALLOCATION	STATUS ESTIMATE
	Draft South Tweed DCP	Per the above	Continuation – On hold pending completion of Tweed flood risk management strategy. Recommencement will be subject to staff resources but unlikely before early 2011.
	Draft Hastings Point Locality Plan and Development Control Plan.	\$9,911	Continuation – about 70% complete.
Development Control Plans	New Draft DCP – Tree Preservation Orders	NIL	Continuation – about 80% complete & waiting further advice from NRM.
	New Rural Tourism DCP	\$53,748	Conception stage – project to be outsourced and project managed. Current staff resourcing indicates that commencement unlikely before early 2011.
	Kingscliff Locality Plan	\$117,153	Following Pottsville, Hastings Point and Cabarita, Kingscliff is seen to be an important continuation of the Council's coastal strategic urban planning – project is to be part-outsourced with bulk of project undertaken in-house. Based on current staff resources commencement unlikely before early 2011.
	Rural land-use strategy Local growth management strategy Affordable housing strategy Adaptable housing strategy		Projects subject to funding and additional staff resourcing. Funding may become available under the Department's Planning Reform Funding early 2011. These projects would likely commence, subject to a funding / resource commitment, in the third quarter of 2011, and would form the basis of the Stage 2 LEP.
	New Telecommunications Infrastructure DCP	NIL	Preliminary draft prepared - Waiting instruction from Infrastructure Coordination Committee.
	New Draft DCP - Biodiversity	NIL	Drafted by NRM – 40% complete
	New Draft DCP – Area E (Terranora)	NIL \$29,158 provided by landowners group related to their own Draft DCP for the purpose of peer review by Parson Brinkerhoff – Draft DCP was rejected now being prepared internally – no review required beyond public consultation.	Continuation – background studies and design work about 85% complete – project 50% complete..
	Draft DCP Brothels Code	NIL	Preliminary draft Plan prepared –

PROJECT CATEGORY	PROJECT TITLE	BUDGET ALLOCATION	STATUS ESTIMATE
			project 60% complete – pending further assessment / instruction.
Draft (Major) LEPs	Draft LEP 69 – Seabreeze Estate (Stage 2 rezoning)	Rezoning applications (planning proposals) are subject to prescribed fees under the Council's Fees and Charges	With the DOP pending issue of s 65 for public exhibition – project 60% complete.
	Draft LEP 85 – Pottsville Industrial Lands	See above	Substantive issues assessment – project 40% complete.
	Residential rezoning – “Riva Vue Estate” Murwillumbah	See above	Stage 1 of 3 project commencement 10% complete.
	Residential rezoning – Marana Street, Bilambil Heights (Royal Terranora Resort)	See above	Stage 1 of 3 project commencement 10% complete.
	Enterprise Avenue, Tweed Heads South	See above	Stage 1 of 3 project commencement 10% complete.
	Boyd's Bay Garden World	See above	Stage 1 of 3 project commencement 10% complete
	Extension of Hundred Hills, West Murwillumbah (Stocklands)	See above	Review of preliminary planning proposal complete – waiting lodgement of revised planning proposal.
	Mooball Urban Release	See above	Council resolution to bring forward rezoning under TUELRS 2009* – pending receipt of planning proposal.
	Border Park Race Course	See above	Short-term release area – TUELRS 2009* - pending receipt of planning proposal.
Draft LEP (Minor)	Draft LEP 35 – Billabong caravan Park (expansion of existing site)	See above	On-hold waiting further assessment by Applicant – project 40% complete.
Review of existing policy documents	NIL.		Insufficient resources for existing policy review or up-date.
	TDCP – s A1 – Residential and Tourist Code	NIL	Continuation – review of Part A – project 10% complete moving into next stage of industry consultation.
	TDCP s A11 – Public Notification	NIL	Continuation - On-hold pending resource allocation.
Ongoing commitments	Implementation of the Tweed Urban and Employment Land Release Strategies	Reviews originating from external sources as subject to a prescribed fee of \$1000.00 + \$95 per hour after 4hrs	Consideration of proponent led amendments are subject to Council resolution.
	S 149 Certificates	NIL	Continued GIS resources provided to assist on matters of s.149 certificates.
	Cartography / GIS services	NIL	Council reports – all mapping Cadastre shift / maintenance Flood data & s.94 mapping General GIS mapping / assistance across organisation PRU project mapping & 3D rendering

PROJECT CATEGORY	PROJECT TITLE	BUDGET ALLOCATION	STATUS ESTIMATE
			Data manager - LEP and related areas comprising bulk of Council's GIS data.
	NSW Government Land (Housing and Industrial) Monitor	NIL	Ongoing development of Monitoring system in accordance with DoP Monitoring Requirements.
	Development applications	NIL	Continuation of PRU resources provided to assist DAU/BAU with strategic planning, urban design and heritage conservation matters.
	Landowner requests of broader community significance	NIL	Currently one project - Investigation of potential planning proposal for a community titled (agriculture retention) development – preliminary investigation stage.

Note:

- *Tweed Urban and Employment Lands Strategy 2009.
- Total allocation of funding is \$200,868 comprising all available project funds (excluding \$29,158 provided by landowners of Area E and \$10,712 for the community based heritage study.
- The grant funding allocated to the preparation of a community based heritage study, which was prepared but which did not proceed was mainly expended with only \$10,712 remaining. Additional further funding would be required to undertake a community based heritage study.

Table 2 Work Program (1 July – 30 June) 2011/2012 - Estimated Project Delivery

PROJECT CATEGORY	PROJECT TITLE	STATUS ESTIMATE
High order strategic Plans	Draft Stage 1 LEP 2010	Gazettal anticipated prior to June 2011.
	Draft Tweed Heads LEP	Per the above.
	Review of Tweed DCP – “alignment” with new LEP	Project commencement by August.
Locality Based Plans	Draft Tweed Heads “Cities Taskforce” Masterplan & DCP	Completion anticipated prior to June 2011 with work commencing on Tweed Heads South component in concert with LEP by September.
	Draft South Tweed DCP	Per the above.
Development Control Plans	New Rural Tourism DCP	Completion expected by Feb 2012, subject to start-up date.
	Kingscliff Locality Plan	Completion expected by April 2012, subject to start-up date.
	Rural land-use strategy Local growth management strategy Affordable housing strategy Adaptable housing strategy	These projects would likely commence, subject to a funding / resource commitment, in the third quarter of 2011; on that basis completion of all projects, except rural lands strategy, could be expected by June 2012.
	New Telecommunications Infrastructure DCP	Anticipated completion by June 2011 or indefinite deferral.
	New DCP Pottsville Industrial Land	Requirement of rezoning and subject to gazettal – anticipated start-up from September – Proponent funded.
	New DCP Seabreeze Estate	Requirement of rezoning and subject to gazettal – anticipated start-up from July – Proponent funded.
	New DCP “Riva Vue Estate” Murwillumbah	Requirement of rezoning and subject to gazettal – anticipated start-up from September – Proponent funded.

Council Meeting held Tuesday 20 July 2010

PROJECT CATEGORY	PROJECT TITLE	STATUS ESTIMATE
	New DCP Enterprise Avenue, Tweed Heads South	Requirement of rezoning and subject to gazettal – anticipated start-up from September – Proponent funded.
	New DCP “Boyds Bay Garden World”	Requirement of rezoning and subject to gazettal – anticipated start-up from September – Proponent funded.
	New DCP “Marana Street, Bilambil Heights (Royal Terranora Resort)”	Requirement of rezoning and subject to gazettal – anticipated start-up from September – Proponent funded.
	New DCP “Border Park Race Course”	Requirement of rezoning and subject to gazettal – Proponent funded.
	New DCP “Mooball Urban Release”	Requirement of rezoning and subject to gazettal – Proponent funded.
Draft LEPs (Major)	Draft LEP 69 – Seabreeze Estate (Stage 2 rezoning)	<p>Projects scheduled to be completed prior to 2012/2013 programming.</p> <p>Rollovers are expected based on anecdotal evidence of past rezoning assessments, but are not determinable at the time of preparing the works programme.</p>
	Draft LEP 85 – Pottsville Industrial Lands	
	Residential rezoning – “Riva Vue Estate” Murwillumbah	
	Residential rezoning – Marana Street, Bilambil Heights (Royal Terranora Resort)	
	Enterprise Avenue, Tweed Heads South	
	Boyds Bay Garden World	
	Extension of Hundred Hills, West Murwillumbah (Stocklands)	
	Mooball Urban Release	
	Border Park Race Course	Subject to receipt of planning proposal and project start-up.
		Per the above.
Draft LEP (Minor)	Draft LEP 35 – Billabong caravan Park (expansion of existing site)	Completion by June 2011 otherwise identified for termination.
Review of existing policy documents	NIL.	Insufficient resources for existing policy review or up-date.
	TDCP s A11 – Public Notification	Continuation – Project re-start by September.
Ongoing commitments	Implementation of the Tweed Urban and Employment Land Release Strategies	Consideration of proponent led amendments is subject to Council resolution.
	S 149 Certificates	Continued GIS resources provided to assist on matters of s.149 certificates.
	Cartography / GIS services	<p>Council reports – all mapping</p> <p>Cadastre shift / maintenance</p> <p>Flood data & s.94 mapping</p> <p>General GIS mapping / assistance across organisation</p> <p>PRU project mapping & 3D rendering</p> <p>Data manager - LEP and related areas comprising bulk of Council’s GIS data.</p>
	NSW Government Land (Housing and Industrial) Monitor	Ongoing development of Monitoring system in accordance with DoP Monitoring Requirements.
	Development applications	Continuation of PRU resources provided to assist DAU/BAU with strategic planning, urban design and heritage conservation matters.
	Landowner requests of broader community significance	TBA.

Table 3 Work Program (1 July – 30 June) 2012/2013 - Estimated Project Delivery

PROJECT CATEGORY	PROJECT TITLE	STATUS ESTIMATE
High order strategic Plans	Draft Stage 2 LEP 2012	Project start-up.
	Review of Tweed DCP – “alignment” with new LEP	Completion by July, subject to start-up.
Locality Based Plans	Draft Tweed Heads “Cities Taskforce” Masterplan & DCP	Completion on Tweed Heads South component by February.
	Draft South Tweed DCP	Per the above.
Development Control Plans		
	Rural land-use strategy Local growth management strategy Affordable housing strategy Adaptable housing strategy	These projects would likely commence, subject to a funding / resource commitment, in the third quarter of 2011; on that basis completion of all projects, except rural lands strategy, could be expected by June 2012. Projects subject to detailed timeline assessment but expected rollover of some projects.
	New DCP Pottsville Industrial Land	Completion by Sept.
	New DCP Seabreeze Estate	Completion by July
	New DCP “Riva Vue Estate” Murwillumbah	Completion July-Sept
	New DCP Enterprise Avenue, Tweed Heads South	Completion July-Oct.
	New DCP “Boyds Bay Garden World”	Completion by August.
	New DCP “Marana Street, Bilambil Heights (Royal Terranora Resort)”	Completion July-Oct.
	New DCP “Border Park Race Course”	Completion – TBA.
	New DCP “Mooball Urban Release”	Completion – TBA.
Draft LEPs (Major)		
	Draft LEP 85 – Pottsville Industrial Lands	Per the above.
	Residential rezoning – “Riva Vue Estate” Murwillumbah	Anticipated completion by August.
	Residential rezoning – Marana Street, Bilambil Heights (Royal Terranora Resort)	Per the above.
	Enterprise Avenue, Tweed Heads South	Per the above.
	Boyds Bay Garden World	Per the above.
	Extension of Hundred Hills, West Murwillumbah (Stocklands)	Per the above.
	Mooball Urban Release	Subject to receipt of planning proposal and project start-up.
	Border Park Race Course	Per the above.
Draft LEP (Minor)		
Review of existing policy documents	NIL.	Limited review to be determined on basis of availability of resources.
	TDCP s A11 – Public Notification	Completion by March.
Ongoing commitments	Implementation of the Tweed Urban and Employment Land Release Strategies	Consideration of proponent led amendments are subject to Council resolution.

PROJECT CATEGORY	PROJECT TITLE	STATUS ESTIMATE
	S 149 Certificates	Continued GIS resources provided to assist on matters of s.149 certificates.
	Cartography / GIS services	Council reports – all mapping Cadastre shift / maintenance Flood data & s.94 mapping General GIS mapping / assistance across organisation PRU project mapping & 3D rendering Data manager - LEP and related areas comprising bulk of Council's GIS data.
	NSW Government Land (Housing and Industrial) Monitor	Ongoing development of Monitoring system in accordance with DoP Monitoring Requirements.
	Development applications	Continuation of PRU resources provided to assist DAU/BAU with strategic planning, urban design and heritage conservation matters.
	Landowner requests of broader community significance	TBA.

Based on the projected body of work commitments and priorities illustrated in the proposed work program it is evident that the Planning Reform Unit's staff base is not sufficient to undertake the following projects as previously indicated:

- Draft LEP 76 – Heritage
- Draft Tyalgum Locality Plan
- Fingal Locality Plan
- Chinderah Locality Plan
- Chillingham Locality Plan
- Mooball Locality Plan
- DCP Employment lands (Business Parks)
- DCP (Master-planning principals)
- DCP (Urban Design)
- DCP Densification and Re-development (urban infill)
- DCP Landscaping
- DCP Heritage DCP

These projects will need to be reprioritised on later reviews of the works program and scheduling of some projects may commence in 2013, with the lesser probability of an earlier commencement should one or more planning proposals fail to proceed.

Murwillumbah LPDCP – Deferred (South Precinct)

During the drafting of the Murwillumbah locality based DCP it became clear that certain areas, most notably south Murwillumbah in and around Prospero Street, are subject to flood inundation and in accordance with Council's flood policy cannot have their development intensity up-lifted through rezoning.

Council officers are of the view that the planning work should be commenced as a priority once the Tweed Risk Flood Management Strategy is finalised and provides greater certainty on potential planning outcomes.

The project is not identified in the work program because there is no certainty as to when the Strategy will be adopted or what the ultimate conclusions will be.

Additional staffing to fulfil the planning policy maintenance program and to commence additional strategically important projects, including those identified above, would comprise at minimum one additional urban designer, two strategic planners and a full-time junior planner (12 month rotation), above the Unit's current funded positions.

Potential Impact Associated with the Proposed Work Program

The work program is limited by several factors as highlighted above. Ultimately there will always be a limit on capacity and correspondingly on the body of work commitments.

Tweed Council is currently performing very well and making good progress with its new strategic planning within the confines of its current strategic planning resources. In the context of the development pressure on the Council for the release of further greenfield sites and the demand for greater environmental protection and preservation Council is not making the same level of progress as it could, particularly in the areas of maintaining and reviewing the currency and relevance of its existing land-use policies and in the formulation of new policies, such as those listed above.

The impact of the current capacity and programming is that policy will likely continue to lag behind development pressures and demands than it otherwise should, that is, it will largely remain reactive and outdated opposed to proactive and current. This will impact on the ability to provide certainty to the development industry and may have a detrimental impact on both the delivery of projects (housing and employment) and the end cost of the product (dwelling-houses, residential lots, commercial office space and the like) to the market.

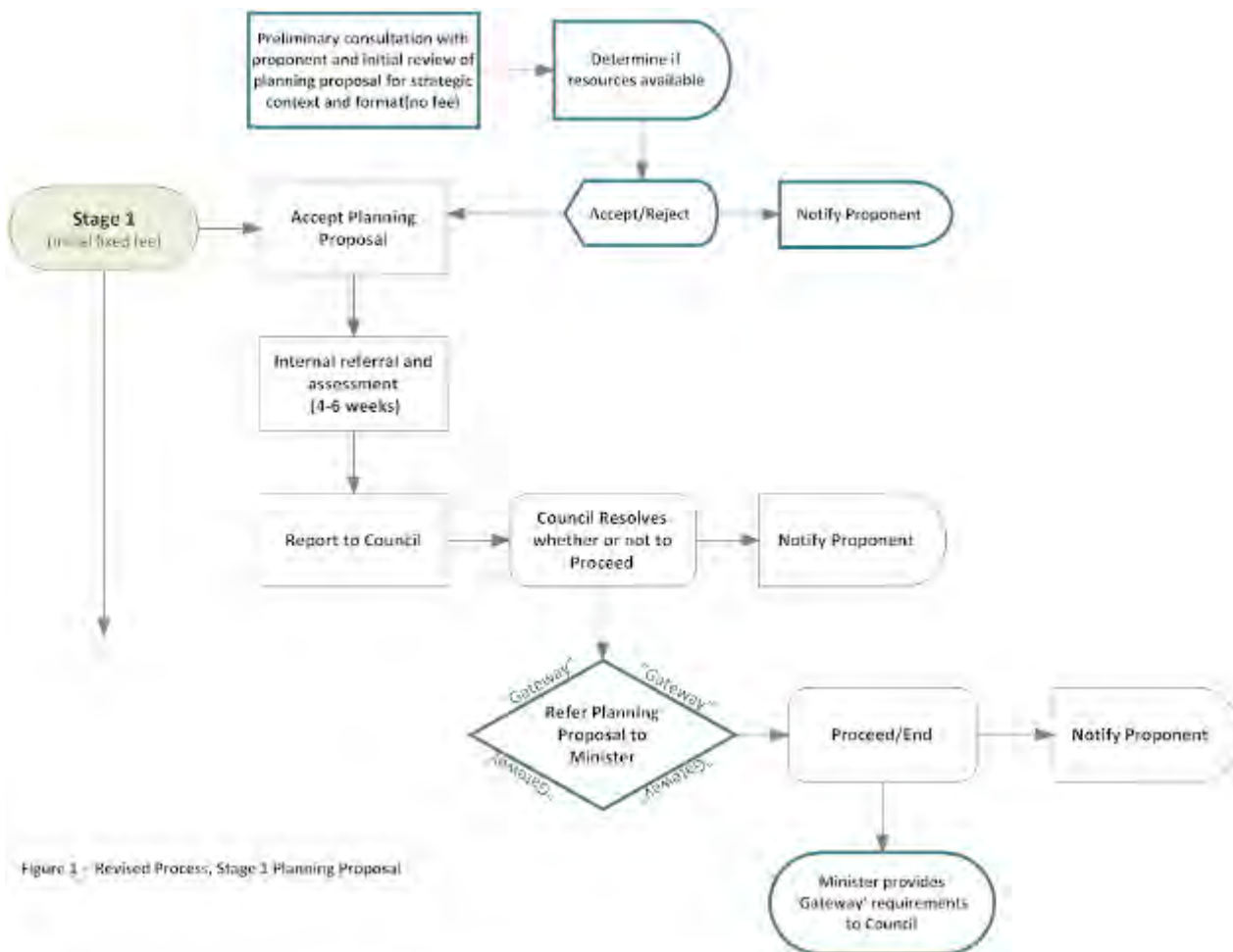
To assist in minimising those impacts discussed above and consistent with the work program strategy presented to Council in 2009 the number of privately proposed planning proposals on the work program has been significantly increased. These new proposals were previously deferred for up to three years to enable Council to implement the new standard instrument LEP, which was initially predicted to take 6-12 months but that has so far taken over three years, however the latency potential and demand in those proposals now requires action and progress so that new development can continue to maintain appropriate levels and diversity in the Tweed's residential housing market in particular and not least to keep downward pressure on cost (affordability).

The necessity to process planning proposals as a means of project control is not seen to be outweighed by the need to undertake key strategic planning policy, like those listed above, as there is a perceived parity, as such there are no foreseeable strategies for expediting the commencement of some of the identified strategic projects. Council officers will nonetheless endeavour to progress the work priorities expeditiously so as to limit the commencement of those key projects.

Planning Proposal Related Fees & Charges – Need for Additional Fees

Planning Reforms has adopted a new approach to the management and processing of planning proposals, which were introduced as part of the legislative amendments to the Part 3 (Plan Making) of the Environmental Planning and Assessment Act 1979, which took effect on 1 July 2009.

The new process requirement, which has been made very clear to all proponents of planning proposals and which is consistent with the intent of the legislative amendments, is essentially aimed at streamlining LEP amendments with the intent of reducing the time and costs involved. This is achieved in several ways most notably by the requirement to limit the information particular and pertinent to the specific proposal, and the deferral of expensive investigative and detailed studies, where practical, to Stage 2, which will then proceed a resolution of the Council to amend the LEP. Refer Figure 1 – Revised Process for Stage 1 Planning Proposals below.



This new process places far greater emphasis on two important commitments. Firstly, on the part of the Council, it requires an efficient process with the commitment to turn initial assessment and reporting around within a reasonable timeframe. Council officers have committed to a 4-6 week assessment timeframe with immediate reporting to the next available Council meeting. The second commitment is on the proponent, which essentially requires a proper evaluation of the proposal and identification and articulation of the substantive and importantly the critical issues.

To enable the new planning proposal process to work, and ultimately to enable consideration of the proposals at all, the acceptance of planning proposals is contingent on both parties meeting their respective commitment. This means that the proponent is to take greater responsibility for identifying the potential issues, scoping the likely impact of those issues, which may include prior consultation with Council officers or any number of other agencies, and responding to those issues in a planning proposal sufficiently for Council to determine if the proposal has merit and is suitable to proceed.

The greater responsibility on the parties in the identification of critical issues is highlighted in the new process requirements, illustrated in Figure 1 above, which removes the ability of a proponent to rely on Council staff for the identification of issues and relevant policy considerations. This marks a significant shift away from earlier practices of extensive and often protracted requests for additional information and subsequent ancillary meetings, instead, as stated above, it places greater emphasis on the pre-application processes.

The new process not only assists Council staff in their determination of a proposals strategic justification but it represents the only short-term solution to managing private planning proposals. In the most basic terms the new process is premised on the assessment and recommendation of the proposal as submitted, save for some minor clarification.

This process naturally has its advantages and disadvantages.

In favour of the process, planning proposals will be accepted and processed where it may otherwise have not been possible because of insufficient resourcing. It also provides a more expedient process for securing resolution from the Council about whether a particular amendment is supported. This in-turn should provide greater certainty and is more responsive to the private sector's needs, particularly with respect to investment in the particular project.

The process does however require a far greater commitment in the preparation of the planning proposal by the proponent, which is arguably something that should exist in any event. The benefit for a proponent for that commitment is essentially the reward of expediency, which in commercial terms is likely to be quite significant or advantageous.

A notable limitation with the process is likely to be those occasions where an issue is genuinely not revealed either by omission or oversight, opposed to any sort wrongdoing or inattention, and in which case there is likely to be an adverse consequence. The consequence is in essence a 'penalty' which has the effect of manifesting in two distinct forms depending on which party it befalls. If the proponent was to wear the cost penalty it is likely to accrue in an adverse resolution against proposal and the cessation or 'not-proceeding' with it, whereas, if the Council wears the penalty it will take the form of a cost infringement which would most likely arise through the reassessment of additional information (hence additional staff resources).

It is the inability to recoup the cost of any additional assessment undertaken by the Council that gives rise to the need for an amendment to the Fees and Charges Schedule.

The proposed amendment will ensure that any additional cost burden will remain to be borne by the proponent. This will ensure that the amendments to the Fees and Charges initially adopted by Council in April 2009, which are premised on full cost recovery, will remain in-tact.

The following table highlights Council's current fees and charges and the proposed amendments highlighted in **bold**. These should encourage the proponent to take greatly responsibility and accountably in preparing a planning proposal, as well as, serving to limit Council's liability for any additional cost.

Table 4 – Proposed Associated Rezoning Fees & Charges 2010/2011 (in **BOLD**)

Rezoning Fees			
	Stage 1	Stage 2	Stage 3
Anomaly (no increase in the developable capacity of the land)	\$1,030	\$1,545	\$1,030
Minor rezoning (no significant increase in developable capacity of the land and s. 72J applications or schedule 3 amendments)	\$1,600	\$3,500	\$2,000
All others	\$3,500	\$7,000 + \$115 per hour beyond 60hrs	\$5,500 + \$115 per hour beyond 40hrs
Council appointed and managed consultancy	An Applicant may elect to have an application processes by an external consultancy. The cost is to be determined by a Council Tender invitation and submission process and agreed to by applicant + 20% administration fee.		
Preparation of Local Environmental Study (where required)	Cost in addition to rezoning application processing and is to be determined by a Council Tender invitation and submission process and agreed to by applicant + 30% administration fee.		
Reassessment of the same issue or a new issue not previously identified or sufficiently detailed in a planning proposal arising after the assessment of the proposal by the relevant Unit or Division of Council is subject to the prescribed assessment fee.	Assessment of additional supporting information is \$115 per hour, per staff member, plus an administrative fee of \$55.		
Council reporting required in consequence of consideration of additional information is subject to the prescribed fee.	The fee for preparing a Council report arising from reassessment of a planning proposal is \$300.		
Written correspondence associated with a planning proposal is subject to the prescribed administration fee.	The administration fee associated with written correspondence is \$25		

The fees in Table 4 above are consistent with the basic principle that the community, through Council, should not be accountable for the cost of processing planning proposals of a commercial nature through the betterment or up-lifting of changes to the Tweed LEP in favour of identified parcel(s) of land, that is, cost recovery for services rendered.

CONCLUSION:

As discussed in this report there are limitations on the capacity of Council's strategic planning resources with a corresponding need to ensure that the work program is reflective of, not necessarily constrained, by its ability to undertake key priority projects.

By 'priority' this reports relies on the underlying premise that all of the strategic policies identified are to varying degrees a priority of the Council, but acknowledging that when the projects are juxtaposed there will typically be those that have some sort of 'edge' or

'advantage' over another, which places them ahead, generating in effect a queue headed by the those projects better representing or referred to as the 'priority' projects.

The proposed work program 2010/2013 has been designed in the light of the need to match the resources with the projects that are likely to yield the most benefit. These projects comprise two distinctive types; those generated by the Council and those generated externally. Both have their place and are equally relevant to the management and growth of the Tweed. The work program aims to balance the resource allocation to accommodate the priority elements arising from both areas. This has resulted with an increase in the number of commercially driven planning proposals and the reduction or deferral of several strategic land-use policies.

This realignment of priorities and resource allocation is seen to be justified on the basis that without greater stimulus and investment in the private sector through housing and employment generating development any number of adverse impacts will potentially materialise. They may include upward pressure on the cost of housing, missed opportunities for employment, and a furthering of the social economic divide, which for many Tweed families will mean that they will need to relocate elsewhere or their children will have limited opportunity to work and live in the Tweed and within established family and community networks.

At the same time, the strategic planning projects selected for inclusion in the work program are those seen to provide the most benefit in assisting and playing their role in ensuring a better and more secure future for the present and future residents of the Tweed and the protection of its environment.

The proposed amendments to the Fees and Charges are seen to be minimal to the overall efficiency and cost associated with commercial planning proposals, but, essential to ensuring that the Council's strategic planning resources are not unduly restricted or impacted by proponents who fail to achieve their commitment to the process.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Forward budget estimates may arise from Council's endorsement of the Planning Reforms work program as key strategic projects are taken up.

POLICY IMPLICATIONS:

This report seeks a clear direction and prioritisation of Council's strategic planning program and the associated Fees and Charges relating to associated costs of planning proposals.

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. Councillor Workshop Agenda Paper presented by the Coordinator Planning Reform 8 June 2010 (ECM 18828736)

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9 [PR-CM] Planning Proposal PP10/0001 - Lot 10 DP 1084319 Boyds Bay Garden World Site

ORIGIN:

Planning Reforms

FILE NO: PP10/0001

SUMMARY OF REPORT:

This report seeks Council's consideration of a planning proposal for rezoning of Lot 10 DP 1084319 – "Boyd's Bay Garden World Site", Tweed Heads West, and a recommendation endorsing referral of the proposal to the Department of Planning for a "Gateway" Determination.

The Boyds Bay Garden World Site lies immediately to the west of the Pacific Highway Tweed Heads West, and has been identified as potential employment lands in the Tweed Urban and Employment Land Release Strategy 2009 (TUELRS) with timing for commencement of rezoning of medium term; 10 to 20 years.

At its meeting of 15 December 2009 Council resolved to bring forward the timing of commencement of rezoning of the site from medium term (10 – 20 years) to short term, 0 – 10 years, following consideration of a request from Planit Consulting Pty Ltd.

The report identifies several challenges to the development of the site and in particular in the determination of the ultimate use and zoning of the land. In concluding it is clear that there is a need for greater detail and assessment of the constraints and limitation of the site to cater for the capacity of the development and ultimately the zoning sought. The report also highlights the necessity for greenfield sites to be master-planned prior to planning proposals (rezoning) occurring. This latter point will form the basis of a future report to Council.

RECOMMENDATION:

That:

- 1. Planning Proposal PP10/0001 for a change of land-use zone classification from Rural 1(a) to 3(c) Commerce and Trade rezoning be supported in principle on Lot 10 DP 1084319 Parkes Drive, Tweed Heads West and that the proposal be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979*.**
- 2. The applicant of planning proposal PP10/0001 be advised that the actual rezoning classification of the land, if supported by Council, will be determined following assessment of any detailed site studies required after receipt of the initial gateway determination to proceed.**

REPORT:

BACKGROUND

On 1 July 2009 the Environmental Planning and Assessment Amendment Act 2008 and Environmental Planning and Assessment Amendment (Plan Making) Regulation 2009 implemented procedural changes to the way local environmental plans are prepared and among other things broadened the Minister's power to delegate plan making functions to authorities other than councils.

A detailed report on the legislative (Plan Making) amendments was reported to the Council Meeting of 21 July 2009. For the purposes of this report the following definitions are provided for assistance:

Planning Proposal - refers to the document that explains the intended effect of a proposed LEP.

Gateway – refers to the process whereby the Minister considers a planning proposal; whether it should proceed or not, and provides a determination on the process, including level of public consultation required, type and scope of specialist studies, and referrals to other public authorities.

The amendments fundamentally do not change the level of assessment required, but rather the timing of when reports should be prepared and assessment required. The new system is designed to speed-up the time it takes for a Council to resolve to amend the LEP, and reduces the level of detailed investigation (and cost) required for that initial determination, also referred to as "Stage 1". Like the superseded system, there are three main steps in the process, as summarised below:

Stage 1 *Submission and Preliminary Assessment:* Council resolves to prepare a draft LEP Amendment – based on assessment of essential information, not necessarily detailed studies and reports, sufficient to demonstrate; A) a strategic justification, and; B) a relative degree of certainty that the proposal will likely proceed.

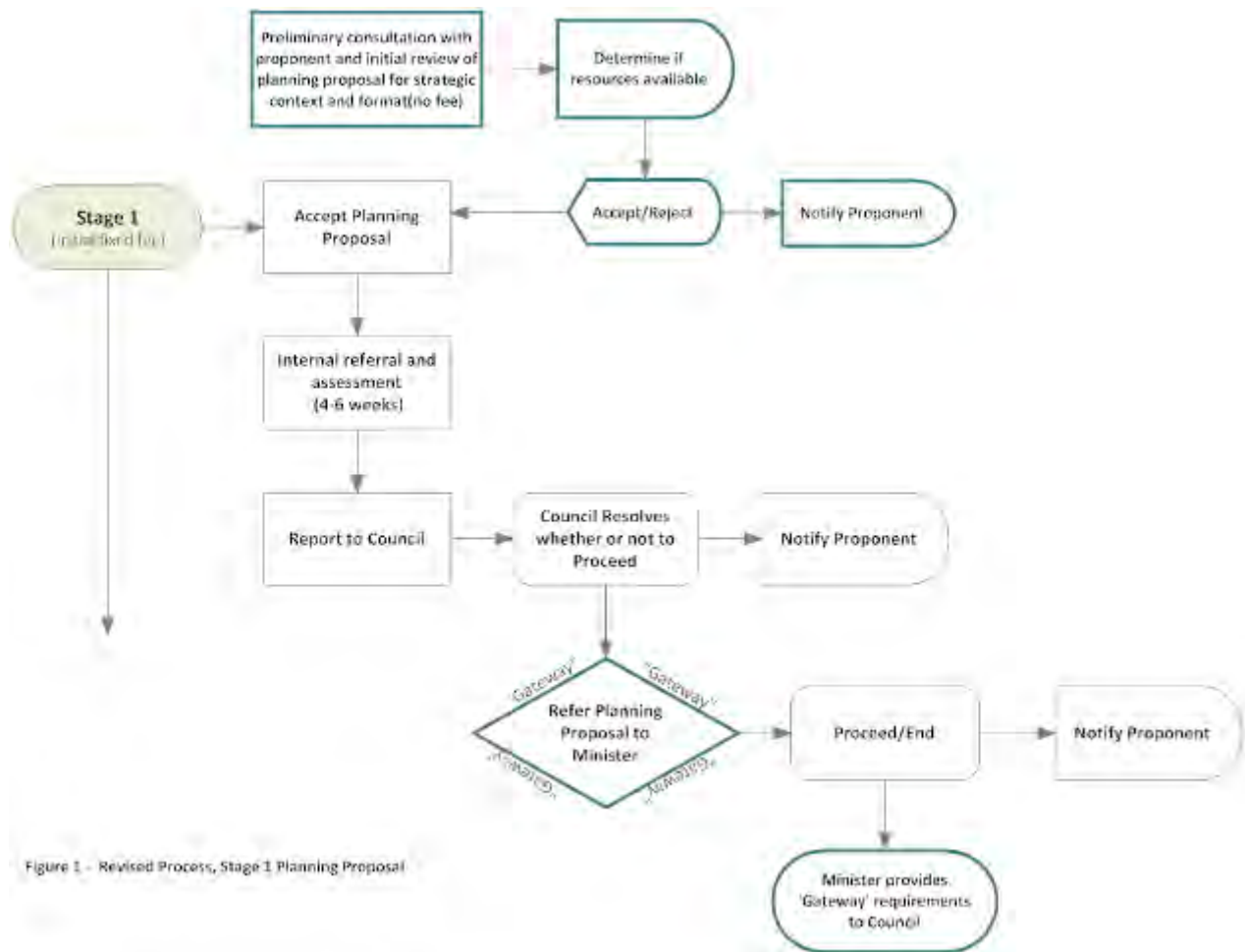
Stage 2 *Report, Further Assessment and Community Consultation:* The completion of detailed investigations and / or preparation of studies by the proponent; assessment by Council staff, and public exhibition. It is the work undertaken in this Stage, with the exception of public exhibition, that previously occurred 'up-front' prior to a Council resolution to amend the LEP. The purpose of the change in process is to avoid unnecessary expense and time on proposals that have little chance of securing a recommendation in support of the proposed amendment.

Stage 3 *Final Planning Proposal to be Made:* This is largely an administrative and short duration component of the process. By this stage all assessment, public consultation and reporting has been finalised. The remaining tasks include the gazettal of the Plan by the Minister through the NSW Government Gazette, and internal administrative tasks updating the LEP and section 149 processes.

The Planning Reforms Unit has adopted a new approach to the management and processing of planning proposals which takes into account, and is consistent with the

legislative amendments to Part 3 (Plan Making) of the *Environmental Planning and Assessment Act 1979*.

This new process is essentially aimed at streamlining LEP amendments with the intent of reducing the time and costs involved. This is achieved in several ways most notably by the requirement to limit the information pertinent to the specific proposal at lodgement, and the deferral of expensive investigations and detailed studies, where appropriate, to Stage 2, which follows on from a resolution of the Council to amend the LEP. The following diagram illustrates the Stage 1 Planning Proposal process adopted by the Planning Reforms Unit.



Planning proposals are meant to be a concise statement of the intended effect of a proposal and set out the justification for making that plan without the need to prepare the full range of technical reports up-front. This does not mean however that they need not be technically competent, but unlike the superseded process, planning proposals will have greater flexibility and adaptability enabling them to 'evolve' during the course of processing the proposed LEP, in line with the Department of Planning's Guidelines on preparing planning proposals.

This and future Council reports on Planning Proposals will follow the format and use the headings provided by the legislation and DOP guidelines.

SITE AND PLANNING HISTORY - BOYDS BAY GARDEN WORLD

This application represents one of the first planning proposals to be lodged with Council since the implementation of the 'Gateway' process.

The Boyds Bay Garden World Site lies immediately to the west of the Pacific Highway Tweed Heads West, and has been identified as potential employment lands in the Tweed Urban and Employment Land Release Strategy 2009 (TUELRS) with timing for commencement of rezoning of medium term; 10 to 20 years.

The site is identified within the 'Town and Village Growth Boundary' of the Far North Coast Regional Strategy 2006 (FNCRS) although not specifically identified as employment land. The Department of Planning (DoP) has stringently enforced no variations to settlement patterns proposed east of the Pacific Highway however, the Strategy does make provision for development proposals to the west of the Highway under certain circumstances.

At the Council meeting of 15 December 2009 Planit Consulting on behalf of Maro Developments and Leisure Brothers were successful in seeking a revision of the timing of commencement of rezoning of the site from medium term (10 – 20 years) to short term, 0 – 10 years. The Council's resolution stated:

- 1. Council endorses the proposed amendment Table 9-1 of the Tweed Urban and Employment Land Release Strategy (TEULRS) 2009 relating to the staged release of a nominated employment investigation area from medium (10-20 years) to short term (0-10 years), as outlined in the submission received by Council from Planit Consulting on 9 September 2009, relating to the Boyds Bay Garden World site, Lot 10, DP 1084319, Tweed Heads.*
- 2. Approval of Point 1 above will be subject to the proponents providing a more detailed response to the main outstanding issues identified in this report, including further prior consultation occurring with the key relevant authorities, Tweed Shire Council, Gold Coast Airport and the Roads and Traffic Authority, as part of any future Planning Proposal application to rezone this site.*

The site has a number of significant constraints relating mainly to its close proximity to the Gold Coast Airport and immediately adjoining the Tweed Waste Water Treatment Plant and the Pacific Highway.

The potential of the site for 'business park' development will be heavily impacted by constraints mentioned above, and will require particular attention to ensure that the layout of the site, and landuses proposed fully address these constraints to the satisfaction of Council post receipt of a gateway determination to proceed.

THE PLANNING PROPOSAL

On 5 May 2010 Planit Consulting lodged a Planning Proposal for the site seeking to have the site rezoned from Rural 1(a) to B5 Business Development under draft Tweed LEP 2010, or 3(c) Commerce and Trade under Tweed LEP 2000.

The site, formerly a 'drive-in' picture theatre is currently utilised as a retail and wholesale plant nursery known as the Boyds Bay Garden World (See Figures 1 and 2 below). The site is heavily disturbed and adjoins Council's Tweed Heads Waste Water Treatment Plant and is located at the southern end of the Gold Coast Airport and within the 25-30 ANEF aircraft noise zones.

A concept plan has been prepared for the site as seen in Figure 3; however this concept does not at this stage represent the final concept which will more than likely be modified once detailed studies are undertaken as suggested in the planning proposal and this report.

FIGURE 1: SUBJECT SITE AND LOCAL CONTEXT ADJOINING COUNCIL'S WASTE WATER TREATMENT PLANT AND PROXIMITY TO GOLD COAST AIRPORT

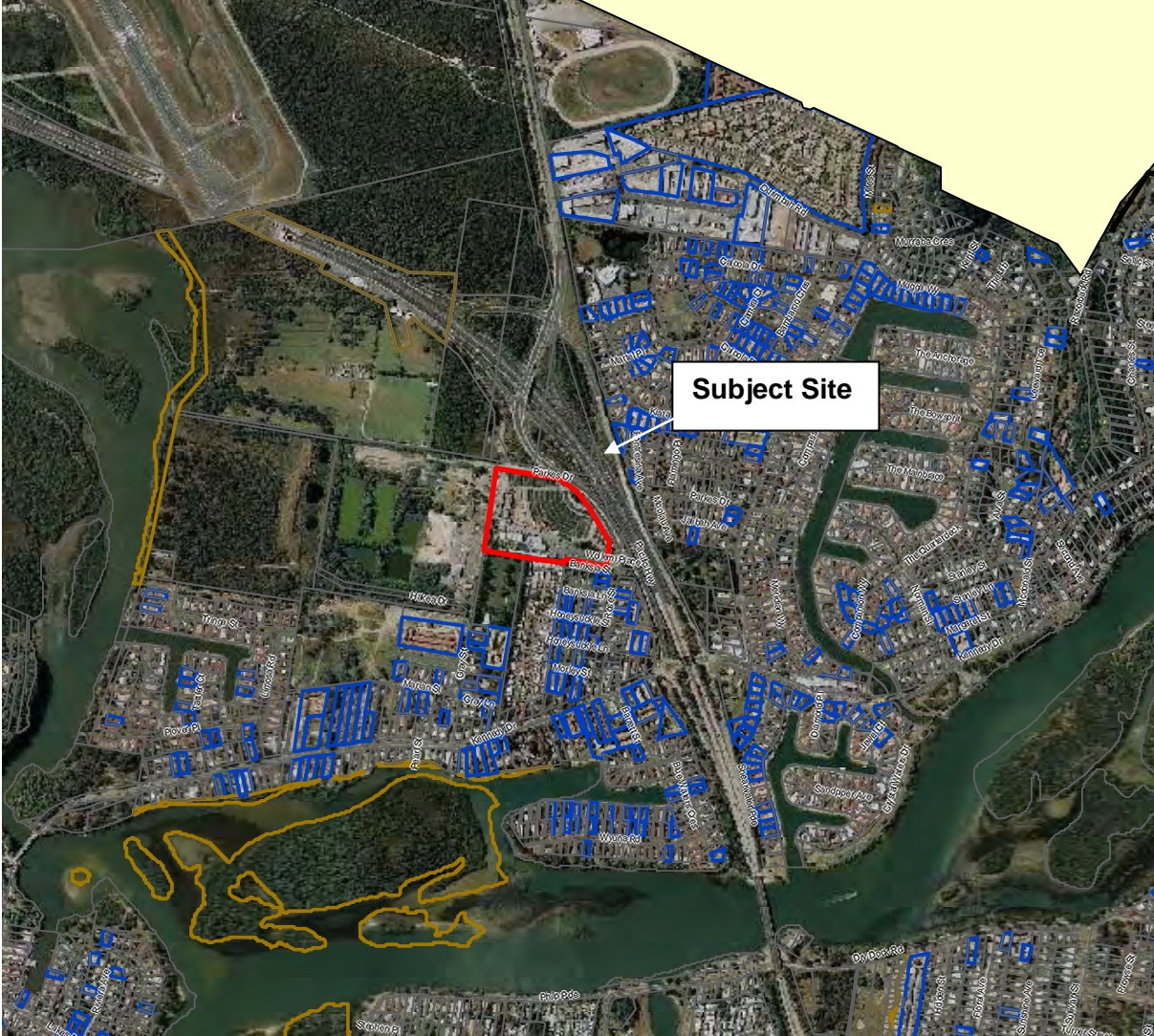


FIGURE 2: SUBJECT SITE AND LEP 2000 ZONING

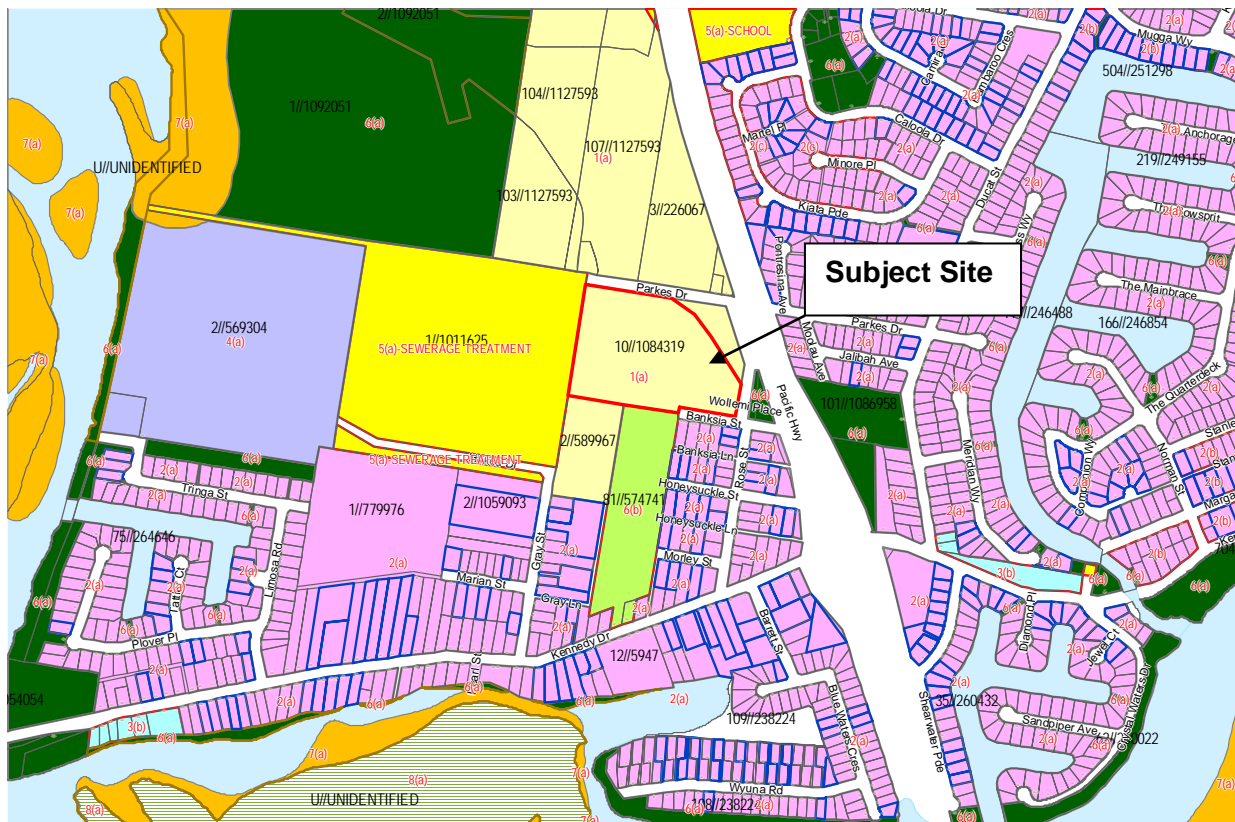


FIGURE 3: CONCEPT PLAN



Council has advised all proponents that the format for all planning proposals are to be set out using the same headings and language / terms provided the legislation and the Department of Planning's guidelines, as indicated below:

- **Part 1:** Objectives or Intended Outcomes,
- **Part 2:** Explanation of Provisions,
- **Part 3:** Justification,
- **Part 4:** Community Consultation.

The DOP guidelines clearly identify the requirements of each section, which Council will utilise in determining completeness of the initial proposal. All information relevant to this proposal should be presented under one of these 4 parts, and where appropriate supported by relevant attachments.

PART 1: OBJECTIVES OR INTENDED OUTCOMES

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

The planning proposal for the site seeking to have the site rezoned from Rural 1(a) to B5 Business Development under draft LEP 2010, or 3(c) Commerce and Trade under Tweed LEP 2000.

At this stage, the proposal has not provided sufficient information to determine the most suitable zoning for the site; however, the substantial nature of constraints affecting the site will make it difficult for the site to be developed fully for commercial and trade purposes.

Detailed studies and preparation of site plans identifying the composition and location of proposed land-uses will be essential in satisfying Council that site constraints have been fully and adequately addressed, and the zoning sought is the most appropriate zoning for the site.

PART 2: EXPLANATION OF PROVISIONS

This is intended to be a full and clearly expressed statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed by the LEP.

Commercial and industrial uses commensurate with a Business Park are not permissible in the 1(a) zone under Tweed LEP 2000. As such the proponent is seeking the introduction of the B5 Business Development zone under Draft Tweed LEP 2010.

The IN1 industrial zone under Draft Tweed LEP 2010 has been considered by the proponent but determined to be not acceptable because office development typical in Business Parks is prohibited. However, given the constraints of the site, and the lack of sufficient detail regarding the types of 'business' proposed it is difficult at this stage to determine whether B5 Business Development, or IN1 General Industrial, or a combination of both would be more appropriate.

Need for a Masterplan

Given the complex nature of constraints on the site, the potential for these constraints to have a defining influence on the nature of development possible on the site, and the diversity of adjoining land-uses, including as yet un-determined uses on other land in the Airport Precinct Area 2, there is a greater need for the preparation of a masterplan for the Airport Precinct. The Tweed Urban and Employment Land Release Strategy 2009 (TUELRS) states that Council is supportive of master-planned business and employment parks. Development of a masterplan for the Airport Precinct Area 2 will be an essential component in the final justification of the proposal, and will be a requirement of post-gateway determination in Stage 2.

Where rezoning for additional commercial development is proposed, the TUELRS requires consideration of the Tweed Retail Strategy as well as the Employment Lands Strategy; given that retail and office development are typically both permitted in commercial or business zones. A retail economic analysis will be required providing an assessment of the impact of any further commercial development on other established commercial centres in the Tweed.

The following table lists a sample of the land-uses permissible or prohibited within B5 and IN1 zones under Draft LEP 2010 which may be considered under the current proposal.

Table 1: Comparison of a sample of 'permissible with consent' and 'prohibited' development within proposed B5 and IN1 zones under Draft Tweed LEP 2010.

Draft LEP 2010		
B5 Business Development	Zone	IN1 General Industrial
Light industries; Passenger transport facilities, Self storage facilities, Take-away food and drink premises, and Warehouse or distribution centres.	Permissible with consent	Industries, Kiosks, Light industries, Storage premises, Take-away food and drink premises, and Warehouse or distribution centres.
Air transport facilities, food and drink premises, Freight transport facilities, Storage premises, and Wholesale supplies.	Prohibited	Bulky goods premises, business premises, Office premises, Passenger transport facilities, Retail premises, and Self storage units.

Given the mixed-use nature of business parks, the proponent will need to demonstrate how a range of landuses such as those suggested above will be accommodated in the final concept plan and planning proposal.

The proponent is seeking to pursue rezoning of the land concurrent with the preparation of a Development Control Plan (DCP) that addresses all relevant matters with a focus on future development forms however there has been no agreement reached on the scope of a draft DCP or as to who will be drafting the Plan.

PART 3: JUSTIFICATION FOR THE PLANNING PROPOSAL

The justification, as required by the *Environmental Planning and Assessment Act 1979*, sets out the case for changing the zone and development controls on the land affected by the proposed LEP. While it is not envisaged, in the majority of cases, that technical studies will be undertaken prior to the gateway determination, it is however essential that major site constraints be identified and where necessary studies and investigations undertaken to justify different aspects of the planning proposal. The four key components to justifying the proposal in accordance with the legislation are:

- i. Need for the planning proposal;
- ii. Relationship to strategic planning framework;
- iii. Environmental, social and economic impact, and
- iv. State and Commonwealth interests.

i. Need for the Planning Proposal

The objective of the planning proposal is *“to permit the redevelopment of the Boyd’s Bay Garden World Site for the purposes of a Business Park that satisfactorily addresses matters relating to residential amenity, airport operations and conflicts and the needs of adjoining owners.”*

Alternative uses for the site and adjoining land within Airport Precinct (Areas 1 and 2) have previously been investigated, as reported in the TUELRS which noted that the TEDC had commissioned a report in 2001 which specifically assessed the options for land in Airport Precinct (Areas 1 and 2), in a local and regional context and concluded that the site had potential for development and particularly for boat building, food and beverage manufacturing, storage and distribution, herbal industries, airport parts and manufacturing, and turf farming. The proposal is generally consistent with the potential future uses identified for the site, however, the potential for development of a business park incorporating commercial uses cognisant of site constraints will require further substantiation.

ii. Relationship to strategic planning framework

While no specific study has been completed addressing this site, the site is within the Town and Village Growth Boundary for Tweed Heads as identified within the FNCRS, and has been identified as potential employment lands in the TUELRS as mentioned above.

Under both LEP 2000 the 3 (c) Commerce and Trade zone, and Draft LEP 2010 B5 Business Development, light industry development is permissible, but may not be the most appropriate use of the site given the nature of constraints affecting the site.

The proposal has not adequately addressed the local and regional significance of the site and will need to undertake further studies and report on the ability of the site to fit in with existing strategies and not compete with other established commercial and retail centres in the Tweed.

iii. Environmental, social and economic impact

While a number of significant constraints have been identified affecting the site, the justification on environmental grounds is sufficient to recommend referral to the Department of Planning for an initial gateway determination.

Of those constraints identified during initial consultation within Council and externally with the Gold Coast Airport Limited, and the Roads and Traffic Authority, the following issues have been identified as having potential significant impacts upon the site:

1. Proximity to Council's Tweed Heads Waste Water treatment Plant:

The site adjoins the eastern boundary of Council's Tweed Heads Waste Water Treatment Plant (WWTP). Council's DCP A5 Subdivisions Manual has a general recommendation for the size of a buffer zone surrounding a sewage treatment plant. It provides for a buffer of 400m from primary and secondary process units for housing, tourism and community facilities and an absolute buffer of 200m in which no development should be allowed other than open air uses like car parking and open storage yards. Buildings between 200m and 400m associated with industrial, commerce or trade must be designed with ventilation facing away from the sewage treatment plant and office or retail components should be air conditioned.

Virtually the whole of the subject site is within the 400m buffer of the old treatment plant's process units and about half of the site is within the 200m buffer. On this criterion, the western end of the site does not appear to be suitable for development except for open air uses requiring only limited occupation of any work stations in that area. The eastern end of the site could be suitable for appropriately designed buildings with suitable treatment of office and retail areas. The site may not be suitable for food preparation businesses.

The DOP's Draft NSW Best Practice Odour Guideline (April 2010), for treatment of odour from sewage systems has changed the way in which the impact of WWTPs is assessed, and rather than placing a buffer, a setback around the plant, now seeks to have odour controlled on site and indicates that the design of the treatment plant should be such that the odour level at the boundary of the containing industrial zone should be no more than 2 Odour Units. If the treatment plant boundary is the edge of the industrial zone as proposed, the level of treatment required may be prohibitive.

On the basis of DoP Guidelines, it would seem that an industrial zoning such as IN1 would be more appropriate than the proposed B5 Business Development zoning.

While the proponent's report and concept plan show potential road linkages into Council's WWTP, suggesting a change in use of Council's land in the future, it has the WWTP is scheduled to be recommissioned and retained as a waste water treatment plant.

2. Proximity to Gold Coast Airport:

Correspondence from GCAL, provided with the proposal, states that in view of the extremely close proximity of the airport runway and flight path to the subject land, there are several mandatory restrictions (defined as "controlled activity") which would necessitate securing approval from the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government, with any such application being subject to assessment by GCAPL, CASA and Airservices Australia. Given the proximity of the site to the runway,

no relaxation could realistically be anticipated in this instance. GCAL conclude that the site is severely constrained, and raise the following issues:

Heights: Preliminary height limits (including any structures) within the airport's operational airspace on the site's western boundary cannot exceed 14.46 metres AHD (for Air Navigation Services – Airport Operations), and 13.75 metres AHD (for Obstacle Limitation Surface). Filling of the site will have potential impact upon the type of buildings ultimately developed.

Light emissions: Localities within the airport's prescribed airspace in close proximity to the runway are subject to mandatory and severe limitations on levels of illumination which are allowed to be emitted. Reflected sunlight can also constitute a controlled activity in the Lighting Zone area which will require all roofs of buildings and other elements that could adversely reflect sunlight to be entirely constructed of non-reflective materials, across the whole site.

Emissions, Turbulence: Activities which may result in air turbulence capable of affecting normal flight of aircraft (exceeding 4.3 metres per second), or emit smoke, dust or other particulate matter, or steam or other gas would not be permissible.

Public safety: A Public Safety Zone (PSZ) extends from the end of the runway for a distance of 1 kilometre will impact the site; the site is just 50 metres outside the southern limit of the zone it has been suggested that restrictions relevant to the PSZ be borne in mind when considering development of the site. It would not be appropriate for land in this locality to be used for hazardous purposes, such as storage of fuel, explosives or chemicals etc. Activities which would attract large numbers of people, such as businesses with high workforce numbers or which attract substantial numbers of customers such as major retail facilities or places of assembly, sporting venues and the like should be discouraged.

Aircraft noise: the site is almost entirely within the ANEF 25-30 zone for aircraft noise. Within this zone the land use of "light industry" is acceptable, thus requiring no acoustic treatment. However, land-uses falling within the category of "commercial buildings" (e.g. Offices, retail) are defined as "conditionally acceptable", indicating that measures should be taken in the design and construction to minimise indoor sound levels.

Reports addressing each of these issues will be required.

3. Traffic:

The site adjoins the Tugun Bypass (Pacific Highway) and is expected to impact traffic movements associated with the intersection with the Pacific Highway and local road network.

The Roads and Traffic Authority has advised that the road network in the vicinity of the site is sensitive to increases in traffic generation and that a traffic study will be required addressing the surrounding traffic network and that the site is not considered in isolation.

4. Engineering and infrastructure:

The provision of water, sewerage and drainage infrastructure is believed to be possible; however a detailed engineering and infrastructure assessment and report will be required post gateway determination.

5. Flooding:

The site is typically 1.0 to 3.0 metres AHD and will require filling to the nominated height of approximately 3.0 metres AHD. The extent of fill will impact both adjoining land and potential building heights permissible on the site, as related to height limitations imposed by Gold Coast Airport Limited. A detailed flood impact assessment will be required.

6. Contamination:

The site has been heavily disturbed and previously utilised as a drive-in picture theatre, but is now the site for an extensive gardening retail and wholesale centre. The potential for past land-uses to generate contamination of the soil has not been investigated. A site contamination investigation and remediation strategy if appropriate will be required post gateway determination.

7. Ecological:

The proponent reports that the site presents little in the way of ecological constraints given its previous history of use, however they have advised that a detailed ecological assessment will be undertaken in accord with the requirements of council and the Department of Environment, Climate Change and Water.

8. Social and economic impacts:

While the site lies within the Town and Village Growth Boundary it was not specifically identified as Employment Lands in the Far North Coast Regional Strategy 2006. The proponent has acknowledged that a socio economic assessment will be undertaken.

As previously mentioned, a retail economic analysis will be required. Of particular concern is the strategic context of the site and potential impacts on established commercial or industrial centres in the Tweed Heads (West and South) area.

iv. State and Commonwealth interests

Gold Coast Airport Limited has identified a number of agencies who will required notification, including The Department of Infrastructure, Transport, Regional Development and Local Government, Gold Coast Airport Limited, the Civil Aviation Safety Authority (CASA), and Airservices Australia. Any future proposal should also be referred to the Roads and Traffic Authority.

PART 4: COMMUNITY CONSULTATION

The gateway determination by the Minister will specify the community consultation that must be undertaken on the planning proposal. The consultation will be tailored to the specific nature of the proposal; for low impact planning proposals which are consistent with the pattern of surrounding land use zones, strategic planning frameworks and present on issues with regard to infrastructure servicing the exhibition period will normally be 14 days.

This proposal does not fall within the broad definition of 'low impact' and is likely to incur an exhibition period of at least 28 days.

CONCLUSION:

The site is heavily constrained with absolute restrictions which at this stage have not been fully considered in preparing the concept plan presented with this planning proposal. However, the site has been identified as being potentially suitable for a range of development activities ranging from low intensity turf farming to manufacturing, storage and distribution.

The potential of the site for development as a Business Park cannot be fully assessed and appropriate zoning determined until such time as detailed investigations, studies and reporting have considered how site constraints will be addressed in finalising the composition of development on the site. Proximity to Council's waste water treatment plant, Gold Coast Airport and the Pacific Highway will require particular attention and will need to be fully addressed to the satisfaction of Council post receipt of a gateway determination to proceed.

The planning proposal must undertake a range of studies as identified in this report and demonstrate an ability to accommodate constraints and opportunities within both local and regional contexts without adversely impacting existing commercial and retail centres within the Tweed.

It is recommended that Planning Proposal PP10/0001 be referred to the Department of Planning for a gateway determination.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Aerial photograph showing boundary of ANEF 2020 aircraft noise zones, and buffers from the Tweed Waste Water Treatment Plant (ECM 18881302)
 2. Letter from Gold Coast Airport Pty Ltd (ECM 18881303)
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10 [PR-CM] Planning Proposal PP10/0002 - Lot 30 DP 850230 No. 61 Marana Street, Bilambil Heights (Royal Terranora Resort)

ORIGIN:

Planning Reforms

FILE NO: PP10/0002

SUMMARY OF REPORT:

This report reviews a planning submission which seeks referral to the Department of Planning for a Gateway Determination to amend Tweed Local Environmental Plan 2000, for Lot 30 DP 850230, 61 Marana Street, Bilambil Heights, formally known as Royal Terranora Resort.

This application is one of a few being considered by Council as part of the new Planning Proposal process set by the Department of Planning, the background of which has been explained in a previous Council report for planning proposal PP10/0001 for Lot 10 DP 1084319, Boyds Bay Garden World Site, Tweed Heads West.

The planning proposal requests to commence the process for rezoning of the land from 6(b) Recreation to R1 – General Residential. As part of the initial assessment, Council has identified an overarching issue relating to traffic capacity within Kennedy Drive catchment, which is deemed to impede the progression of the planning proposal to the Gateway determination under Department of Planning (DoP) guidelines. The recommendation suggests that the planning proposal does not progress based on the level of information provided by the proponent and the assessment of that information. This is in line with the agreed method of assessing and reporting on the stage 1 planning proposals in an expedited timeframe. This does not preclude the matter being investigated further, however the onus is on the proponent to provide additional information to the Council which will be assessed in accordance with the amended fees and charges schedule being considered under the current Council agenda.

RECOMMENDATION:

That:

- 1. Planning Proposal PP10/0002 for Lot 30 DP 850230 No. 61 Marana Street, Bilambil Heights not be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* based on insufficient capacity within the Kennedy Drive catchment to accommodate urban growth exceeding that which already has potential under existing Local Environmental Plan 2000 zonings west of Cobaki Bridge.**

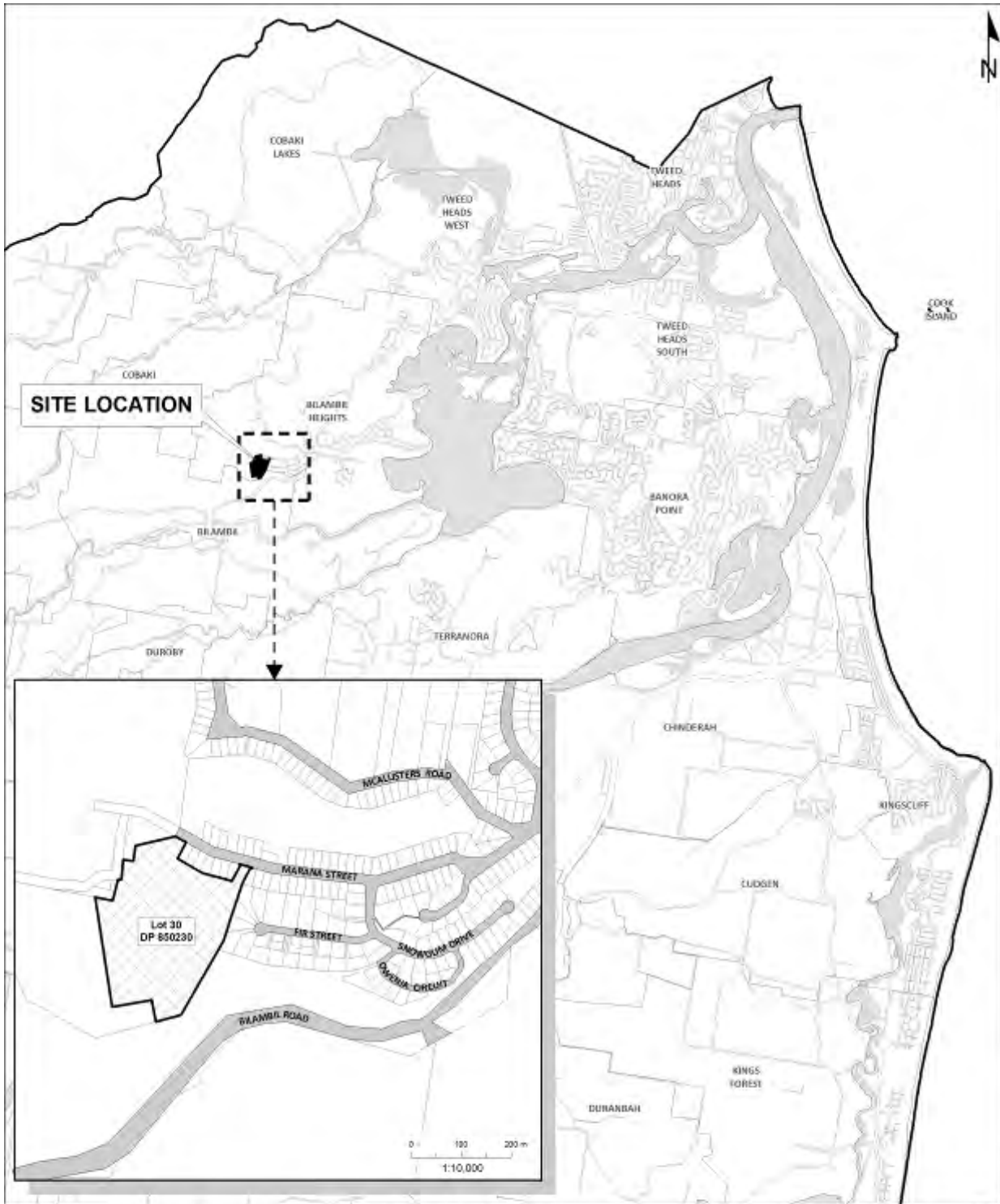
2. **The proponent be advised that additional traffic assessment is required and should be submitted as an addendum to the planning proposal that clearly demonstrates the capacity of the catchment. Any addendum information requiring reassessment is to be subject to the draft fees and charges recommended in Planning Reforms Work Program report listed in the Council agenda of 20 July 2010.**

REPORT:

BACKGROUND

The site is located off Marana Street at the western periphery of Bilambil Heights urban area. Bounded to the north east by 2(a) Low Density Residential development, the majority of the site is bounded by land zoned 6(b) – Recreation and 7(d) Environmental Protection. The site is approximately 6.793 ha in area and is zoned 6(b) Recreation under Tweed LEP 2000.

FIGURE 1: LOCALITY SITE PLAN:



LOCALITY PLAN
 Lot 30 DP 850230
 No. 61 Marana Street, Bilambil

0 1 2 Km
 1:75,000

<p>Filename: c:\year\planning\mxd\A4P_B&W SitePlan.mxd Author: J Batchelor - Planning Reforms Unit Date Printed: 24 June, 2010</p>	<p>   Cadastre: 25 June, 2010 © Dept. of Lands & Tweed Shire Council</p>	<p>Civic and Cultural Centre 3 Tambouran Road Manildra NSW 2484 PO Box 910 Manildra NSW 2484 T: (02) 6670 2400 / 1300 292 872 F: (02) 6670 2483 W: www.tweed.nsw.gov.au E: planning@tweed.nsw.gov.au</p>
<p><small>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 declines all responsibility and all liability (including without limitation, liability in negligence) for all responses, 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 1100. The information contained on this document remains valid for 30 days only from the date of supply.</small></p>	<p><small>Coordinate System - MGA Zone 56 Datum - GDA 94 DO NOT SCALE COM QMS - NOT CERTIFIED</small></p>	<p> TWEED SHIRE COUNCIL</p>

FIGURE 2: AERIAL PHOTOGRAPH:

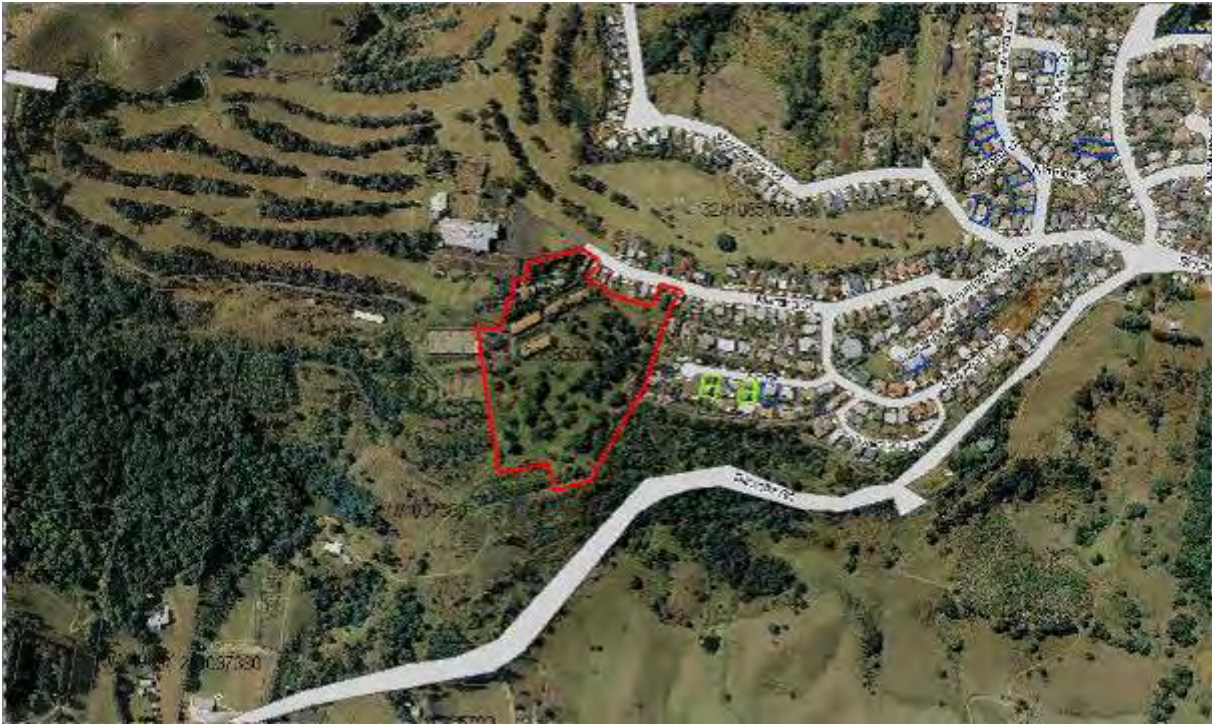
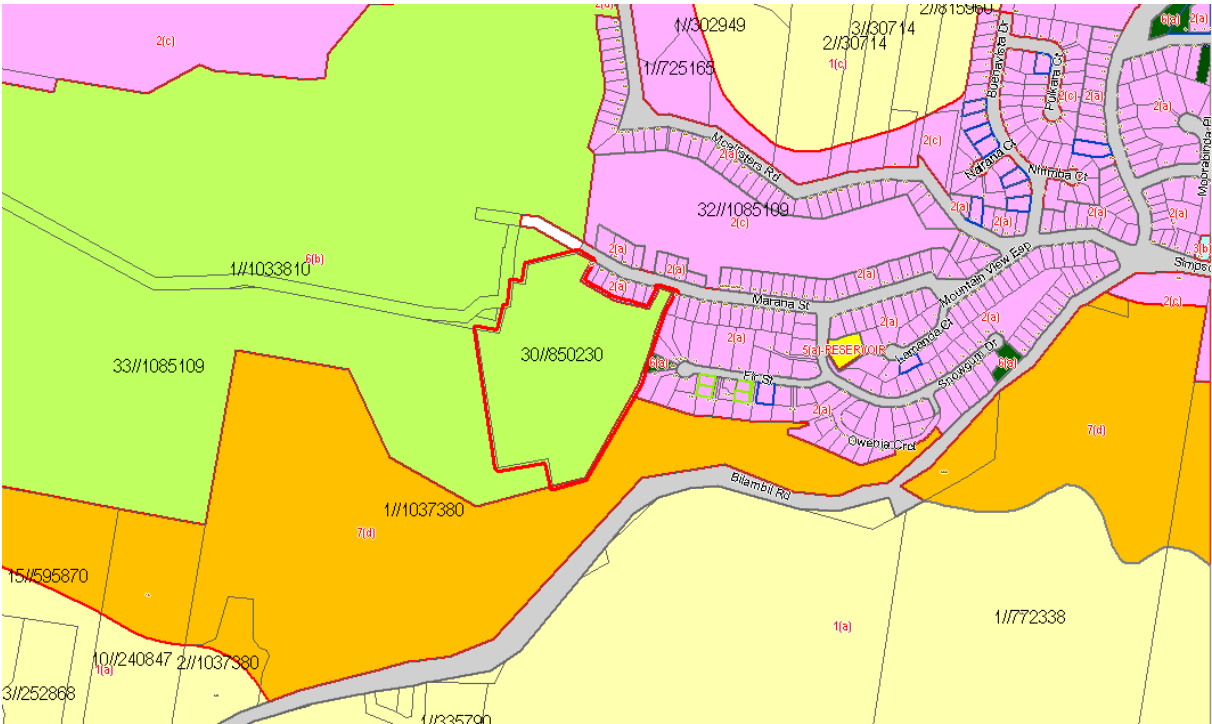


FIGURE 3: LEP 2000 ZONE MAP:



SITE AND PLANNING HISTORY – “MARANA STREET”




The site history demonstrates development consent approved for tourist accommodation (48 Units), restaurant and associated facilities. These facilities were part of the now closed Royal Terranora Resort, a timeshare facility that ceased active operation several years ago.

The site is identified within the Town and Village Growth Boundary of the Far North Coast Regional Strategy 2006 (FNCRS) and is in the vicinity of the wider Bilambil urban release area. The FNCRS acknowledges that land within this growth boundary area is to be utilised for urban development, however qualifies that when considering the release / rezoning of land must be integrated with the supply of relevant infrastructure and transport provision.

FIGURE 4: FNCRS TOWN AND VILLAGE GROWTH BOUNDARY MAP:



FAR NORTH COAST REGIONAL STRATEGY

-  Town and Village Growth Boundary
-  Employment Lands
-  Urban Release Areas

<p>Filename: z:\srn\Planning\Projects\PP10-0002 81 - smz\MAP 12 - FNCRS.mxd</p> <p><small>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purposes and therefore, 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 are for any reason. This information is supplied for the general guidance and is to be considered indicative and diagnostic only. It should not be used for survey or construction purposes and prior to any excavations a 'Call before You Dig' enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.</small></p>	 <p>Created: 05 July, 2010 © Dept. of Lands & Tweed Shire Council</p> <p>Coordinate System - MGA Zone 56 Datum - GDA 94</p> <p>DO NOT SCALE COPY ONLY - NOT FOR P&ID</p>	<p>Author: J Batchelor - Planning Reforms Unit</p> <p>Date Printed: 05 July, 2010</p> <p>Civic and Cultural Centre 3 Terlinkgate Road Murrumbidgee NSW 2484 PO Box 816 Murrumbidgee NSW 2484</p> <p>T (02) 6670 2400 1300 282 872 F (02) 6670 2420 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p> 
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THE PLANNING PROPOSAL

On 13 May 2010 Planit Consulting lodged a Planning Proposal for the site seeking to have the site rezoned from 6(b) Recreation to R1 General Residential (or 2(c) Urban Expansion under Tweed LEP 2000).

A preliminary plan has been prepared for the site as seen in Figure 5, however it is noted by the proponent that this preliminary plan is for information purposes only.

FIGURE 5: PRELIMINARY PLAN:



<p>Teranora Resort - Masterplan Concept 3</p> <p>Green Ridge Estate</p>	<p>DATE: 14/06/10</p> <p>DRAWN: JH</p> <p>CHECKED: AL</p> <p>SCALE PROVIDED:</p>	<p>NO. 1001</p>	<p>Prepared by: PLANIT CONSULTING</p> <p>Member of the Planit Group</p> 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Part 1: Objectives or intended outcomes

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

The planning proposal endeavours to have the site rezoned from 6(b) Open Space to allow for development higher density forms of residential development. The proponent acknowledges that the likely future development is yet to be finalised, however is likely to accommodate *'attached dwellings, multi dwelling housing, residential flat buildings semi detached dwellings and dwelling houses.*

The preliminary plan (guide only) also indicates some potential commercial activities over the site.

Whilst DoP Guidelines stipulate that Part 1 is not to demonstrate the mechanisms of how to achieve the objectives, the proponent has indicated that R1 General Residential (2(c) Urban Expansion under Tweed LEP 2000) is the desired zone.

Part 2: Explanation of the Provisions

This is intended to be a full and clearly expressed statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed by the LEP.

Part two of the proponents planning report is unclear in that it recommends two zones, both R1 – General Residential (2(c) Urban Expansion under LEP 2000) and R3 – Medium Density Residential (2(b) under LEP 2000). The draft mapping included within the planning statement depicts R1 – General Residential. The draft mapping indicates a maximum height of 13.6m which is consistent with the Tweed Draft LEP 2010 standards instrument mapping.

Part 3: Justification for the Planning Proposal

The justification, as required by the *Environmental Planning and Assessment Act 1979*, sets out the case for changing the zone and development controls on the land affected by the proposed LEP. While it is not envisaged that, in the majority of cases, that technical studies will be undertaken prior to the gateway determination, it is however essential that major site constraints be identified and where necessary studies and investigations undertaken to justify different aspects of the planning proposal.

The following heads of consideration are outlines by the Department of Planning.

Section A - Need for the Planning Proposal

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

This planning proposal is not the result of any strategic study or report.

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

From the proponent's perspective, to achieve the objectives outlined in Part 1, a planning proposal would be the appropriate, most time efficient means of achieving intended outcomes. From Council's perspective however, in accordance with the provisions of the FNCRS, release of Greenfield land should be in accordance with Local Growth Management Strategy (LGMS), prepared by Council in order to identify land both within Town and Village Growth Boundary and elsewhere in the Shire which is capable of accommodating additional urban, commercial and industrial uses in accordance with the settlement planning guidelines. It is the position of the PRU, given the supply of undeveloped 2(c) Urban Expansion Land in the Bilambil Heights Area that any further rezoning within the Bilambil Heights Area should not be undertaken until the finalisation of a LGMS.

Is there a net community benefit?

The purpose of the Net Community Benefit test is to help assess the merits of the planning proposal and DoP recommends that the proponent prepare the assessment for endorsement by the local planning authority prior to submission to DoP as part of the Gateway test. No net community benefit assessment has been prepared at this preliminary stage. Should the merit of the application be revisited by Council at a later stage, the proponent will be required to liaise with Council's Planning Reforms Unit as to the requirement or otherwise for a net community benefit assessment.

Section B - Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub regional strategy?

The subject site is located within the Town and Village Growth Boundary, which in accordance with the strategy specifies land to accommodate urban development. The relevant principles are as follows:

'Council will prepare a local growth management strategy prior to zoning further land for urban, commercial and industrial uses in accordance with the settlement planning guidelines'

'Planning for urban land must be integrated with the supply of relevant infrastructure and transport provision'

The subject site is at the periphery of the Town and Village Growth Boundary, therefore can be considered for urban purposes through the Gateway Process. Notwithstanding, the planning proposal is deemed to have constraint with respect to traffic capacity within the catchment.

Is the planning proposal consistent with the local council's community strategic plan, or other local strategic plan

Council's Strategic Plan, Tweed 4/24, adopted in September 2004 sets priorities for urban development. This plan notes the major release areas within the Tweed Shire, being those lands that have the benefit of an urban zoning and are yet to be developed, specially land at Kings Forest, Cobaki, Bilambil Heights. 4/24 further demonstrates that there are known road infrastructure impediments to both Bilambil Heights and Cobaki Lakes. The subject site is not within these urban zoned areas.

Priority 36 of the plan states, in respect of infrastructure priorities:

'complete essential improvements to major road links including access to Cobaki Lakes and Bilambil Heights, and upgrading of Minjungbal Drive, South Tweed Heads.'

A detailed assessment of road infrastructure issues is discussed below. However, the subject planning proposal presents significant road infrastructure issues given the adopted approach to the management of vehicle trip capacity in the Kennedy Drive catchment.

Is the planning proposal consistent with applicable state environmental planning policies?

Based on a desktop review the PP appears to be predominately consistent with applicable SEPPs.

Is the planning proposal consistent with applicable Ministerial Directions s.117 directions?

Based on a desktop review the PP appears to be predominately consistent with applicable s117 directions.

Notwithstanding criteria 6 and 7, the planning proposal has demonstrated localised infrastructure issues which constrain the progression of the planning proposal to the next stage.

Section C - Environmental, social and economic impact

The purpose of Stage 1 of the process is to determine if there are any significant constraints which restrict the progression of the planning proposal to the next to a point where Council deems it inappropriate to recommend referral to the Department of Planning for an initial gateway determination.

The initial assessment undertaken by Council Officers has resulted in the identification of a significant issue with respect to traffic capacity within the Kennedy Drive catchment, which at the present time represents the only viable access to service trips generated from a development within the Bilambil Heights area. The assessment below also reviews other relevant considerations and makes recommendations for what the proponent would need to do at subsequent stages in the event of satisfying traffic capacity issues.

As a result of the traffic capacity issue, it is recommended that the planning proposal not proceed to the next stage of assessment. Given the commitment of the PRU (in consultation with the industry), the underlying principle which enable planning proposals to be considered, is that the proponent will identify and report substantive issues affecting or potentially impacting on the progression of the proposal, or as a consequence of the proposal result in significant adverse impact to the wider locality. This is a resounding requirement of DoP's own guidelines and forms the basis within which the PRU commits to a expedited turn around of planning proposals. Should the proponent wish to undertake further analysis, the option is open to resubmit additional information, in accordance with the fees and charged outlined in the preceding report, which makes recommendations to Council regarding the fees and charges relating to planning proposals.

Traffic:

Currently, the site relies on vehicle access via Kennedy Drive given there is at present, no alternative access to the Bilambil Heights area which is viable for increased traffic volume. Council undertakes a monitoring program of the Kennedy Drive catchment which essentially looks at the overall capacity of the catchment to accommodate vehicle trip, with 'spare' capacity held in credits for use as development applications are lodged with Council.

In June 2007, Council resolved, in respect of future development west of Cobaki Bridge, that the current remaining capacity for the area be allocated to development applications on a 'first come, first served' basis. At the present time, the available spare capacity is almost exhausted. What spare capacity does remain is to be safeguarded for land that has the benefit of an urban zoning under the current LEP.

The proponents planning report states the following in relation to traffic demand:

'It is noted that a detailed traffic report will be required to be prepared that demonstrates that existing road infrastructure has sufficient capacity to cater for the additional demand generated. In that preliminary findings suggest that there are no significant issues relating to road capacity issues.'

It is acknowledged that the initial stage of the planning proposal assessment process, does not stipulate any requirement for full and detailed studies to be submitted in an attempt to streamline and expedite LEP amendments, particularly with respect to the initial stage where Council considers whether or not to make an amendment. This requires however, a full and proper evaluation of the proposal by the proponent in order to identify and articulate the substantive issues which may impair the progression of the proposal to the gateway process.

The Kennedy Drive catchment capacity issue is well documented and widely known. Tweed's strategic 4/24 acknowledges that road infrastructure servicing for existing urban zoned land in Bilambil Heights is to be rectified prior to commencement of development at those sites. Therefore, given all lands are presently serviced by Kennedy Drive and Cobaki Bridge with no alternative, there remains no evasion of this issue.

From a strategic perspective, Council must promote sequential and orderly development of land to ensure proper management of infrastructure and delivery of services, road infrastructure, no exception. As such, it would be out of sequence to either allocate credits to non urban zoned land (particularly at this initial stage of assessment) over development which may present itself to Council in the future on land with the benefit of an urban zoning under the current LEP. Further, existing 2(c) land west of Cobaki Bridge currently being considered under part 3A of the EP&A Act (Major Projects) are currently constrained due to similar road capacity issues. As such, it would be disorderly to for Council to perpetuate this issue by proceeding with the rezoning of land for urban purposes, with no alternative solution to the existing capacity problem.

The applicant has highlighted in correspondence to the PRU the following:

'the subject land is already zoned for development. The current zoning does not place restrictions on the intensity of the development and an application could be lodged for a variety of land uses. It appears unreasonable to not support what is essentially a change in zoning rather than an upzoning, based on the Kennedy Drive issue.'

The proponent further stipulates that: *'We are not seeking approval for a specific concept at this stage, and we are aware that if the rezoning is successful that a future DA will still be required – it would be at that stage that the issue of regional traffic issues would be assessed.'*

Whilst this position is noted, it fails to acknowledge fundamental strategic planning and strategic infrastructure planning principles. It is erroneous to categorize the current 6(b) – Recreation zoning with the R1 General Residential Zone and simply defer matters to the Development Application stage, given that the latter zone has the capacity for substantially higher development yield and land use intensities.

Council is required to acknowledge capacity issues at the current stage given the known short fall in the Kennedy Drive catchment, firstly in order to safeguard any spare capacity for land which has the benefit of an existing urban and to guide and promote the sequential release of Greenfield land.

Based on the traffic capacity issues, it is recommended that the subject planning proposal not proceed to the gateway stage.

Engineering and infrastructure:

The provision of water, sewerage and drainage infrastructure is believed to be possible, however a detailed engineering and infrastructure assessment and report would be required post gateway determination. It should be noted, from the assessment of Council's Strategic and Assets (water and sewer) Engineer, that *'the reservoir (to service the subject site) has been considered to be fully committed but a revision of Council's Design Standard allowing for a reduction in demand across the Shire, will result in there being some additional capacity in terms of equivalent persons which would permit the proposed increase which has been estimated to be approximately 215 ep. This would however result in the reservoir being fully committed.'*

This is of relevance given that the initial plan provided in conceptual only. Should the planning proposal proceed and be successful, the proponents objectives for the site, the yield of development under the R1 – General Residential Zone. (with the suggested 13.6m maximum height limit) could, in theory, be substantially greater than that estimated from the proposed concept plan.

It is noted by Council's Strategic and Assets Engineer that, in respect to sewer, significant upgrade would be required to accommodate approved and proposed development in the area, (which includes the subject development) and contribution to those works would be required. It is expected that sewer capacity can be successfully be updated and would therefore, in its own right, not be an impediment to the planning proposal progressing.

Stormwater and Landforming:

Council's Infrastructure Engineer has reviewed the proposal and provided the following comments:

'Stormwater Management (water quality and quantity) and erosion and sediment control will be important, and establishing a lawful point of discharge will be essential for development of the site.'

Bulk earthworks and landforming design are necessary details for sloping sites such as these (with slopes greater than 18°) as it directly influences the acceptability of road design, future driveway access, boundary treatments (e.g retaining walls), service provision (eg sewer and water), stormwater management for minor and major events, and the suitability of future dwelling types (eg slab on ground vs pole homes).

These holistic site planning principles need to be addressed early in any development process. They would not ordinarily be an impediment to the proposal progressing.

Ecology:

The planning proposal was referred to Council's ecologist. At this preliminary stage, it is recognized that there are a number of threatened flora and fauna species within the vicinity of the site. Whilst this is not an impediment to the progression of the planning proposal, Council should note that it would be expected that the proponent would undertake flora and fauna studies at a subsequent stage. Comments as follows:

Due to the recorded locations of forty different threatened flora and fauna species within a two kilometre radius of the Planning Proposal site, Council considers a Baseline Ecological survey is necessary to determine the ecological suitability of the site for the proposed zone and potential future development. A guide to the expected process to undertake a Baseline Ecological Survey is attached.

Council may also request referral to the DG of DECCW in accordance with Clause 34A (2) of the EP&A Act due to Council's opinion that (due to the high number of records of threatened species and an endangered ecological community proximal to the subject site) that threatened species, populations or ecological communities or their habitats may be adversely affected by the proposed instrument. Such referral should only be made (in accordance with S34A (4)) after a decision is made under Section 56 that the matter should proceed.

Social and economic impacts:

The overarching traffic capacity issue results in the development being deemed an unacceptable social and economic impact at the present time. Whilst other matters have been canvassed within the report, this issue (coupled with the proponent's failure to provide appropriate justification at the present time) warrants the planning proposal unacceptable for progression. Wider social and economic impacts associated with the proposed development would need to be considered in the event of the catchment issue being resolved to Council's satisfaction.

Section D - State and Commonwealth interests

Is There Adequate Public Infrastructure for the Planning Proposal?

Despite the issue of local road infrastructure capacity issues, preliminary review suggests that adequate water and waste water capacity is available to the subject. It is likely that electricity and telecommunication infrastructure is achievable. As such, there is, at this preliminary stage, no state infrastructure impediment to the planning proposal. Subsequent stages of assessment will review school and health facilities in the wider Bilambil area.

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

The application is yet to proceed through the gateway and has not yet been referred to any State or Commonwealth Authorities. Should the application progress in the future, it is likely that a number of State agencies would need to be consulted, namely DECCW in regard to flora and fauna issues.

Part 4 - Community consultation

Given the constraints to the progression of the plan, the level of community consultation is undetermined. Should the application progress to the next stage in the future, a review of this based on information at Council's disposal at that time.

CONCLUSION

On the basis of desktop review, the PP is considered to contain insufficient strategic assessment and merit to warrant its referral to NSW Department of Planning for a gateway determination, based firmly in traffic capacity issues within the Kennedy Drive catchment. Whilst a high level merit assessment has been undertaken, this singular issue (and its lack of proper address by the proponent deems the proposal unacceptable at the present time.

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

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

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.

**11 [PR-CM] Planning Proposal PP10/0003 - Stage 1 Part Lot 237 DP 1139108
Rous River Way, Murwillumbah (Riva Vue Estate)**

ORIGIN:

Planning Reforms

FILE NO: PP10/0003

SUMMARY OF REPORT:

This report seeks Council's consideration of a planning proposal to amend Tweed Local Environmental Plan 2000 as it relates to part Lot 237 DP 1139108, Rous River Way, Murwillumbah. The planning proposal seeks to enable part of the lot to be developed for residential purposes, with ancillary open space areas.

Preliminary assessment of the planning proposal indicates that the proposal is predominately consistent with applicable State Environmental Planning Policies and Section 117 Ministerial Directions. The proposal is generally consistent with the Far North Coast Regional Strategy, however further consideration towards the principles of this strategy will be required as part of the Stage 2 assessment, following a 'Gateway' determination approval by the Department of Planning.

The report concludes that the planning proposal is suitable for referral to the Department, and this is to be supported with an identification list of the additional supporting studies required for the Stage 2 gateway determination assessment.

RECOMMENDATION:

That:

- 1. Planning Proposal PP10/0003 for a change of land-use zone classification to enable Lot 237 DP 1139108 to be developed for the purposes of a *low density residential estate of similar character to the approved adjoining Riva Vue subdivision* be supported in principle and that the proposal be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979*.**
- 2. The applicant of the planning proposal PP10/0003 is to be advised that the actual rezoning classification of the land, if supported by Council, will be determined following assessment of any detailed site studies required as part of the Stage 2 gateway determination process.**

REPORT:

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

A further more detailed discussion on the new Part 3 (Plan Making) process is provided in the 'Boyd's Bay Garden World Planning Report, which precedes this Item on today's Council's Business Agenda for 20 July 2010.

The format of this Council report is based on the format provided by the legislation and DOP guidelines for planning proposals.

AGRICULTURAL LAND STATUS – FARMLAND PROTECTION STATUS

The subject lands are currently zoned 1(b2) Agricultural Protection under the Tweed LEP 2000, with a prescribed minimum lot size of 40ha.

The land is not classified under the Farmland Protection Project (FPP) or caught by the s 117(2) Ministerial Directions, in particular Direction 5.3 (Farmland of State and Regional Significance on the NSW Far North Coast), as any of the following:

- I. State significant farmland
- II. Regionally significant farmland
- III. Significant non-contiguous farmland.

The FPP seeks to protect important farmland from urban and rural residential development by mapping farmland and developing planning principles. Ultimately its aim is to keep agricultural land available for farming and to minimise farming/residential land-use conflicts.

The Northern Rivers Farmland Protection Project Final Recommendations Report 2005 states that these lands should generally not be considered for land-use change through rezoning, and is implemented to that effect through the Ministerial s 117(2) Directions.

The subject land is identified on the FPP maps as "other rural" land notwithstanding the zone classification under the Tweed LEP. There are no similar restrictions either under the FPP recommendations or the Ministerial Directions applying to this classification.

Notwithstanding that the agricultural aspect of subject land is not protected beyond the Tweed LEP zone classification there is still a substantial need for the agricultural suitability of the land to be thoroughly assessed in order to properly underpin any determination in support of a change in rezoning.

This aspect of the assessment is also a necessity in responding to the Ministerial Direction 117(2) 1.2 (Rural Zones) and 1.5 (Rural Lands), and subsequently, SEPP (Rural Lands) 2008 which required comprehensive assessment of the rural land status against the rural land zoning. This report demonstrates the need for further assessment of this issue as part of the Stage 2 planning proposal evaluation process.

SITE AND PLANNING HISTORY

There is an extensive site history outline in the report accompanying the planning proposal, detailing previous submissions for rezoning of this land since 2007. However these requests, due to the Council's position were not progressed beyond s.54 stage. Land adjoining the subject land to the east has had the benefit of rezoning, and is now a low density residential subdivision known as Riva Vue (both 2(a) and 2(c)) approved under 05/0308, these stages are partially constructed.

A road has already been constructed within the subject site. The proponent forwards that this road was constructed to link Joshua Street at the northern boundary of the site to the Murwillumbah Sewerage Treatment Plant. Rous River Way will ultimately connect to the West End Street Extension to form part of the Byangum Road bypass.

Lot 237 is located to the west of Murwillumbah Town Centre, adjacent to the Rous River. The site area is approximately 14ha in total and is currently zoned 1(b2) – Agricultural Protection.

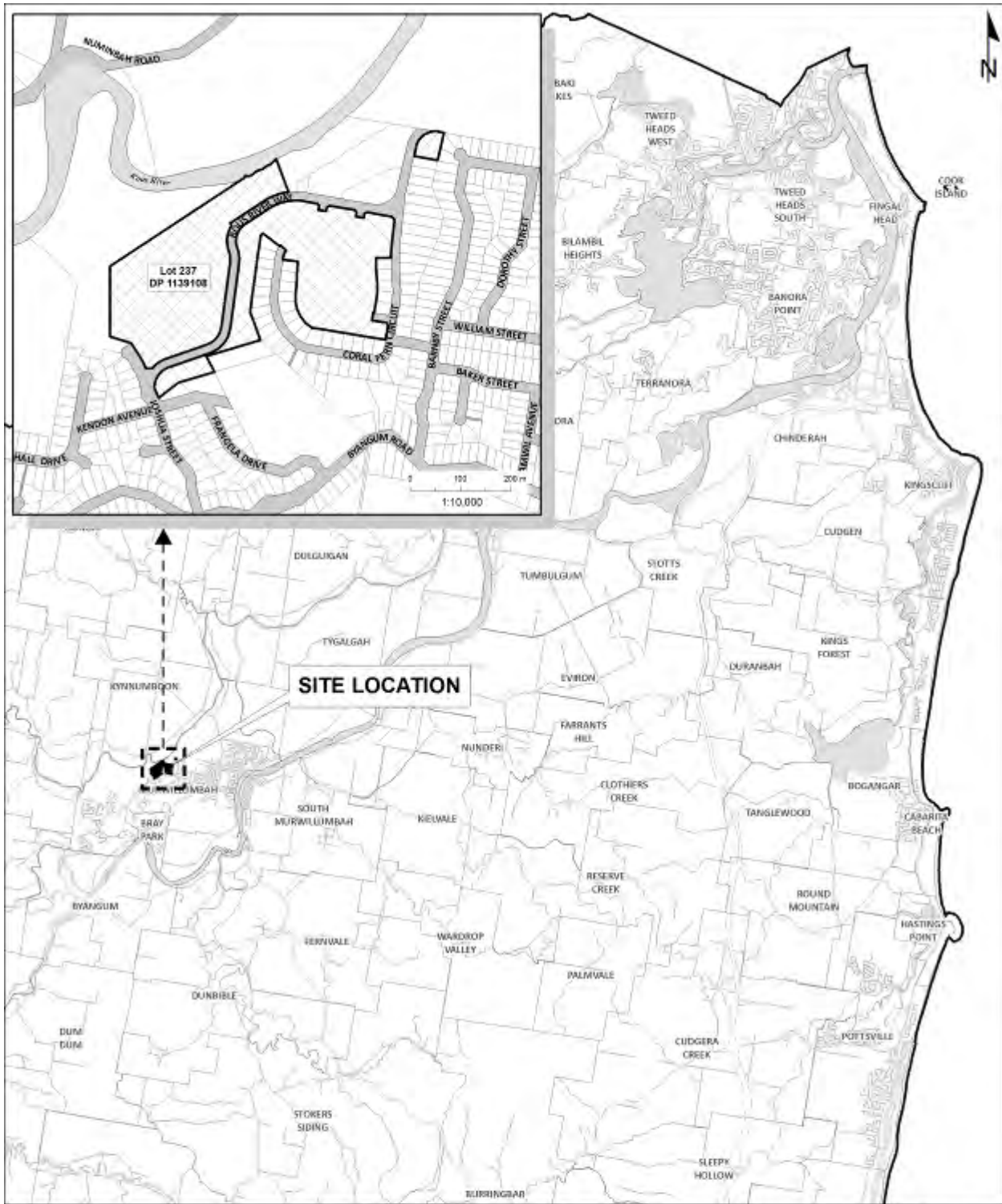
The subject site abuts a new residential subdivision development that was approved in 2005 (DA05/0308). A new road extension to Rous River Way has been constructed and dedicated to Council as part of that development. Part of the road and the batter support for it are located in the subject agriculturally zoned land.

A report to the Council Meeting of October 2008 reported unlawful filling of part of the site, which was later resolved by way of s 96 development application modification to the parent applicant DA05/0308.

The Council's consideration of the modification application raised the issue of development within the agriculturally zoned land and was the subject of significant debate. This planning proposal is likely to raise similar concern or issue within the community as did that application.

The status of the lands agricultural classification is discussed above.

FIGURE 1: SITE LOCALITY PLAN



LOCALITY PLAN
 Lot 237 DP 1139108
 Rous River Way, Murwillumbah

Filename: z:\esr\planning\mxd\A4P_B&W_SitePlan.mxd Author: J Batchelor - Planning Reforms Unit Date Printed: 24 June, 2010

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about 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 illustrative only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.

GDA Cadastre: 25 June, 2010 © Dept. of Lands & Tweed Shire Council
 Coordinate System - MGA Zone 56 Datum - GDA 94

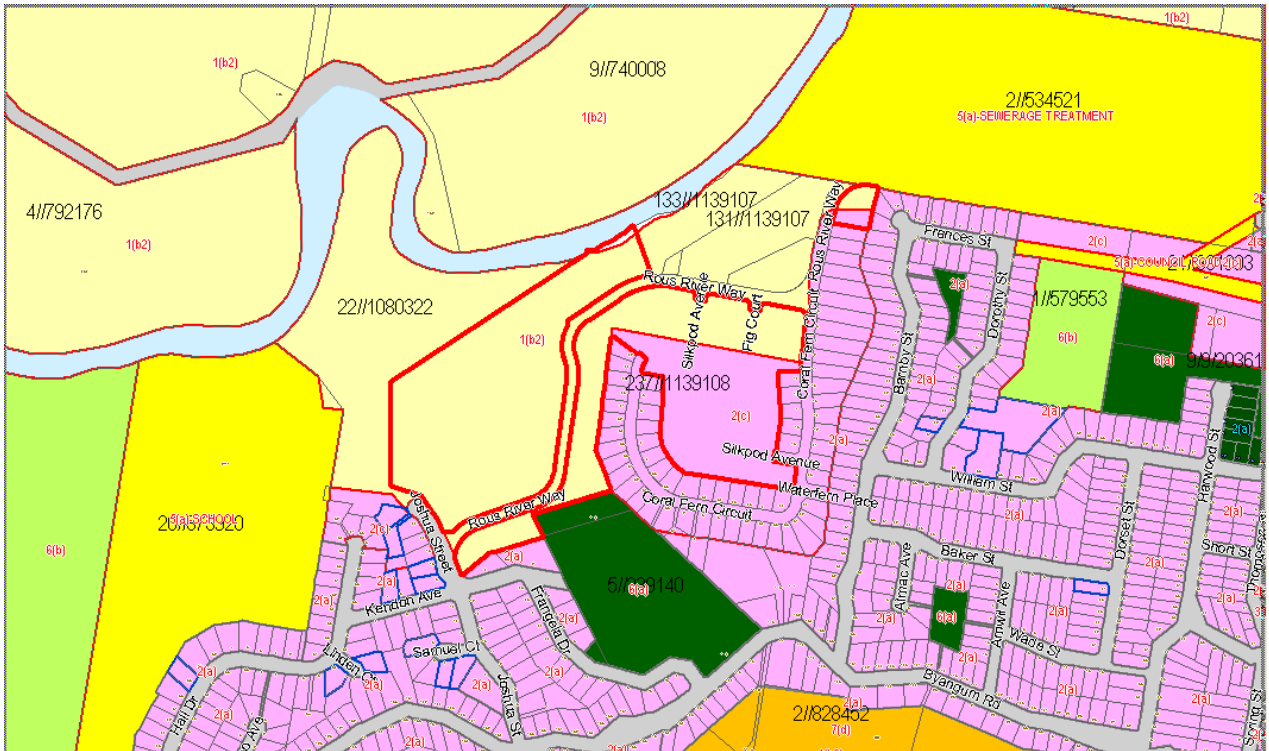
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 F: (02) 6670 2485
 W: www.tweed.nsw.gov.au
 E: planningreforms@tweed.nsw.gov.au

TWEED
 SHIRE COUNCIL

FIGURE 2: AERIAL PHOTO



FIGURE 3: LEP 2000 ZONE MAP



THE PLANNING PROPOSAL

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

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

The planning proposal describes its intended outcomes as follows:

'The objective of this planning proposal and any Draft Local Environmental Plan is to enable part of Lot 237 DP1139108 to be subdivided to create a low density residential estate of a similar character to the approved adjoining Riva Vue subdivision.'

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

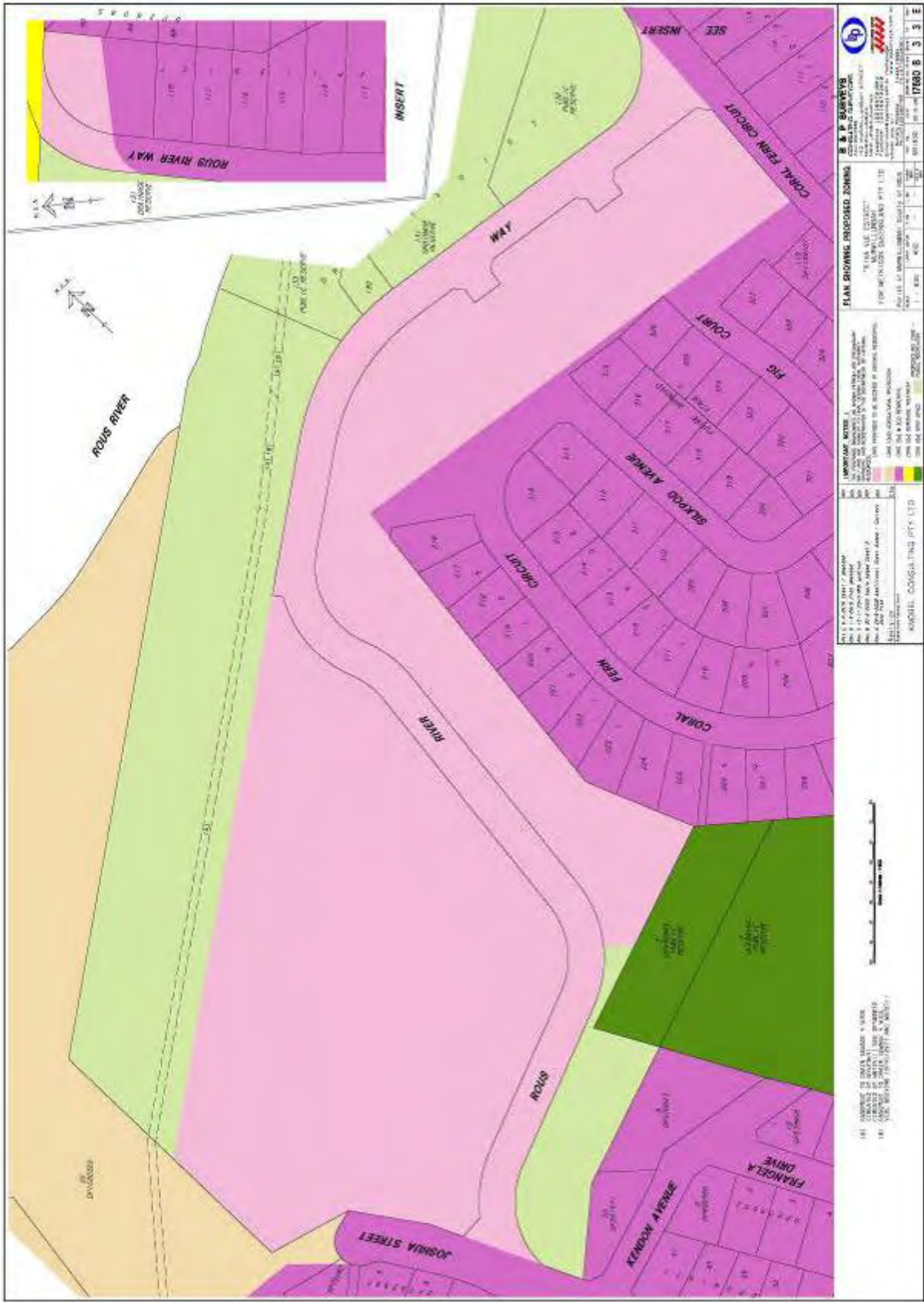
Part 2 Explanation of the Provisions

To enable the prescribed objective, the planning proposal seeks to amend the zoning map of the Tweed LEP as per Figure 4 . A basic summary of the changes sought is contained in Table 1 below:

Table 1 – Desired changes to the Tweed LEP 2000

Property (Lot/Sec/DP)	Tweed LEP 2000 Zoning	Draft Tweed LEP 2010 Zoning	Proposed Zoning
237//113910 8	1(b2) – Agricultural Protection	RU1 Primary Production	R1 General Residential

FIGURE 4: PROPOSED ZONING MAP



Part 3 Justification for the Proposal

Section A – Need for a Planning Proposal

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

The planning proposal is not a result of any specific or adopted strategic study or report prepared at either a local or regional level. The subject site is not located within the existing urban footprint (Town and Village Growth Boundary) identified within the Far North Coast Regional Strategy (FNCRS).

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

Given the subject site falls outside the town and village growth boundary of the FNCRS and is zoned Rural, rezoning of this land should not be undertaken until the adoption of a Rural Lands Strategy by Council. However, until this is completed, nothing prohibits a proponent from lodging a planning proposal over any land within the Shire. For the proponent to achieve their current objectives, a planning proposal process is the best means at the present time. SPEAK WITH IAIN

Is there a net community benefit?

The proponent has made an assessment of the net community benefit associated with the subject planning proposal. A preliminary review of this has been undertaken. Further assessment of this will be required as part of the Stage 2 process.

Section B - Relationship to Strategic Planning Framework

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

Preliminary review of the FNCRS indicates that the defined Town and Village Growth Boundaries in the strategy are intended to accommodate the Region's urban housing and employment needs until 2031.

The Strategy states:

“These areas are to accommodate uses including housing, tourism, industry, business, infrastructure, community facilities and open spaces. Where demonstrated by a local environmental study that a minor adjustment to the Town and Village Growth Boundary is necessary with it, some minor variations may be considered. The strategy goes on to state that ‘any development proposed for Greenfield sites in non coastal areas that is located outside the Town and Village Growth Boundary will be subject to satisfying the Sustainability Criteria.’”

Whilst the subject site is not located within the Town and Village Growth Boundary, it does nevertheless abut the boundary. The FNCRS does not prohibit investigation of sites outside this boundary in non-coastal areas (West of the Pacific Highway) being considered for urban development. Whilst a more detailed assessment will be required in subsequent stages of

the planning proposal process, there is nothing within the Strategy to prevent this planning proposal progressing to the gateway determination.

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

Preliminary review indicates that the planning proposal is generally consistent with applicable SEPPs. Further assessment and consultation will be required within Stage 2 with respect to (but not limited to) SEPP (North Coast REP 2008), SEPP 55, SEPP (Rural Lands) 2008.

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

Preliminary review indicates that the planning proposal is generally consistent with applicable s117 Directions, further review and consultation will be required in respect to certain directions, however there is nothing within these that impedes progression of the application to Stage 2.

Section C - Environmental, Social and Economic Impacts

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

A review of the planning proposal indicates that there are no significant flora and fauna constraints at the site. The proponent has submitted a Flora and Fauna Assessment that was completed in 2005. It acknowledges that adequate buffer areas will need to be determined however an updated flora and fauna assessment will need to be requested and provided as part of the Stage 2 assessment.

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

Preliminary review indicates that the proposal would not likely result in any other significant environmental impacts, however further detailed consideration of studies will be required, particularly an updated Flora and Fauna Assessment. Ultimately the true extent will not be ascertainable until the more detailed assessment as part of Stage 2 is undertaken.

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

The proponent has addressed the social and economic impacts of the development within the planning proposal a preliminary review of this assessment deems the proposal satisfactory to move through to Stage 2 for further assessment. It is noted however that the proponent makes an assessment of potential s.94 contributions, per allotment, which now due to Ministerial Directions (specifically in relation to s.94 capping) not achievable. Further assessment regarding s.94 contributions at the site will be undertaken in Stage 2, however it should be noted for reference purposes that \$20,000 cap implemented by the State Government may impact on the proposal.

Other Environmental, Social and Economic Considerations resulting from internal referrals.

Strategic and Structural Planning Considerations

A preliminary review of the proponents planning submission has been reviewed with no significant issue being raised with respect to progression of the proposal to the gateway determination and Stage 2 assessment. However, as part of Stage 2, the proponent will be required to update the relevant studies submitted to date, to reflect contemporary Federal, State and local policy positions, as well as more accurately reflect the current rezoning proposal in its own right, as opposed to the wider Riva Vue rezoning area, a portion of which is now being developed.

Early discussion with the proponent regarding the assessment of a number of matters will need to be undertaken and this is likely to be based on the broader planning framework for the subject rezoning, including, but not limited to:

- The assessment by the proponent regarding the rezoning of agricultural land in the context of the FNCRS, relevant SEPP's and s117 Directions and local policy framework.
- The overall framework of the site, a DCP, structure plan, masterplan or the like to canvass areas such as lot and road layout, yield, buffer zones, public open space and connectivity;
- Clearer definition of the boundary area of the subject application, indicative plans includes Council Lots (130-133: 2 x Public Reserves, drainage reserve and a sewer pump station) within the rezoning map and other diagrams submitted. A cautionary approach is applied here to canvass Council's position with regard to future applications;
- S94 Developer contributions in the context if the capped maximum amount per lot;
- Strategic consideration of proposed land forming, stormwater management, water and sewer servicing, traffic and access and the like.

Traffic:

The proposal was assessed by Council's Traffic and Transport Engineer and Council's Development Assessment Engineer and no major concerns were raised in regard to access and traffic management in principle. It was requested that as part of the Stage 2 assessment:

'the proponent submit a traffic assessment of the proposal demonstrating the ability of the local road network to cope with increased traffic load and any adverse impact that may result. As part of this, the proponent will be required to prepare a road layout plan for the proposal that depicts the appropriate lot layout as per TSC A1 and A5'.

Engineering and infrastructure:

The planning proposal was referred to Council's Strategic and Assets Engineer and Council's Development Assessment Engineer and no objection was raised to the planning proposal progressing the next stage. The water and sewer supply are deemed appropriate for progression to Stage 2. However, as part of Stage 2, Council will require the proponent to prepare a Water and Sewer Servicing plan for the site to ensure investigation of the

capacity of existing water and sewer servicing infrastructure in the area, where and how to connect to existing systems, and determining if any major upgrades area required.

Flooding, Stormwater and Landforming:

Flooding:

The planning proposal has been referred to Council's Planning and Infrastructure Engineer and Council's Development Assessment Engineer. The following response outlines comments raised:

"The subject land is flood liable, and must be filled to make it suitable for future residential subdivision development. DCP-A3 has recently been revised following an update to the Tweed Valley Flood Study. Flood mapping shows that the current 100 year ARI flood level is RL 4.9m AHD, with a potential increase due to climate change up to RL 5.1m AHD.

Under DCP-A3, the climate change design flood level of RL 5.1m AHD applies, as the future residential subdivision will be defined as a "greenfield" development, as it exceeds 5 hectares in area, and expands on the existing stages of the Riva Vue Estate. This corresponds with the applicant's fill proposal, and requires up to 3m of fill to be applied to the site.

A flood impact assessment has been provided with the planning proposal (Annexure 6). Written in 2004, it relates to the impacts of filling the eastern portion of the Riva Vue Estate, and does not include the subject areas in its assessment (refer Figure 3.2, page 3-3). A 2-dimensional flood model is now also available to the proponents to better model the impacts of fill. As such, in order for the rezoning to be supported, a new flood impact assessment should be provided, to demonstrate no significant adverse impact on local flood behaviour or adjoining land.

The site adjoins high land above the probable maximum flood level (PMF = RL 9.3m AHD), so emergency response for the residential subdivision can be adequately managed by the provision of evacuation routes for floods exceeding the 100 year ARI event.

Stormwater:

An overall Stormwater Management Plan must be prepared for the site, in accordance with Council's 'Tweed Urban Stormwater Quality Management Plan', DCP A5 and Development Design Specification D5. Matters to be addressed include (but are not limited to):

- *Discharge point(s) for the site – is it intended to utilise the existing constructed wetland (address existing capacity and ability for expansion if so) or seek a separate discharge point to the Rous River?*
- *Water quality issues to be addressed for any new discharge point to the Rous River.*
- *Utilise Water Sensitive Urban Design methods when nominating the stormwater design philosophy for the site.*

The proponent should note the following, which will need to be addressed as part of the Stage 2 assessment.

*Trunk Drainage open channels. The proposal has ignored the consequences of proposing residential lots over an area that has an existing large open drainage channel – which is also under-performing (blocking up) as a result of prior subdivision works (channel re-routing). The applicant will be required to investigate the cause of existing drainage problems that currently affect the site, devise a resolution that is acceptable to Council (likely to be an open channel with low-flow pipes - within easements **or** a Drainage Reserve), incorporate same in any DCP being created for the site, and implement it.*

Ecology:

A full review of the Flora and Fauna Assessment will be undertaken within Stage 2 of the assessment process. However the following was provided as comment:

“A preliminary review of the planning proposal has been undertaken an NRM do not have any objections or additional requests for information at this time. The most important issues with respect to natural resource management on the site will be related to management of the riparian buffer along the Rous River. This should be a minimum of 50m, appropriately planted with a suite of native species and maintained by the applicant.”

It is noted that the Flora and Fauna Assessment submitted with the Planning Proposal was prepared in 2005. It will be necessary that an updated Flora and Fauna Assessment in accordance with current Federal and State legislation be submitted as part of the Stage 2 assessment.

Contamination

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

Social and economic impacts:

Section D – State and Commonwealth Interests

Is There Adequate Public Infrastructure for the Planning Proposal?

Preliminary review indicates that adequate water and waste water capacity is available to the subject site, as well as electricity and telecommunication. Further consideration to the requirement for educational and health infrastructure will be undertaken as part of Stage 2.

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

The application is yet to proceed through the gateway and has not yet been referred to any State or Commonwealth Authorities this will occur as part of the Stage 2 process.

Part 4 – Community Consultation

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

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

CONCLUSION:

The preliminary Stage 1 review indicates that there is sufficient strategic context and certainty to warrant Council's resolution to amend the Tweed LEP and to submit the planning proposal for a gateway determination with Department of Planning.

In addition, the Department is to be advised of the need for further detailed studies relating to the proposal that includes, but may not be limited to:

1. An updated flood impact assessment that utilises Council's Tweed Valley Flood Model 2009 to demonstrate no significant adverse impact on local flood behaviour or adjoining land;
2. an updated Flora and Fauna Assessment in accordance with current Federal and State legislation, specifically referencing the current Planning Proposal area;
3. Water and Sewer Servicing plan for the site to ensure investigation of the capacity of existing water and sewer servicing infrastructure in the area, where and how to connect to existing systems, and determining if any major upgrades area required.
4. An overall Stormwater Management Plan must be prepared for the site, in accordance with Council's 'Tweed Urban Stormwater Quality Management Plan', DCP A5 and Development Design Specification D5. Matters to be addressed include (but are not limited to):
 - Discharge point(s) for the site – is it intended to utilise the existing constructed wetland (address existing capacity and ability for expansion if so) or seek a separate discharge point to the Rous River?
 - Water quality issues to be addressed for any new discharge point to the Rous River.
 - Utilise Water Sensitive Urban Design methods when nominating the stormwater design philosophy for the site.
5. Address the provisions of SEPP 55 and Council's Contaminated Lands Policy;

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If adopted, the recommendation contained within this report would result in a resource implication for the Planning Reforms Unit, however Council has a fees and charges

structure to enable the application to be managed internally or through external consultants and ensures cost recovery.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

12 [PR-CM] Consideration of Pursuit of Costs - Land and Environment Court Matter - Tweed Shire Council ats Those Best Placed Pty Ltd - No. 49 Upper Crystal Creek Road, Crystal Creek

ORIGIN:

Building & Environmental Health

FILE NO: DA08/0966 Pt2

SUMMARY OF REPORT:

On 27 May 2010, Justice Biscoe presented his judgement that the Class 4 matter in the NSW Land and Environment Court, Those Best Placed Pty Ltd v Tweed Shire Council be summarily dismissed. The judgement arose from an order moved by Tweed Council's legal representatives, HWL Ebsworth, seeking that the above proceedings be summarily dismissed on the ground that no reasonable cause of action was disclosed by the applicant.

The Class 4 action was initiated by the owners of property No. 49 Upper Crystal Creek Road, Crystal Creek, primarily in respect of Council officer actions taken in refusing a development application (DA08/0966) for the construction of a shed which contained a bathroom and toilet, on the land. Other more broader questions of Council conduct were identified in the LEC action relating to Council's related assessment of the provision of an onsite sewerage management system on the site.

On the basis of this judgement, it is recommended that Council endorse the pursuit of costs against the Class 4 applicants to seek to address the sizeable costs incurred by Council in defending the LEC action.

RECOMMENDATION:

That:

- 1. Council, in respect of the Class 4 Land and Environment Court proceedings – Tweed Shire Council ats Those Best Placed Pty Ltd – No. 49 Upper Crystal Creek Road, Crystal Creek, instruct its solicitors HWL Ebsworth to pursue the applicants for the costs incurred by Council in defending this action.**
- 2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege**

REPORT:

On 27 May 2010, Justice Biscoe presented his judgement that the Class 4 matter in the NSW Land and Environment Court, *Those Best Placed Pty Ltd v Tweed Shire Council* be summarily dismissed. A copy of this judgement is attached to this report. The judgement arose from an order moved by Tweed Council's legal representatives, HWL Ebsworth, seeking that the above proceedings be summarily dismissed on the ground that no reasonable cause of action was disclosed by the applicant.

The Class 4 action was initiated by the owners of property No. 49 Upper Crystal Creek Road, Crystal Creek, primarily in respect of Council officer actions taken in refusing a development application (DA08/0966) for the construction of a shed which contained a bathroom and toilet, on the land. Other broader questions of Council conduct were identified in the LEC action relating to Council's related assessment of and the provision of a suitable onsite sewerage management system on the site.

A Confidential Attachment contains advice from Council's solicitors HWL Ebsworth regarding the processes required to advance the pursuit of costs against the Class 4 applicants.

On the basis of the advice from HWL Ebsworth, the definitive nature of the judgement, the sizeable costs to Council, both in the enormous amount of staff time allocated by Council staff in dealing with the owners of the subject site, and defending the LEC action, it is recommended that Council endorse the pursuit of costs against the Class 4 applicants.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Clear legal advice on this matter has been provided through both the LEC judgement and Council's solicitors, and it is therefore considered appropriate in this instance for Council to endorse the pursuit of costs against the Class 4 applicants.

POLICY IMPLICATIONS:

NIL

OPTIONS

That Council:

1. Instruct its solicitors to pursue costs related to this matter; or
2. Instruct its solicitors not to pursue costs related to this matter.

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. Copy of the judgement of Justice Briscoe dated 27 May 2010 in respect of the Class 4 Land and Environment Court matter Tweed Shire Council ats Those Best Placed Pty Ltd – No. 49 Upper Crystal Creek Road, Crystal Creek (ECM 18939325)
 2. **Confidential Attachment** Copy of advice dated 30 June 2010 from Council's solicitors HWL Ebsworth relating to the costs retrieval for the Class 4 Land and Environment Court matter Tweed Shire Council ats Those Best Placed Pty Ltd – No. 49 Upper Crystal Creek Road, Crystal Creek (ECM 18939340)
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13 [PR-CM] Consideration of Further Modification of Contribution Payment Options for Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Cabarita Surf Life Saving Club at Lot 7010 DP

ORIGIN:

Director Planning & Regulation

FILE NO: DA08/1171 Pt1

SUMMARY OF REPORT:

At its meeting of 15 June 2010, Council resolved actions on two separate items relating to the Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Cabarita Surf Life Saving Club at Lot 7010 DP 1055324; Lot 2 DP 1083851 Pandanus Parade, Cabarita Beach.

Item 10

Council resolved to approve a Section 96 application of items relating to the Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Cabarita Surf Life Saving Club, subject to modified conditions, including those conditions requiring payment of Section 64 and Section 94 contributions to Council.

Item 11

Following the approval of the Section 96 application of Item 10, Council resolved:

"In terms of the required Section 94 and Section 64 contributions relating to the Section 96 Application for amendment to Development Consent DA08/1171.01 for the addition of a deck to an existing surf life saving club at Lot 7010 DP 1055324; Lot 2 DP 1083851 Pandanus Parade, Cabarita Beach:

- 1. Council invites the Cabarita Beach Surf Life Saving Club to make application to enter into a loan with Council for \$56,730.76 (being 50% of the current Tweed Roads Contribution Plan, Shirewide Car Parking and Section 64 contributions) at terms of 7% over 10 years with a minimum of two executives of the Club providing personal guarantees against the debt. Subject to satisfactory arrangements being made in relation to the proposed loan arrangement above, Council will make a donation of \$56,730.76 being 50% of the current contributions as detailed in Conditions 3A and 4A of Development Consent for DA08/1171.01; and*
- 2. Council officers bring back a report identifying the sources of funding to be donated to the Cabarita Beach Surf Life Saving Club."*

Following the above resolution, representatives of the Club requested a meeting with the Mayor, Councillor Polglase, Councillor van Lieshout and the General Manager, to seek clarification of Council's resolution. This meeting was held on Friday, 2 July 2010 at Council, whereby the Club representatives put forward a request to modify certain terms of the above resolution, including a deferral of the commencement of loan payments and a change to the details of the Club's guarantee to make the repayments. The Club representatives were advised to put the details of their request for modification of consent in writing to Council. It should be pointed out that there was no request put forward at this meeting for Council to consider an interest free loan for the contribution payments.

The Club followed up from the July meeting with a letter to Council dated, 6 July 2010, seeking further amendments to Council's 15 June 2010 resolution, including a request that the Club do not make interest payments on the proposed loan repayments.

In light of the previous assessment by Council officers and Council's subsequent resolution of 15 June 2010 Council Meeting, it is recommended that Council determine the Club's latest request for amended contribution payment arrangements. Three options have been put forward in the recommendation for Council to consider.

RECOMMENDATION:

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

OPTION 1

Recommends no change from the Item 11 resolution of 15 June 2010 Council Meeting.

OPTION 2

Recommends to modify the Item 11 resolution of 15 June 2010 Council Meeting in the following manner:

1. That:

- (a) The Cabarita Beach Surf Life Saving Club enter into a loan with Council for \$56,730.76 (being 50% of the current Tweed Roads Contribution Plan, Shirewide Car Parking and Section 64 contributions) at terms of 7% over 10 years. In terms of a suitable guarantee for the loan, Cabarita Beach Surf Life Saving Club shall be responsible for preparing and seeking agreement with Council on a binding legal agreement, and, or mortgage caveat. Subject to satisfactory arrangements being made in relation to the proposed loan arrangement above, Council will make a donation of \$56,730.76 being**

50% of the current contributions as detailed in Conditions 3A and 4A of Development Consent for DA08/1171.01;

- (b) The 10 year period of the above loan be fixed, and that Council will not increase the base contribution payment of \$56,730.76 or the related interest rate of 7% over the life of the loan; and**
 - (c) Notwithstanding the terms of Condition 3A of Development Consent for DA08/1171.01, which requires payment of required Section 94 payments prior to the issue of a Construction Certificate, that Council agrees that repayments on the loan identified in the above Point 1(a) shall not commence until a period of 18 months after the date that an Occupation Certificate is issued in respect of Development Consent for DA08/1171.01; and**
- 2. Council officers bring back a report identifying the sources of funding to be donated to the Cabarita Beach Surf Life Saving Club.**

OPTION 3

Recommends to support the same arrangements as Option 2, with the exception that proposed loan of \$56,730.76 be provided interest free for the entire 10 year period of the loan, and be subject to no additional payments to Council.

REPORT:

Following the above resolution, representatives of the Club requested a meeting with the Mayor, Councillor Polglase, Councillor van Lieshout and the General Manager, to seek clarification of Council's resolution. This meeting was held on Friday, 2 July 2010 at Council, whereby the Club representatives put forward a request to modify certain terms of the above resolution in the following manner:

- A modification to enable the Club to defer the commencement of payments for a limited period to enable the Club to adequately establish the new commercial operations;
- the preparation of a legal agreement to replace the personal indemnity of the loan on Club executives; and
- the alteration to Condition 3A of the modified consent to enable the Club to proceed in obtaining Construction Certificate (CC) approval and to construct the new deck facilities in the winter off-season, without requiring the payment of Section 94 contributions prior to the issue of the CC.

The Club representatives were advised to put the details of their request for modification of consent in writing to Council. It should be pointed out that there was no request put forward at this meeting for Council to consider an interest free loan for the contribution payments.

By letter dated, 6 July 2010, (a copy of the letter is attached to this report), and following on from the July meeting, the Cabarita Surf Club has requested Council to consider the following amendments to the contributions arrangements endorsed by Council through its resolution for Item 11 of the Business Paper of 15 June 2010 Meeting:

- “1. *That Council grant a loan of \$57,730.76 to the Club and that no interest be charged on such amount;*
2. *The Club be considered as an eligible business enterprise under Council's Section 94 Plan No. 23 Offsite Parking and as such we should be able to make 10 yearly payments with no interest;*
3. *In lieu of Directors guarantees, the Club is willing to offer a suitable legal and binding agreement and or mortgage/caveat with the Tweed Shire Council to satisfactorily guarantee the payment of the loan;*
4. *That payment of the loan is due to commence 18 months after the issue of the Certificate of Occupancy for the proposed deck; and*
5. *That the amount of \$57,730.76 be fixed for the period of 10 years and Council will not increase the levy.*

Subject to the above the Club is happy to proceed with this matter and will instruct the Club's lawyers to prepare necessary documentation upon receipt of conformation from you.”

(It should be noted that the amount referred to in the Council resolution is \$56,730.76 and not \$57,730.76 as indicated by the club).

Council Officers' Assessment of the Club's Request for Amended Contribution Arrangements

In light of the previous assessment by Council officers and Council's subsequent resolution of 15 June 2010 Council Meeting, it is recommended that Council determine the Club's latest request for amended contribution payment arrangements. Three options have been put forward in the recommendation for Council to consider.

Whilst the officers are supportive of the amendments outlined at 2 July meeting of Council and Club representatives, it is considered that the Club's request for further financial concessions in respect of interest-free loan repayments is unreasonable and without adequate justification, and one which would further compromise the integrity of Council's Section 94 and Section 64 Contribution Plans.

As a point of clarification, the reference made in point 2 of the Club's letter of 6 July to an "eligible business enterprise" under Tweed Contributions Plan No. 23 is not relevant in Council's consideration of the revised contribution payment arrangements. The proposed additions to the Club under Council development consent DA08/1171.01 do not qualify for the defined "eligible business enterprise":

"Eligible Business Enterprises (EBE) are defined as retail, commercial and light industrial activities to be established in rented premises with a GFA of not more than 1,000 m². Final determination of the eligibility of a business into this category will be at the discretion of the Director Planning and Regulation."

Notwithstanding, the Council officers acknowledge the point made by the Club that the Tweed Roads Contribution Plan (CP No. 4) and Offsite Parking (CP No. 23) provide the option of deferred or periodic payment of contributions, albeit for development applications with generally different circumstances to the Club's development consent DA08/1171.01

Clause 9.4 of CP No. 4 (TRCP) states that Council will generally not accept deferred or periodic payment of contributions, however, payment is at the sole discretion of the Council.

Clause 2.11 of CP No. 23 (Offsite Parking) provides circumstances where deferred or periodic payments may be permitted, most notably: when works-in-kind or a planning agreement is accepted, or if the development is defined as an Eligible Business Enterprises, or if payment Prior to issue of Construction Certificate is unreasonable or unnecessary in the circumstances of the case. The policy provides a condition essentially requiring the total amount levied to be divided by 10 with each payment made annually for the next 10 years.

Notwithstanding the officers' views, Council has been provided with three options to consider to determine the Club's request.

OPTIONS:

Three options have been put forward in the recommendation for Council to consider.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

A detailed assessment of the legal and financial implications of the concessions provided by Council to Cabarita Surf Club in terms of the required contributions for the approved DA08/1171.01 has been carried out by Council officers in this report, and previous related reports to Council. It is important that Council ensures that the terms of any modification of contribution payment arrangements are confirmed through a subsequent legal agreement to be prepared by the Club.

POLICY IMPLICATIONS:

There are some possible precedent implications for Council in endorsing the contribution concessions granted to the Club.

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. Copy of a letter dated 6 July 2010 from Cabarita Surf Club to Tweed Council seeking a modification to Council's resolution of 15 June 2010 relating to the required contribution requirements for DA08/1171.01 (ECM 18894004)
-

14 [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

ORIGIN:

Development Assessment

FILE NO: DA05/0223 Pt2

SUMMARY OF REPORT:

In late 2008, Council was made aware of unauthorised building works at the existing approved restaurant adjacent to the Jack Evans Boat Harbour. An investigation into the works was undertaken, with the proprietor of the premises being advised that an application to modify Development Consent DA05/0223 was required. This was to be accompanied with a Building Certificate application for the unauthorised works, as well as a Construction Certificate for any further building works.

An application to modify the original approval by way of internal and external building modifications and use of the premises (known as the "ibar") was subsequently lodged by the applicant. Unauthorised use (lap dancing) was also included in Council's assessment of the development. The application was refused by Council at its meeting of 16 June 2009, including resolution to initiate legal action with regard to: unauthorised building works; the premises being used in a different manner from the original consent; and outstanding contributions fees.

On 17 November 2009 a report was presented to Council to highlight the fact that the issues arising with the premises had evolved and required reconsideration. It was also prepared to update Council on the best way forward with regard to finalising all outstanding matters and included a summary of the legal advice received on the matters raised above. Council resolved to request the occupier of the premises to lodge an additional S96 application to modify Development Consent DA05/0223 and building certificate application, incorporating all unauthorised building works on the subject site, within 21 days.

A S96 application and Building Certificate application were lodged on 8 January 2010. A lack of response to requests for additional information resulted in a report being put to Council in March 2009 recommending refusal. The determination of the application was deferred as a result of the applicant submitting additional information the day before the March Council meeting. A final request for further information was issued in May 2009. Having no response to this final request, the application is once again recommended for refusal. This report highlights the issues raised by the proposed development and provides reasons for refusal of the proposed modifications.

RECOMMENDATION:

That:

- A. 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 be refused for the following reasons:**
- 1. The proposed modification is not considered to be in accordance with the provisions of Clause 8 and 11 of the Tweed Local Environmental Plan 2000, relating to consent considerations and zone objectives.**
 - 2. The proposed modification is not considered to be in accordance with the provisions of Section 96(1)(a) of the Environmental Planning & Assessment Act 1979, in that it is not substantially the same development as that originally approved under DA05/0223.**
 - 3. The proposed modification is not considered to be in the public interest.**
- B. Council re-initiates legal action through Council's Solicitors in relation to:**
- 1. Unauthorised building works;**
 - 2. The premises being used in a different manner from the original consent; and**
 - 3. Seeking orders for the proprietor to lodge a S96 application with regard to the trading hours of the premises, pursuant to Conditions 6 and 7 of the consent.**
- C. Council notifies the Office of Liquor, Gaming and Racing in writing that the premises is no longer operating as a restaurant and is therefore no longer complying with the provisions of the existing on-premises licence for the originally approved restaurant.**

REPORT:

Applicant: Mr A Wright
Owner: Mr AB Warner and Mrs AM Warner
Location: Lot 1 DP 553728, No. 4 Wharf Street Tweed Heads
Zoning: 3(e) Special Tourist (Jack Evans Boatharbour)
Cost: Nil

BACKGROUND:

The subject site is located adjacent to the Chris Cunningham Park and Jack Evans Boat Harbour, opposite Centro Tweed (Tweed Mall) on Wharf Street, Tweed Heads. The existing single storey building was previously a Tourist Information Centre, as well as the sales office for the Latitude 28 proposal, which is now the Ultima site.

On 8 June 2005, Council's Development Assessment Panel issued development consent DA05/0223 for a restaurant known as "*Wright on the Water*" at 4 Wharf Street, Tweed Heads. The original approval was for the installation of a commercial kitchen to run a Steakhouse Restaurant from the existing building. The approval was for two stages of development. Stage 1 involved: the installation of a kitchen and bar within the existing building; the replacement of part of the northern and eastern external walls with retractable doors; and the installation of the services and refuse enclosure on the southern side of the building. Stage 2 incorporated: the construction of a 4.5m wide roofed terrace along the northern and eastern elevations for alfresco dining; and an additional unisex disabled toilet.

Following an investigation by Council's Compliance Officer with regard to a complaint regarding unauthorised construction activities in December 2008, the Lessee of the premises lodged a S96 application on 19 March 2009 to modify the original approval by way of internal and external building modifications.

On 16 June 2009, Council resolved to refuse the proposed modifications and initiate legal action in relation to: unauthorised building works; the premises being used in a different manner from the original consent; and outstanding contributions fees.

On 17 November 2009 a report was presented to Council as an update on the best way forward with regard to finalising all outstanding matters and included a summary of the legal advice received on matters relating to: unauthorised building works; the use of the premises; and outstanding contributions fees.

Council resolved to request the occupier of the premises (known as the ibar) to lodge a S96 application to modify development consent DA05/0223 and building certificate application, incorporating all unauthorised works on the subject site. If such applications were not lodged within 21 days of the notice from Council, it was resolved to seek further legal advice about appropriate cause of action in regard to the unauthorised building works. It was also resolved that outstanding contribution fees relating to DA05/0233 not be pursued and that only the contributions paid to date are recognised as credit for any future development of the subject site.

Following an extension to the date of submission (until 8 January 2010), the S96 application and building certificate application were lodged on 8 January. The proposed modifications are:

The applicant has advised of the following modifications:

- Replace the approved external masonry deck with a timber deck, by way of constructing the timber deck above and over the existing masonry deck. In addition, there has been an increase to the size of the timber deck by an additional 18.5m² and includes a handrail and stairs;
- The additional deck area (adjacent to the servery) is a smoker's area and will not be used for dining. The designated smokers area extends to the stairs and incorporates an area of 54m²;
- Extend the roof area over the deck area to cover the entire deck (except for the smoker's area). The roof is now pitched;
- The internal dining area has been reduced in size and the bi-fold doors removed and replaced with solid walls;
- The foyer area has been increased;
- The bar and kitchen area layout has been modified;
- Waiting area deleted and a reception area included;
- Unisex toilet added;
- Increase area of the approved service and refuse area on southern side of the building from 6m² to 43m², to be used for storage, refuse, cool room and cleaners amenities;
- Relocate the cool room from within the main building to the service and refuse area noted above;
- Include an outdoor BBQ area over the external deck area;
- Continue 24 hour trading, requiring the modification of Condition 6; and
- Delete Condition 13 in relation to the prohibition of live or amplified music.

Limited floor plans and elevations (same as previous S96) were provided. Detailed construction drawings of the disabled toilet; and floor plans / details of food related areas were not provided and the prescribed advertising fee of \$540 was not provided. As a result of a lack of detail, a further information letter was sent to the applicant on 15 January 2010. Advertising fees of \$540 were again requested; detailed food area drawings were requested (as per Council's Environmental Health Unit's requirements); the submitted floor plans / elevations were not acceptable.

As such, revised floor plans were requested, requiring clearly dimensioned details, indicating the extent of the existing / proposed roof area over the terrace etc. A site plan was also required, along with scaled and dimensioned elevations. Clarification of colour scheme and signage was requested, as well as additional justification as to how the proposal is substantially the same as the original approval. A period of 28 days was given for the outstanding information to be submitted (lapsing on 15 February 2010).

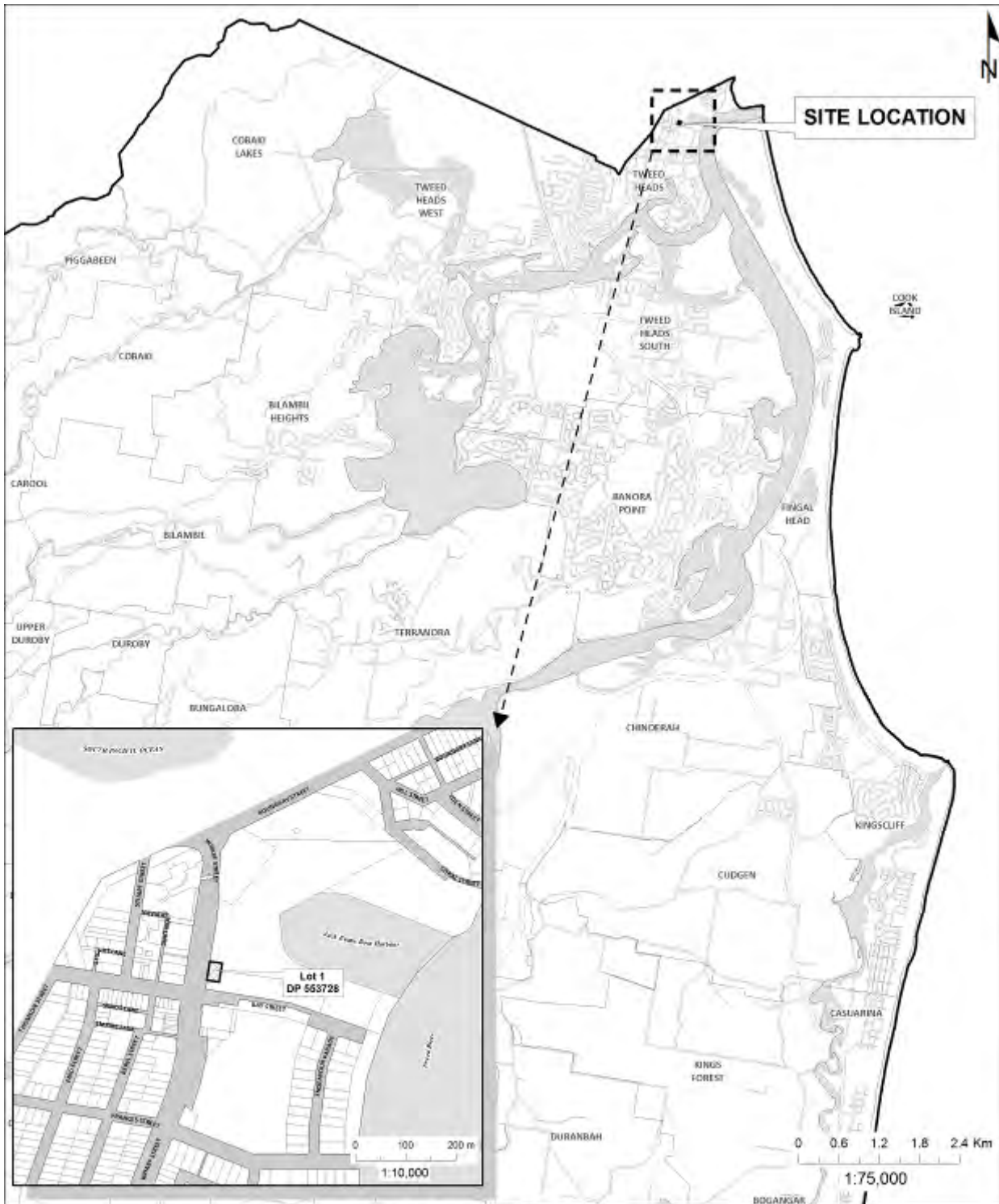
As a result of no detail being provided by the applicant, a report was put forward to the Council meeting of 16 March 2010, recommended for refusal. A late submission of the outstanding information (on the day before the Council meeting) resulted in a resolution to defer the decision on the development, to allow an assessment of the proposal to be undertaken.

Although the majority of the detail was provided by the document, an additional request for information was issued on 25 May 2010 in order to finalise the assessment. The detail

required was in relation to amended plans in relation to cool room requirements, relocation / redesign or rear security gate, clarification of new signage at the front of the building, identification of screened bulk storage bin location and confirmation of carparking.

The letter gave the applicant 21 days to provide such information (which lapsed on 15 June 2010). Whilst this final request for information was not onerous in terms of detail to be provided, the applicant has not yet provided a response. As a result of continued failure to provide detail within the prescribed time, this report has been prepared recommending the refusal of the proposed changes (unauthorised building works) and the re-initiation of legal proceedings against the unauthorised works.

SITE DIAGRAM:



LOCALITY PLAN

Lot 1 DP 553728
No. 4 Wharf Street Tweed Heads

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

Author: J.Batchelor - Planning Reforms Unit

Date Printed: 24 February, 2010

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Coord. data System - MGA Zone 56
 Datum - GDA 94

Cadastral: 24 February, 2010
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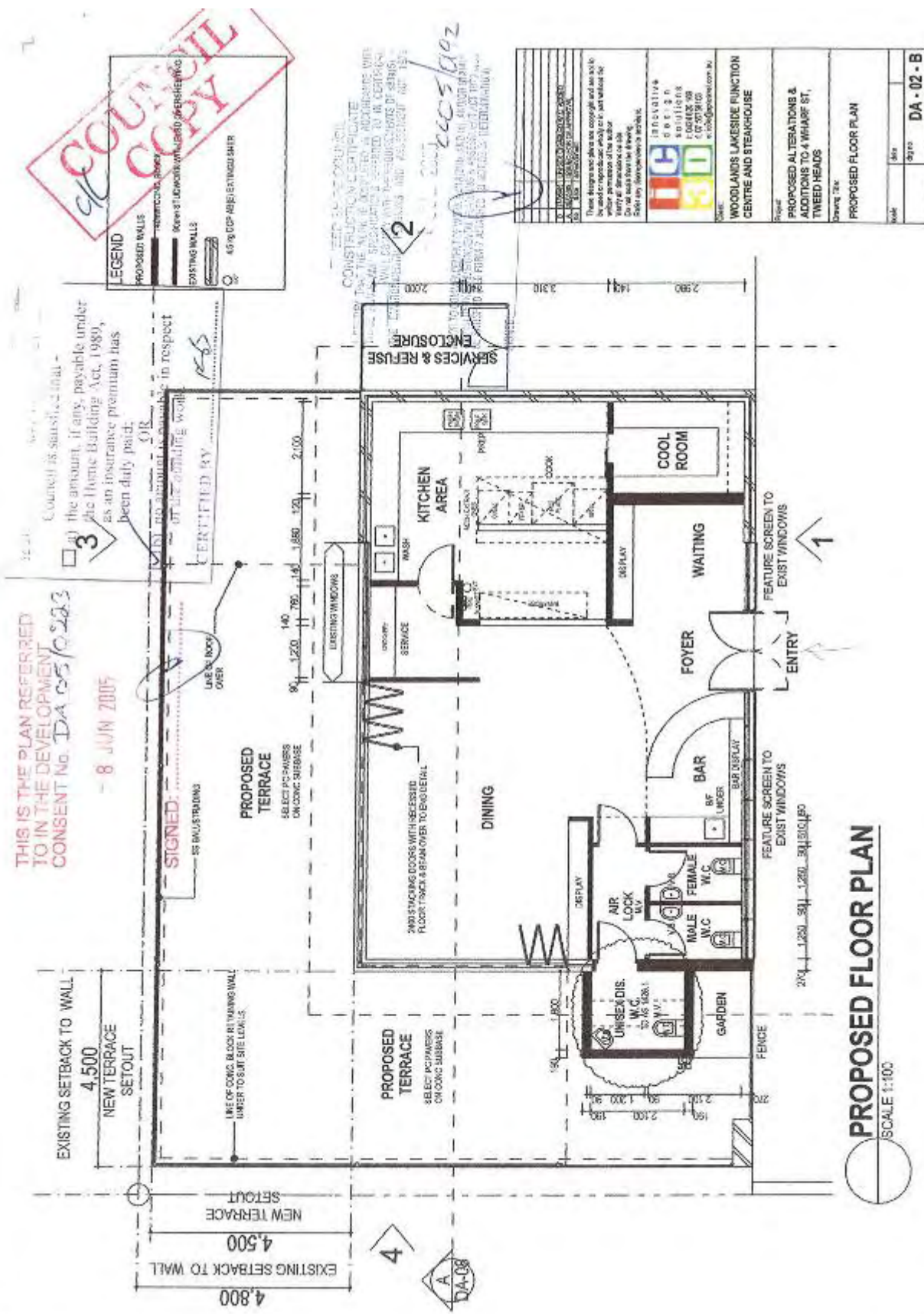
80 001 SCALE
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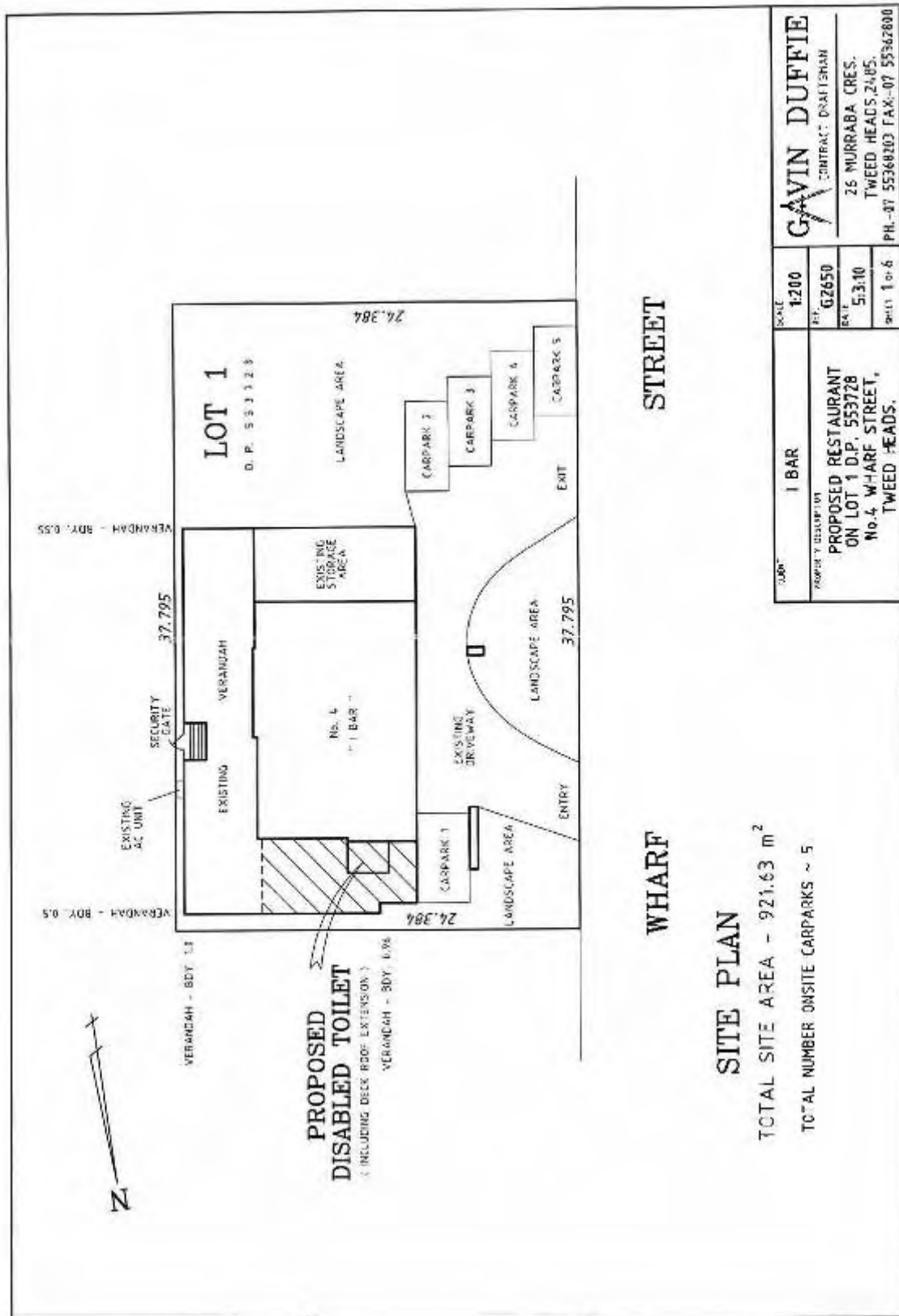


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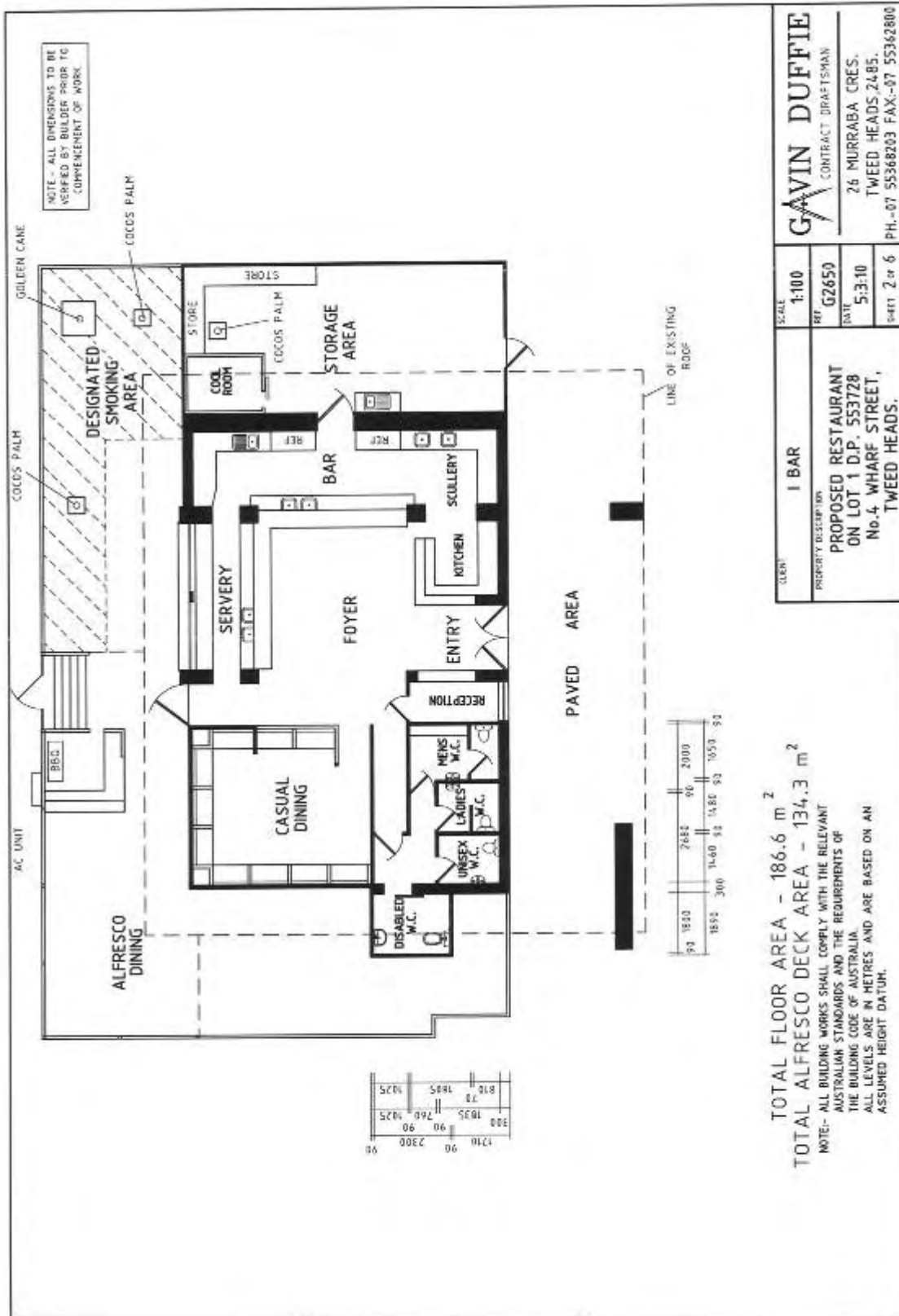
APPROVED LAYOUT PLAN OF RESTAURANT:



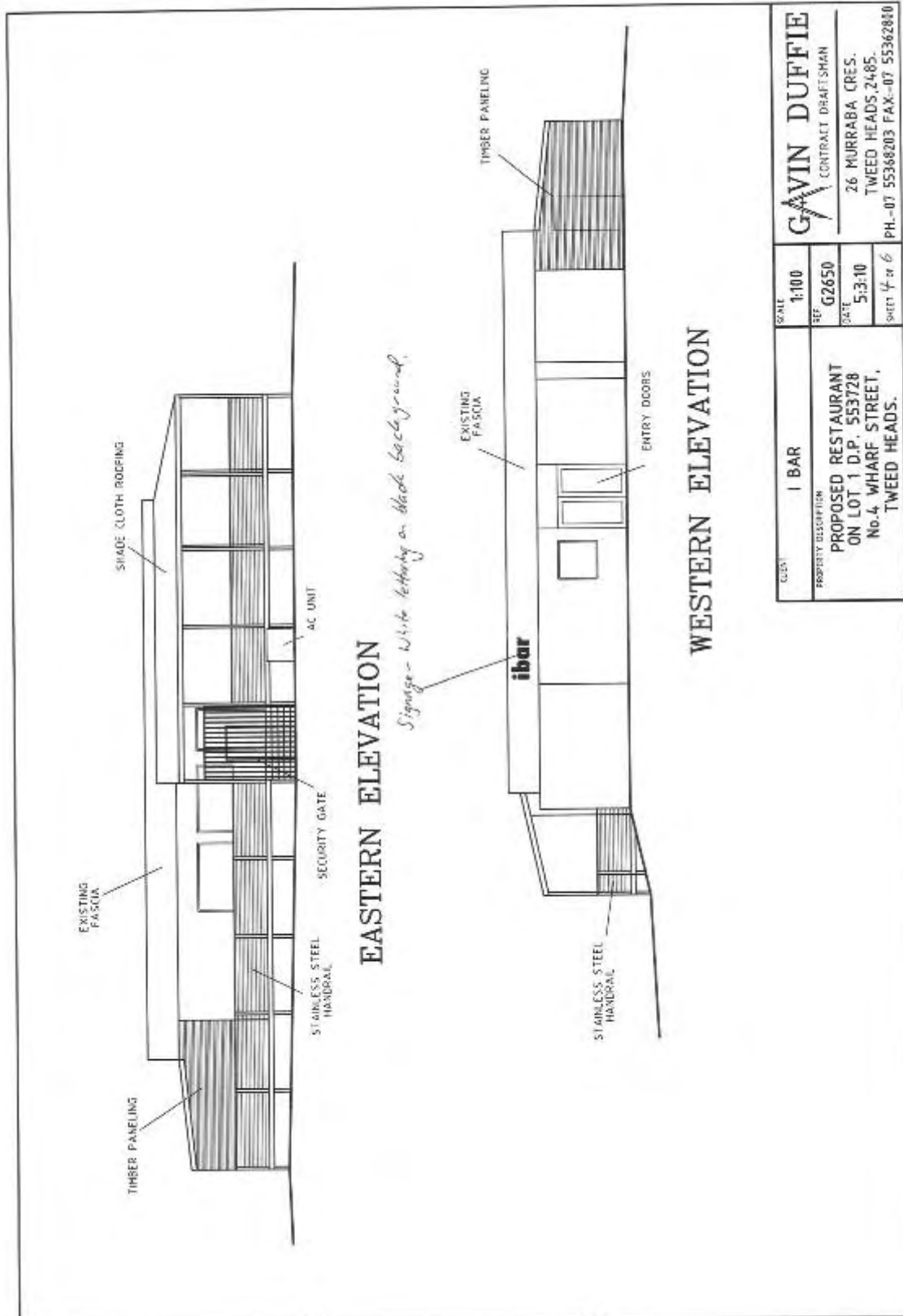
PROPOSED SITE PLAN:



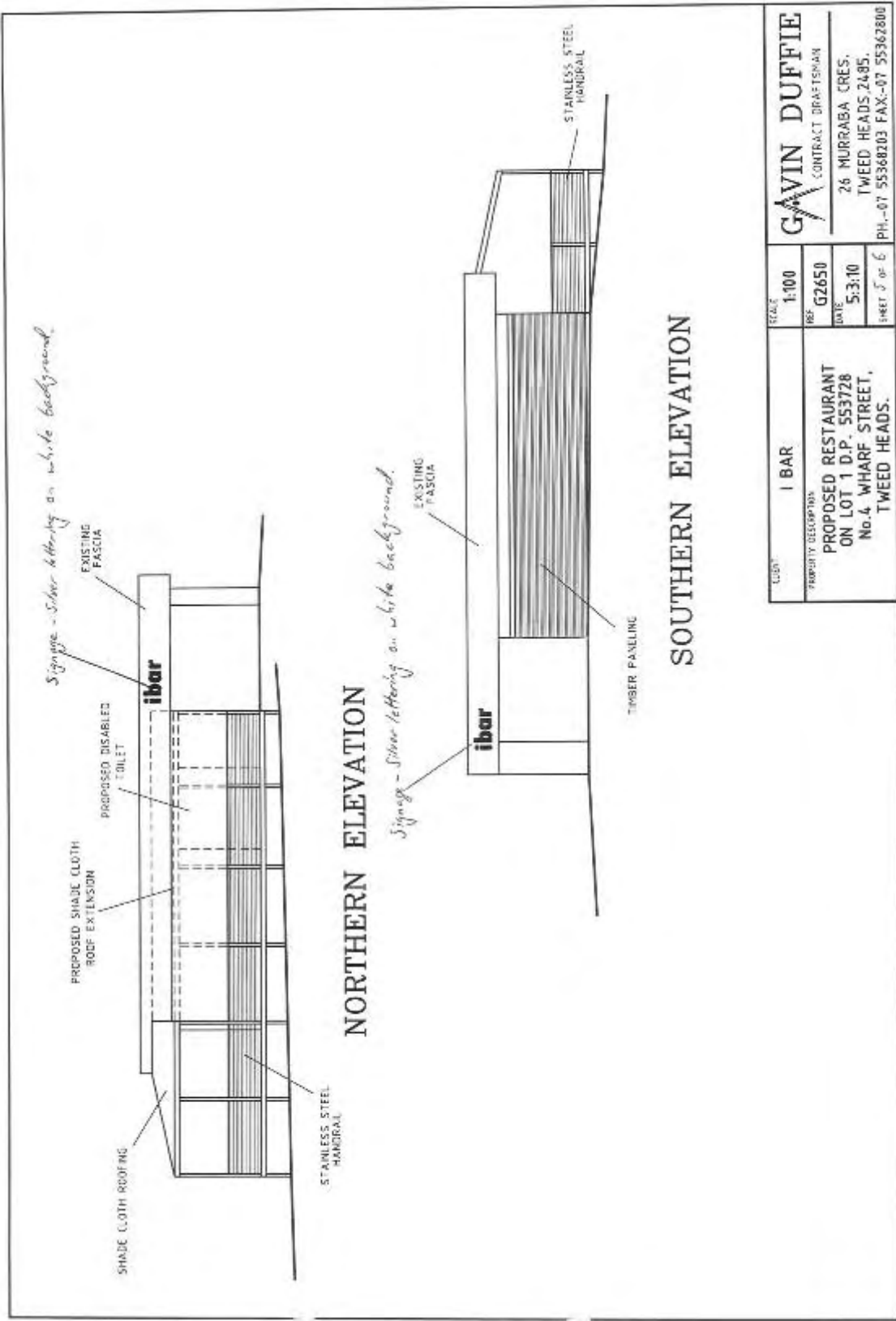
PROPOSED INTERNAL LAYOUT:



PROPOSED ELEVATIONS:



CLIENT	I BAR	SCALE	1:100
PROPERTY DESCRIPTION	PROPOSED RESTAURANT ON LOT 1 D.P. 553728 No. 4, WHARF STREET, TWEED HEADS.	REF	G2650
		DATE	5.3.10
		SHEET	4 of 6
GAVIN DUFFIE		CONTRACT DRAFTSMAN	
		26 MURRABA CRES. TWEED HEADS 2485. PH.-07 55368203 FAX.-07 55362810	



CLIENT	I BAR	SCALE	1:100
PRIORITY DESCRIPTION	PROPOSED RESTAURANT ON LOT 1 D.P. 553728 No.4, WHARF STREET, TWEED HEADS.	REF	G2650
		DATE	5.3.10
		SHEET # OF 6	PH. -07 55368203 FAX.-07 55367800

GAVIN DUFFIE
CONTRACT DRAFTSMAN
26 MURRABA CRES.
TWEED HEADS 2485.
PH. -07 55368203 FAX.-07 55367800

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

Unauthorised Building Works

Council's Development Assessment Unit, Building Services Unit and Environmental Health Unit are unable to carry out a final assessment of the proposed modifications due to a lack of final detail in some instances. As such, the unauthorised building works cannot be regularised as was the intention of requesting the submission of this S96 application in November 2009. Consequently, the Building Certificate application and Sewer application (lodged in conjunction with the S96) cannot be approved.

Use

The existing consent for the premises is for a restaurant, which is defined under the Tweed LEP 2000 as a "refreshment room" and has a primary purpose of serving a meal. Although the applicant has stated that the proposal will remain as originally approved, the current use of the premises is not considered to be a restaurant. Rather, it is a bar, which is best defined as a "hotel" under the provisions of the Tweed LEP 2000, having a primary purpose of serving alcoholic beverages.

The originally approved development was clearly a restaurant, having: a large 30m² commercial kitchen and internal coolroom; a small 6.6m² bar area; internal dining area and external terrace. In contrast, the proposed development incorporates: only a 12m² preparation area identified as a "kitchen"; a large 30m² bar area; an internal casual dining area; and an external "alfresco dining" area. See comparison of internal layouts below, with the kitchen area shown in pink and bar area shown in blue.

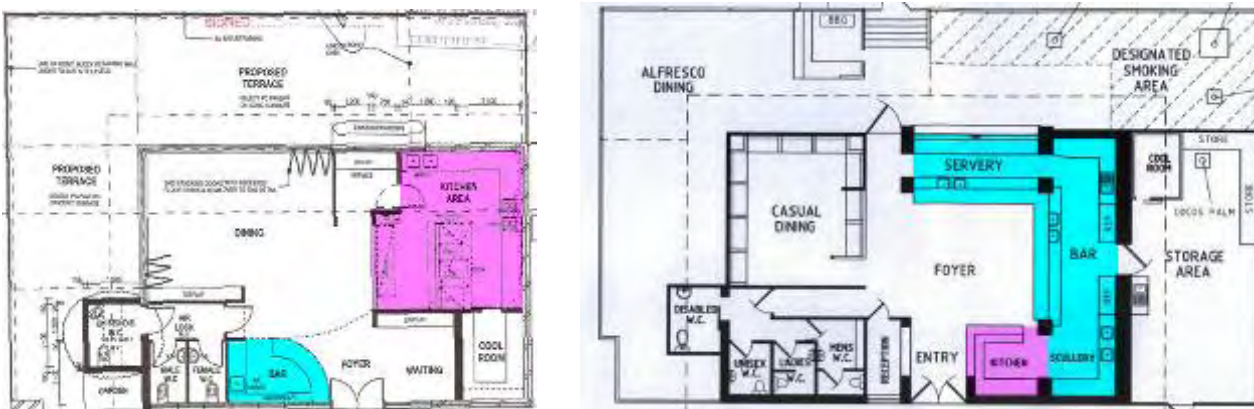


Figure 1 & 2: Approved Layout (left) and current layout (right)

It appears that the applicant has nominated the internal and external areas as "dining areas", in an effort to appear as a restaurant. This would allow the proposed development to proceed as a S96 application, if it could be substantiated that the development is "substantially the same" as originally approved. However, the lack of kitchen facilities to prepare meal results in the current use being considered as a bar. This is supported by the applicant's statement that all food is prepared off site, kept in the freezer and heated in a microwave. This scenario is not considered to constitute a restaurant and is merely a consequence of the applicant having to provide a meal with the sale of alcohol, in accordance with the existing On-Premises Licence.

Whilst it is acknowledged that some food is sold at the premises (pizzas), the main issue is that the primary purpose has changed from the serving of meals to that of the serving of

alcohol. Therefore, the proposed modifications cannot be considered to be substantially the same as the original approval and a new development application is required for the proposed use of the premises.

In terms of licensing requirements, the Office of Liquor, Gaming & Racing note that new liquor laws in NSW (taking effect in July 2008) stipulate that premises with an On-Premises licence (restaurant) must...*'continue to operate under the primary purpose of serving meals. A restaurant liquor licence does not operate where the primary purpose of the business or activity of a restaurant is the sale or supply of liquor'*.

In light of the above, it is recommended that the Office of Liquor, Gaming & Racing is notified in writing that the premises is no longer operating as a restaurant and is therefore no longer complying with the provisions of the existing on-premises licence for the originally approved restaurant.

Clause 11 of the TLEP 2000– Zone Objectives

Clause 11 of the LEP relates to zone objectives. The subject land is zoned 3(e) Special Tourist (Jack Evans Boatharbour) under the provisions of the LEP. The primary objective of the zone is to:

'Provide for tourist orientated commercial, retail, service, residential and waterfront facilities and activities and public buildings which support and are an integral part of the renewal of certain areas in the vicinity of the Jack Evans Boatharbour, but only at a scale which enhances the character of the locality'.

A restaurant is defined as a Refreshment Room, which is permissible with consent under the provisions of the Tweed LEP 2000. The applicant has proposed modifications the original approval for a restaurant on the subject site. However, as noted above, the proposed use of the existing building is not considered to be a restaurant. Rather, it is considered to be a bar, which is best defined as a hotel. Although a hotel is permissible with consent, the applicant has failed to provide sufficient evidence that the proposed development is consistent with the zone objectives. Although the proposed modifications state that the use of the site is that of a restaurant, the nature of the activities within the premises (such as exotic caged dancers) is not considered to enhance the character of the locality.

Similarly, scantily clad women standing out the front of the premises in an effort to encourage customers into the premises of an evening is not considered to be the desired image of the Tweed, particularly as the site is at the gateway to the Tweed when travelling from the north.

The proposed Jack Evans Boatharbour Revitalisation Project is currently under construction. The Boatharbour project will create a diverse, vibrant, culturally rich, recreational and tourism centrepiece for the Tweed Heads Town Centre. It is unlikely that the proposed development would enhance the character of the 'centrepiece' of Tweed Heads, nor is the proposed development likely to entice tourists to visit the Tweed Heads Tourist Information Centre (located directly adjacent to the subject site). As such, the proposed development is not considered to meet the objectives of Clause 11 and the S96 application is not supported.

Clause 8 – Consent Considerations

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

- (a) *it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*

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

As noted above, Council Officers are not satisfied that the development is consistent with the primary objective of the 3(e) zone, thereby the proposal is not considered to be consistent with Clause 8(a) of the LEP and the application is recommended for refusal.

Other relevant clauses of the TLEP have been considered elsewhere in this report.

In addition to the above, the officers are not satisfied that the proposed development would not have an unacceptable cumulative impact on the locality or the community as a whole. As such, the proposal is not considered to meet the provisions of Clause 8(c) of the LEP.

Trading Hours

As noted above, the applicant has requested that the 24 hr trading continue indefinitely. This would require a modification to Condition 6 of the consent which states:

6. *The use of the premises (i.e. 24 hour trading) as proposed is permitted for an initial period of twelve (12) months ONLY from the date of issue of any such approval.*

The purpose of originally limiting the 'restaurant' to a 12 month period of 24 hr trading was to enable Council an opportunity to assess any issues associated with the extended hours of operation, with regard to the enclosed deck area particularly after 12 midnight, and modify the hours of operation if necessary.

In February 2010 the applicant submitted a copy of a letter (dated 30 March 2006) which was supposedly lodged in 2006 requesting confirmation from Council that the 24 hour trading will continue after the initial 12 month period had expired. Council's records (electronic filing system and hard copy file) do not have any evidence of the applicant lodging any such letter in 2006. In any event, if Council had received such a letter, the applicant would have been advised in writing that a S96 was required to modify Condition 6, rather than simply submitting a letter. Condition 7 of the development consent clearly indicates the process required:

7. *Ninety (90) days prior to the expiry of the initial twelve (12) month period, the Applicant shall lodge with Council for consideration by the Director of Planning and Environment a Section 96 application nominating the hours of operation proposed after the expiry of the initial twelve (12) months. Such application will need to address any issues associated with the enclosed deck area particularly after 12 midnight.*

The non-lodgement of a S96 (90 days prior to the expiry of the initial 12 months), results in the proprietor of the premises not being compliant with Condition 7 of the development consent.

It is recommended that the hours of operation be amended to that of **9.00am - 12.00 midnight, Monday to Saturday and 10.00am - 10.00pm Sundays**. The revised trading hours is considered to be appropriate for a restaurant in this location. It is also noted that the Office of Liquor, Gaming and Racing limits standard "restaurant" trading hours to: 5.00am – 12.00 midnight Monday to Saturday and 10.00am – 10.00pm Sundays. As a comparison to other similar uses in the same locality, Council records indicate that the Ivory Hotel (located further south along Wharf Street) is restricted to 7.00am – 11.00pm Monday

to Wednesday, 7.00am – 12.00 midnight Thursday to Saturday; and 7.00am – 10.00pm Sunday. Therefore, the recommended changes to the hours of operation for this development are considered to be consistent with other similar natured development.

As noted in a previous Council report for this development, the Tweed/Byron Local Area Command provided comment on the existing premises. In summary, issues were raised particularly with regard to anti social behaviour impacting upon the community in general, as a result of the unrestricted hours of operation of the subject premises. The police also recommended trading hours of 9.00am to 12 midnight, largely to help reduce the number of incidents at this location outside the recommended trading hours.

Verbal conversations between Council's staff and the proprietor of the ibar reflect that the premises is effectively "catching" patrons from surrounding licensed premises in Tweed / Coolangatta when they close for business (i.e. after midnight). If the trading hours if the ibar were to be modified to 9.00am to 12 midnight, it seems likely that the majority of anti social behaviour in the vicinity of the subject site could significantly reduce.

Noise

Final comments have not been provided from Council's Environmental Health Unit as a result of the applicant not submitting final details for the proposal. The Environmental Health Unit would normally have commented on issues such as: noise; servery/bar/kitchen/coolroom requirements pursuant to the Food Regulations; smoke free areas; and hours of operations.

The original approval was conditioned such that no live or amplified music was permitted without the prior approval of Council. With no noise report to support live or amplified music, the condition was applied to ensure the amenity of existing and future residents within nearby residential development on the western side of Wharf Street (Ultima) and to the east (Seascape). This concern remains valid.

It is acknowledged that the applicant no longer wishes to delete Condition 13, which prohibits live or amplified music on the premises. As such, a noise report is not required for this S96. However, noise issues relating to trading hours and potential impact on the community in general would still require assessment.

Signage

Council has recently received complaints from the public with regard to inappropriate signage at the front of the subject premises. The sign structure is not exempt development and therefore requires development consent. A search of Council records reveals that the wording on the sign was originally advertising "\$4.95 Pizzas" (See Figure 3 below). However, the sign was revised in May 2010 to say "New - Exotic Caged Dancers", which result in complaints to Council.

The applicant has since been requested to incorporate the new signage into this current S96 and provide an assessment in terms of compliance with Council signage policy (DCP A4 – Advertising Signs Code), but to date the applicant has not provided any details in this regard. It is noted however that Council records indicate that the sign has since been revised to "New - Pizzas and Adult Party Bar". A site inspection on 24 June revealed that the sign structure has now been removed from the site.

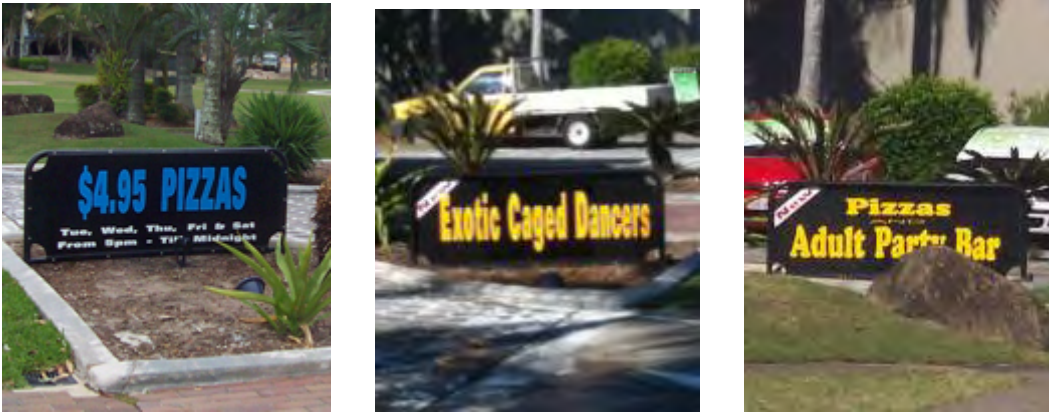


Figure 3: Recent unauthorised signage at front of premises

Waste

The originally approved site plan indicates a “services and refuse enclosure” at the southern end of the building. The proposed development does not identify any area for bin storage, yet the Statement of Environmental Effects notes a “service and refuse area” on southern side of the building. The bulk bin is currently left out the front of the site in the car park area, which is in full view of passing traffic and is not considered to be acceptable. The request for revised plans requires the applicant to clearly identify where the bulk waste bin are proposed to be stored on site. The area is required to be screened in accordance with Council’s Waste Storage Code. No response has been received in this regard.

Rear Security Gate

The proposed site plan indicates an existing security gate at the rear of the premises, at the bottom of the terrace stairs, leading out into the adjacent reserve. The design and size of the gate results in the gate swinging out into the adjoining reserve when opened. The applicant has been requested to locate the security gate structure so that it is located completely within the boundary of the subject site. This may require the gate to be removed and replaced with two smaller gates (rather than one large swinging gate), or be replaced with a sliding gate, which runs along the edge of the terrace. The gate in its current form is not acceptable in terms of potential public liability if the gate is opened into the reserve and collides with someone standing within the public reserve. No response has been received in this regard.

Carparking

Council’s records indicate that the original consent was modified in October 2005 to allow for the serving of food and drinks from the subject site during special events at Jack Evans Boat Harbour and Chris Cunningham Park. The approved area for the special events is between an existing masonry wall and the deck area, identified on the most recently submitted plans as Carpark 1. The applicant has been requested to confirm what the proposed use in this location is. No response has been received in this regard. No other assessment has been undertaken with regard to car parking requirements, as a result of the proposed modifications not being supported.

Site Suitability

As noted above under zone objectives, the proposed use of the subject site is not considered appropriate for the surrounding area. The use is not considered to meet the objectives of the zone in that it does not enhance the character of the adjacent Jack Evans Boatharbour.

Draft Tweed City Centre LEP 2009

The subject site is defined as B3 – Commercial Core under the provisions of the draft Tweed City Centre LEP 2009. As noted above, the proposed development is considered to be a bar, given the primary purpose of the development is the serving of alcohol. A bar is best defined as a “pub”, which is permissible with consent under the draft LEP.

Draft Tweed City Centre DCP 2009

The subject site is located within the Jack Evans Boat Harbour Precinct. The DCP incorporates controls for special areas, including the Jack Evans Boat Harbour. The objectives of the special controls in this area note the following:

‘Jack Evans Boat Harbour will be the recreational and tourism centrepiece for the Tweed City Centre. This currently underutilised but strategically located public space will be transformed into a lively and diverse leisure hub for Tweed Heads, that provides a focus for activities for residents and visitors of all age groups, both day and night’.

The provisions of the draft DCP highlight that the subject site is important in terms of being adjoined to the showpiece of Tweed. In that regard, it is imperative that Council ensures that any development and / or activities are considered to be in keeping with the desired objectives and controls for this specific area.

Legal Advice

Marsden Lawyers have provided legal advice on the matter to date, and on Council’s instructions, have deferred taking any legal action against the proprietor, until advised otherwise by Council. Legal action sought to-date has been in the form of Class 4 proceedings in the Land and Environment Court, seeking orders and declarations with respect to the unauthorised works undertaken on the premises.

Marsdens have noted that it is difficult to provide an estimate of their fees, however in their experience the costs incurred in taking Class 4 proceedings are in the order of \$20,000 plus GST (based on the matter proceeding to a hearing of one (1) days duration). Marsdens have noted that this estimate may vary depending upon complexity of issues which arise in the proceedings and the actual length of the hearing of the matter.

If further legal action was to be initiated, Class 4 proceedings would be sought in relation to re-instating the premises back to the originally approved layout. Council would also seek orders for the proprietor to lodge a S96 application with regard to the trading hours of the premises, pursuant to Conditions 6 and 7 of the consent.

It should be noted that if the applicants are not satisfied with the determination of the Section 96 application they have a right of appeal in the NSW Land and Environment Court.

CONSIDERATIONS UNDER SECTION 96(1)(a) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

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

- (i) *the regulations, if the regulations so require and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations."*

Likely Environmental Impact

As noted above under S79c considerations, Council's Development Assessment Unit, Building Services Unit and Environmental Health Unit have been unable to finalise the assessment of the proposal in detail. As such, Council cannot be satisfied that the proposed modifications are of minimal environmental impact.

Substantially the Same Development

An assessment needs to be undertaken in terms of whether the proposed development is "substantially the same" as the originally approved development, pursuant to the provisions of the Environmental Planning and Assessment Act.

As noted above, the current use of the premises is considered to be a bar, having a primary purpose of selling alcohol. Such a use is not in keeping with the existing consent for a restaurant, which has a primary purpose of providing meals.

Therefore, the proposed modifications are not considered to meet the provisions of being substantially the same development as originally approved. Rather, the proposal should be assessed as a new Change of Use development application. As such, the proposed modifications are recommended for refusal.

Notification/Submissions

After finally paying the required \$540 in advertising fees, the application was placed on public notification for a period of two weeks, during which time one (1) written submission was received.

The primary area of objection relates to the proposed continuation of 24 hour trading. The submission raises issues with regard to numerous complaints in relation to inappropriate noise and behaviour issues that have occurred during the hours of 3.00am and 6.00am in the morning. The submission also notes that a number of younger female persons were seen outside the establishment enacting lewd behaviour towards passing motorists. Also noted is the issue of the problems associated with 24 hour trading is not in the spirit of what the Jack Evans Revitalisation project is trying to achieve, in terms of promoting the area as a safe and family oriented area.

The issues raised by the submission are largely police matters. However, the suitability of the proposed development has been documented throughout this report in terms of being out of character with the objectives of such an important area.

PUBLIC INTEREST:

As noted above, the proposed development is not considered to be appropriate for the subject site and adjoining public reserve, being the showpiece of the Tweed. Without a thorough assessment of the potential impacts and change of trading hours, the proposed modifications are not considered to be in the public interest.

OPTIONS:

1. Refuse the proposed modifications to Development Consent DA05/0223; and

2. Notify the Office of Liquor, Gaming & Racing in writing that the premises is no longer operating as a restaurant and is therefore no longer complying with the provisions of the existing on-premises licence for the originally approved restaurant; and
3. Re-initiate legal action through Council's Solicitor's in relation to unauthorised building works and modification of trading hours (Class 4 proceedings through the NSW Land and Environment Court); or
4. Approve the application, subject to the hours of operation being amended to 9.00am – 12 midnight Monday to Saturday, 10.00am – 10.00pm Sundays.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Financial implications will result from legal proceedings involving Class 4 proceedings.

The applicant also has a right of appeal (Class 1) in the NSW Land and Environment Court if dissatisfied with the determination of the S96 application.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The history of this premise, in terms of not providing detail required by Council for assessment, suggests that unless a determination to refuse the proposed modifications and legal action is undertaken, the issue of unauthorised building works etc will continue. As well as regularising the unauthorised building works, legal action may also need to address the issue of use and trading hours.

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. Nil
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15 [PR-CM] Tomewin Road Equestrian Pad Compliance Matter

ORIGIN:

Development Assessment

FILE NO: PF5510/1295

SUMMARY OF REPORT:

Since May 2008 Council staff has been receiving complaints about the lawfulness of the construction of an equestrian pad at No. 308 Tomewin Road, Dungay.

The construction of the equestrian pad involved the importation of fill and the levelling and top dressing of this fill with sand to make a suitable equestrian pad.

The matter was investigated in 2008 by Council's Compliance Officer, Council's Subdivision Technical Officer, Council's Planning and Infrastructure Engineer (Flooding Engineer), Council's Coordinator Development Assessment and Council's Manager Development Assessment. At that time the height of the fill averaged 300mm with a maximum height of 400mm and it was proposed to surface the pad with a further sand layer. Given the limited extent of proposed filling at that time, Council wrote to the complainants and the owners of the subject site in September 2008 advising that:

- The fill pad is extremely unlikely to cause any adverse flooding impact on adjoining land or local flood behaviour.
- The works are to facilitate ancillary development associated with the keeping of livestock (horses) and are thus best defined as agriculture for the purposes of the Tweed LEP 2000. Agriculture is exempt development and does not necessitate a Development Application;
- The applicant does however need a permit from the then Department of Water & Energy for works within 40m of a waterway in accordance with the Water Management Act.

The subsequent permit issued by Department of Water & Energy in December 2008 authorised an equestrian pad 20m x 70m and approximately 600mm high.

The equestrian pad is now complete and Council has received further complaints regarding the location, extent and height of the finished equestrian pad.

The Department of Water & Energy has signed off on the completed equestrian pad satisfied that the equestrian pad is generally in accordance with their issued permit.

Notwithstanding this, Council staff have re-inspected the equestrian pad and taken GPS measurements to depict the actual height of the pad in relation to the pre-existing ground level and surrounding topography. At its lowest point, along the north western boundary, the fill formation is approximately 450mm above pre existing ground level. This is consistent

with Council's original inspections in 2008. At its highest point in the south eastern corner the fill is 900mm above pre existing ground level.

This report seeks to analyse this new data and determine whether Council's opinion as expressed in September 2008 is still valid given the additional height of the equestrian pad. It is considered that Council has three options available to it:

- Option 1: Require modification of the fill pad to achieve fill heights of a maximum 450mm above pre existing ground level;
- Option 2: Require submission of a development application for the current configuration of the fill pad. The DA must be accompanied by a flood impact assessment, including flood modelling, of the development;
- Option 3: Require no action, and allow the matter to proceed as a civil matter between neighbouring parties.

RECOMMENDATION:

That:

- 1. Council advises the owners of the subject site that a review of the completed equestrian pad has revealed a fill height of greater than that previously considered by Council and that accordingly the owners are requested to undertake either Option 1 or Option 2 as detailed below:**

Option 1:

The owner is to modify the fill pad to achieve fill heights of a maximum 450mm above pre existing ground level.

or

Option 2:

The owner is to lodge a development application for the current configuration of the fill pad (the DA must be accompanied by a flood impact assessment, including flood modelling, of the development).

Failure to undertake Option 1 or 2 as detailed above (within 60 days from the date of notification) will result in Council pursuing this matter legally.

- 2. ATTACHMENT 3 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of level professional privilege.**

REPORT:

Owner: Mr Darryl James Colby and Mrs Leanne Gaye Colby
Location: 308 Tomewin Road, Dungay
Zoning: 1(a) Rural and 1(b2) Agricultural Protection
Cost: N/A

BACKGROUND:

Following is a brief chronology of how this compliance matter has evolved since May 2008:

5 May 2008 - Council received objections to the works being undertaken at 308 Tomewin Road. Council's Compliance Officer investigated and determined that the works were minor and required no compliance action.

19 August 2008 - Council received additional objections to the works being undertaken. Council's Subdivisions Technical Officer attended the site and consulted Council's Flooding Engineer. At that time the height of the fill averaged 300mm with a maximum height of 400mm and it was proposed to surface the pad with a further sand layer. On this basis Council's Flooding Engineer verbally confirmed that the works would have no significant impact on the flood pattern within the area. Therefore again Council's Subdivision Technical Officer determined that the works were minor and required no compliance action.

24 August 2008 – Further written objections were received by the General Manager again objecting to the works being undertaken on the basis that they need Development Approval, and approval from the Department of Water & Energy (for works within 40m of the creek).

Tuesday 9 September 2008 – Council's Manager Development Assessment and Coordinator Development Assessment attended the subject site and viewed the fill pad area. The fill was 300mm to 400mm high and was limited in size to 70m x 20m. While the fill required further compaction and an additional top dressing layer to make it suitable for its equestrian use, it appeared minimalistic. The site visit included a visit to the neighbouring site to discuss with the reasons for objecting to the filled pad. The neighbour was concerned about a bund built along the creek bank approximately 200 mm in height and a dam built within another nearby creek, built in the last 18 months. The neighbour was concerned about the construction of a levee wall type structure and the potential to worsen future flooding in the area.

11 September 2008 - Council's Manager Development Assessment and Coordinator Development Assessment and Council's Planning & Infrastructure Engineer (Flooding Engineer) attended the subject site with the owners present to obtain full access to the site.

12 September 2008 – Council wrote to the owners and complainants generally advising as follows:

Following numerous site visits and investigations Council can now provide you with the following information:

Council's Flooding Engineering has stated that:

The following observations are made in regard to flooding and the potential for the fill pad in question to impact on local flooding behaviour:

- *The fill pad, which is intended as a level platform for horse riding / dressage, is approximately 300mm in height above natural surface level. This height varies in some areas due to slight undulations in the natural surface, but would not exceed 400mm.*
- *The area of the fill pad is approximately 20m x 70m, which represents just over 1% of the 10.2 hectare property.*
- *According to Council's ground level contours, the site is at approximately 4m AHD. Tweed River Q100 flood level for this property is 4.7m AHD. The flood model does not account for additional flood gradient coming down Dungay Creek, which runs along the northern property boundary and is adjacent to the fill pad.*
- *Contour mapping and site inspection confirms that during large flood events, water from the creek will preferentially pass through the property via existing gullies and back channels in a generally straight path from upstream of the dwelling, across the access road and through paddocks about 100m south of the fill pad. The fill pad is not located in an obvious out-of-creek flowpath.*
- *The level of fill is not considered significant as it is generally consistent with, and does not exceed by any significant amount, the level of the creek bank and other natural and man-made land formations in the area.*
- *While some flood storage will potentially be lost due to the filling, the size of the fill pad is considered insignificant, and therefore should not adversely affect flood levels in the locality.*
- *Overall, I consider the fill pad acceptable, and extremely unlikely to cause any adverse flooding impact on adjoining land or local flood behaviour. I do not consider that further investigations or major modifications to the fill pad are warranted at this time.*

In regards to permissibility the subject site is zoned part 1(a) Rural and part 1(b2) Agricultural Protection. In both of these zones agriculture is exempt development and is defined as:

includes horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like. It does not include forestry, or the use of an animal establishment or a retail plant nursery.

Given the minimalistic nature of the equestrian area, it is Council's opinion that the works are ancillary to the keeping of livestock (horses), and thus constitutes exempt development under the LEP 2000. Hence no Development Application will be required.

However, you are still required to obtain a Permit from the Department of Water & Energy for works within 40m of a waterway in accordance with the Water Management Act.

2 December 2008 – The Department of Energy and Water issued the owners with a controlled activity permit under the Water Management Act 2000 for works within 40 m of the waterway.

December 2008 - Councillor enquiries resulted in the Councillors being advised of Council's letters dated September 2008.

July - August 2009 - Council's Flood Management Committee enquired about the status of the equestrian pad as members had received complaints about the works. A request for the Floodplain Management Committee to undertake a site visit was refused by the landholders, as based on Council correspondence and the Department of Water and Energy approval there were no grounds for reinvestigation by the Committee. Council's Acting Flood and Stormwater Engineer undertook an independent site visit to observe the works from neighbouring properties, without entering the Colby's land, and concluded that:

"The height of the mound is between 300mm and 400mm and, in my view, overland flow would only be affected for flow depths up to the height of the mound and then to a lesser extent for flows which overtop the mound.

In my opinion, these potential effects, such as Eddy currents and minor increases in water levels, would be limited to the immediate perimeter of the mound, and possibly up to a maximum of 3 or 4 metres either side.

Whilst the neighbour considers the mound to be "large", the size of the mound is relatively small in relation to the surrounding landscape and floodplain either side. (the size is approximately 20m x 70m),

I have discussed the matter with Council's Coordinator Development Assessment to ascertain what Council's position would be if further fill is added to the mound. It would appear that the mound is compatible with the permissible uses for the zoning and would only become a matter of concern if it adversely affected flood behaviour.

It would therefore seem that Council has no basis for taking any further action and the neighbour can only consider the other remaining options explained to him whilst on site, or accept the situation as it now stands."

31 August 2009 – The owners' solicitor (Ellis & Baxter) notified Council in writing that works would be recommencing in accordance with the Department of Energy and Water permit as issued on 2 December 2009.

Despite Council officers forming the above opinion Council continued to get objections to the works being undertaken on the site. Such objections were coming from nearby neighbours and the NSW Cane Growers Association.

Council maintained its position formed in September 2008 and continued to respond to complainants accordingly.

September 2009 - Councillor enquiries received resulted in this matter being reported to the Executive Management Team for review. The Executive Management team deemed it would be appropriate for Council's Waterways Officer to inspect the site and provide advice on what can be done to prevent erosion and ensure stabilisation of the adjoining creek bank.

4 September 2009 – Council's Waterways Officer inspected the subject site and that of the adjoining owners. The officer concluded that *"It is highly unlikely that the filling has had an impact on the condition of the channel and stream banks at this point"*. A full copy of the Officer's Report is annexed to this agenda.

23 September 2009 – Council's Executive Management Team reconsidered the advice of Council's Waterways Officer and made a:

Decision that, following the Executive Management Team's review of the investigations to date by Council Officers in relation to the fill placed on 308 Tomewin Road, Dungay, the Director Community & Natural Resources advises Cr Milne that:

1. *Planning staff have reviewed the activity and have advised that development consent is not required and that the relevant works are being undertaken under the approval of the Department of Water and Energy applicable to works within 40 metres of a waterway,*
2. *Engineering staff have reviewed the activity and advised that the works is of a minor nature and there will be no significant impact on flooding behaviour and;*
3. *Natural Resource Management staff have inspected the site and determined that the placing of fill is unlikely to have caused any erosion to the adjacent creek banks.*

25 November 2009 - Despite Council's Executive Management Team forming the above opinion Council continued to get objections to the works being undertaken on the site. Council maintained its position formed in September 2008 and continued to respond to complainants accordingly.

January 2010 – Council continued to receive objections from the nearby neighbours and further enquiries from Councillor Milne. It was alleged that the fill was now 1m high which was more than that originally considered by Council. Council staff asked for credible evidence demonstrating the additional depth of fill before again investigating this matter.

11 January 2010 – The Department of Water & Energy (now known as the Department of Environment Climate Change and Water – NSW Office of Water) inspected the completed equestrian pad and concluded that:

"The NSW Office of Water is satisfied that the dimensions of the structure generally comply with the Controlled Activity Approval (ERM2008/1309)"

8 April 2010 – Council staff met with Thomas George (MP) and the complainants regarding this matter. The complainants again suggested that the fill height was now at least 1100mm above natural ground level. It was resolved that if the complainants gave Council credible evidence demonstrating the additional depth of fill the matter would be re-investigated.

23 April 2010 – The complainants produced a letter detailing their dissatisfaction with the manner in which this matter had been investigated and produced photo's that suggested the equestrian pad had been built to higher than that originally reviewed by Council. A copy of this letter is annexed to this agenda

20 May 2010 – Council staff wrote to the owners of 308 Tomewin Road seeking permission to access the site for the purpose of surveying the height of the recently completed equestrian pad. Access was granted for 27 May 2010 with the accompaniment of the owners solicitors (Ellis & Baxter).

27 May 2010 – A site visit was conducted by Council's Coordinator Development Assessment, Council's Planning & Infrastructure Engineer, and Council's Surveyor. Photos and GPS data of the equestrian pad were taken. Following this Council staff then met on site with the complainants and took further GPS data of adjoining property levels and photos of any adjoining matter pointed out by the complainants.

Council's Planning and Infrastructure Engineer has since produced the following notes summarising the results of this site visit:

On the morning of Thursday 27 May 2010, Council's Planning & Infrastructure Engineer, Coordinator Development Assessment and Surveyor attended a site inspection of the equestrian pad on the subject property. The inspection commenced on the subject property, in the presence of Liz Ellis, on behalf of the property owners (Leanne and Darryl Colby). Later the inspection moved onto the adjoining properties, in the presence of Barry Sweetnam, Trevor Baker and Tom Gresham. Numerous survey measurements and photographs were taken throughout the inspection.

A previous inspection of the site was carried out on 11 September 2008, which was not long after the fill was first placed for the equestrian pad. In terms of the potential flood impact of the fill, the following assessment was made at that time:

"The fill pad, which is intended as a level platform for horse riding / dressage, is approximately 300mm in height above natural surface level. This height varies in some areas due to slight undulations in the natural surface, but would not exceed 400mm.

The area of the fill pad is approximately 20m x 70m, which represents just over 1% of the 10.2 hectare property.

According to Council's ground level contours, the site is at approximately 4m AHD. Tweed River Q100 flood level for this property is 4.7m AHD. The flood model does not account for additional flood gradient coming down Dungay Creek, which runs along the northern property boundary and is adjacent to the fill pad.

Contour mapping and site inspection confirms that during large flood events, water from the creek will preferentially pass through the property via existing gullies and back channels in a generally straight path from upstream of the dwelling, across the access road and through paddocks about 100m south of the fill pad. The fill pad is not located in an obvious out-of-creek flowpath.

The level of fill is not considered significant as it is generally consistent with, and does not exceed by any significant amount, the level of the creek bank and other natural and man-made land formations in the area.

While some flood storage will potentially be lost due to the filling, the size of the fill pad is considered insignificant, and therefore should not adversely affect flood levels in the locality.

Overall, I consider the fill pad acceptable, and extremely unlikely to cause any adverse flooding impact on adjoining land or local flood behaviour. I do not consider that further investigations or major modifications to the fill pad are warranted at this time."

The purpose of the latest inspection was to:

- a) determine the actual extent of the works, following concerns raised by neighbouring landholders in a meeting at Council offices on 8 April 2010, and in a written submission dated 19 April 2010, and*
- b) determine whether the completed works are consistent with the previously inspected works, and whether the assessment made at that time remains valid.*

The latest site inspection confirmed the previous observations regarding local flood behaviour and patterns. In large flood events the most significant out of creek flows would occur to the south of the fill site, however some flow is retained in the creek and from a tributary from the north. This has to negotiate the area in proximity to the fill pad.

A central concern of the neighbouring landholders is previous landforming works undertaken on the subject land several years previous to the equestrian pad works. According to the neighbouring landholders an overflow channel from the creek has been filled in the vicinity of the existing shed and the equestrian pad, preventing the breakout of water from the creek in a southerly direction. According to the neighbouring landholders this confines more water to the main creek line, and they fear this detrimentally affects downstream properties. Council officers are unable to make an assessment of any works undertaken prior to or separately to the equestrian pad, and as such, these works have not been considered in determining the "pre-existing" or "natural" ground level in the vicinity of the fill pad.

The survey measurements of the equestrian fill pad confirmed that the finished formation has been significantly raised since the last inspection. At its lowest point, along the north western boundary, the fill formation is approximately 450mm above pre-existing ground level. This is consistent with the initial inspection of 300-400mm high in its rough, uncompacted form, with the addition of a working surface. However at its highest point in the south eastern corner, the fill formation is approximately 900mm above pre-existing ground level, and far exceeds the initial assessment. As the pad surface is generally level at approximately 5.0m AHD, this variation can be attributed to the slope of the natural ground.

In light of these measurements, the fill pad is not considered to be consistent with the formation that was initially assessed. Further, the potential impact of the fill pad in its

current configuration and level on adjoining land cannot be properly determined, without a flood impact assessment and flood modelling.

It is understood that this matter will be reported to Council. There are three options available to Council:

- Option 1:* *Require modification of the fill pad to achieve fill heights of a maximum 450mm above pre existing ground level;*
- Option 2:* *Require submission of a development application for the current configuration of the fill pad. The DA must be accompanied by a flood impact assessment, including flood modelling, of the development;*
- Option 3:* *Require no action, and allow the matter to proceed as a civil matter between neighbouring parties.*

Option 1 and 2 are recommended, and the landholder can determine which of these to undertake. It is noted that Option 1 is likely to be the cheaper of these two options, due to the high cost of flood modelling.

From a planning perspective the subject site is zoned part 1(a) Rural and part 1(b2) Agricultural Protection.

Since 2008 the nature of the works has always been defined as either agriculture or earthworks.

Agriculture is defined as “includes horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like. It does not include forestry, or the use of an animal establishment or a retail plant nursery”

Earthworks are defined as “the addition or removal of any solid material on, to or from land, or any other work which will substantially alter the existing ground level or character of the surface of the land”

Agriculture is permitted without development consent while earthworks require development consent in these zones.

To assist in determining the most suitable definition Council has always used the Planning & Infrastructure Engineer's comments to establish whether any impact has been associated with the works.

Up until May 2010 Council's Planning & Infrastructure Engineer had advised that, based on a fill formation of approximately 300mm to 400mm plus an additional working surface, the fill pad was acceptable and extremely unlikely to cause any adverse flooding impact on adjoining land or local flood behaviour.

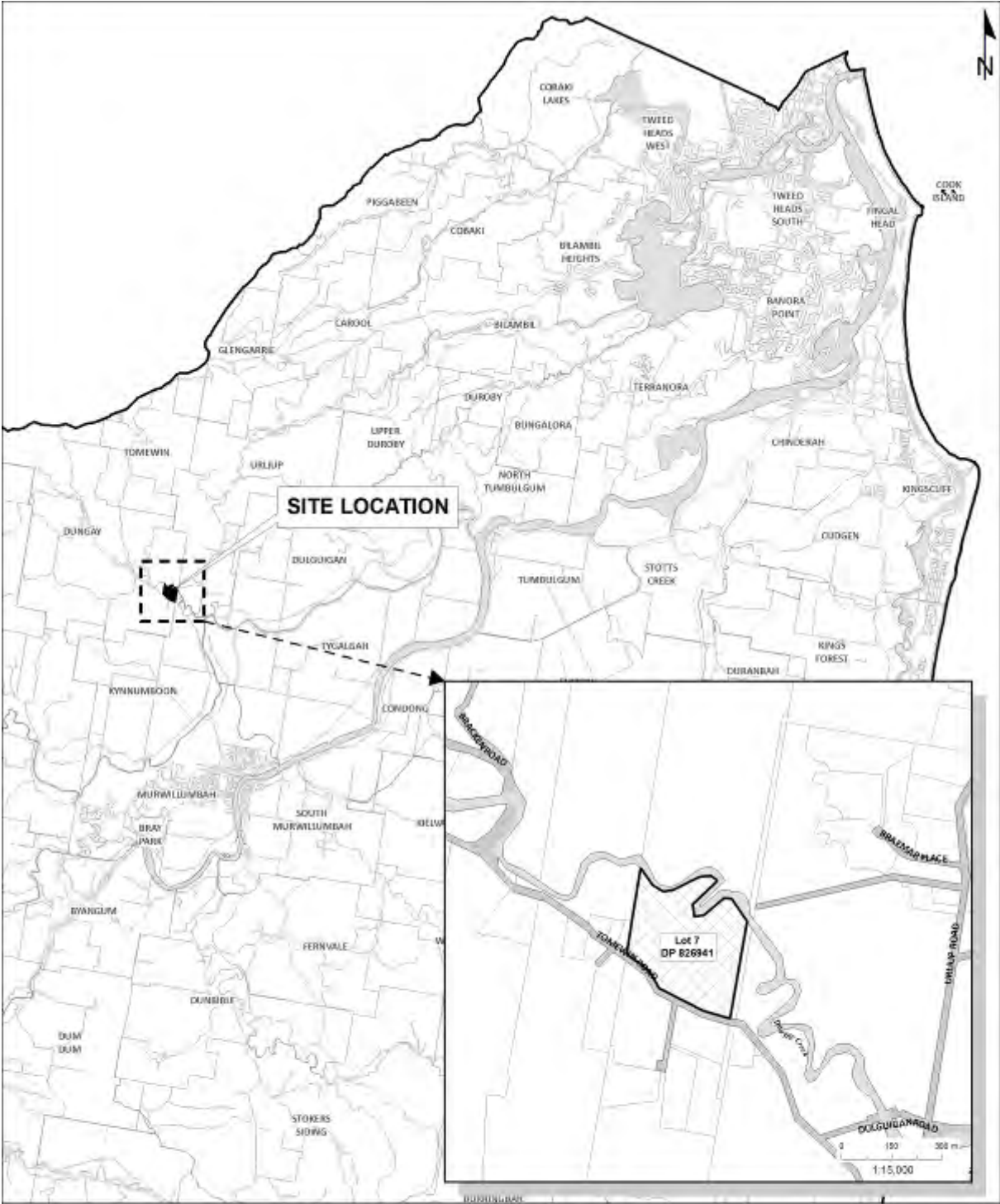
Accordingly given the minimalistic nature of the equestrian area, it was Council's opinion that the works were ancillary to the keeping of livestock (horses), and thus constituted exempt development under the Tweed LEP 2000.

Following the May 2010 inspection Council's Planning & Infrastructure Engineer advised that the fill pad is not considered to be consistent with the formation that was initially assessed. Further, the potential impact of the fill pad in its current configuration and level on adjoining land cannot be properly determined, without a flood impact assessment and flood modelling.

Accordingly the latest evidence suggests that the most suitable definition is now "earthworks" thus necessitating a development approval.

Alternatively the owner should be given an opportunity to reduce the height of the equestrian pad to a level of not greater than 450mm which is the level previously considered acceptable to constitute exempt agriculture. This route would attract additional issues about where the excess fill should be moved to. However, this could be resolved between Council staff and the owner.

SITE DIAGRAM:



LOCALITY PLAN
 Lot 7 DP 826941
 No. 308 Tomewin Road, Dungay

0 1 2 3 Km
 1:125,000

Filename: z:\esr\planning\mwd\A&P_B&W SitePlan.mxd Author: J.Bachelor - Planning Reforms Unit Date Printed: 24 June, 2010	Cadastre: 25 June, 2010 © Dept. of Lands & Tweed Shire Council Coordinate System: MGA Zone 56 Datum: GDA 84 TO NOT SCALE COPY ONLY - NOT FOR REUSE	Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 818 Murwillumbah NSW 2484 T: (02) 6670 2400 / 1300 292 872 F: (02) 6670 2483 W: www.tweed.nsw.gov.au E: planning@tweed.nsw.gov.au
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AERIAL IMAGE SHOWING APPROXIMATE LOCATION OF FILL PAD:



GPS DATA SHOWN ON AERIAL:



PHOTOGRAPHS:



August 2008



August 2008



September 2008



September 2008



May 2010



May 2010



May 2010



May 2010

OPTIONS:

- A. That Council advises the owners of the subject site that a review of the completed equestrian pad has revealed a fill height of greater than that previously considered by Council and that accordingly the owners are requested to undertake either Option 1 or Option 2 as detailed below:

Option 1:

The owner is to modify the fill pad to achieve fill heights of a maximum 450mm above pre existing ground level.

or

Option 2: The owner is to lodge a development application for the current configuration of the fill pad (the DA must be accompanied by a flood impact assessment, including flood modelling, of the development).

Failure to undertake Option 1 or 2 as detailed above (within 60 days from the date of notification) will result in Council pursuing this matter legally.

- B. That Council advise the owners of the subject site that a review of the completed equestrian pad has revealed a fill height of greater than that previously considered. However advise the owners that no further action will be taken from Council as the works continue to be considered ancillary to the keeping of animals (agriculture).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should Council adopt Option A which encompasses both Options 1 and 2 the owners may challenge such a request and contest any subsequent legal action. Council would incur legal costs if this were to happen.

Should Council adopt Option B which takes no further action in regards to this matter the complainants may pursue civil action against the subject property and/or Council. Council could incur legal costs if this were to happen.

POLICY IMPLICATIONS:

Council's position in regard to this matter could set a precedent in terms of establishing suitable levels of fill as exempt development when in association with agriculture. However, it should be noted that each case still needs to be looked at on its merits to interpret the applicable legislation for each site.

CONCLUSION:

This compliance matter has been continually investigated since September 2008.

Recent evidence suggests that the finished height of the equestrian pad is 900mm at its highest point above natural ground level. Council's Planning & Infrastructure Engineer has concluded that the potential impact of the fill pad in its current configuration and level on

adjoining land cannot be properly determined, without a flood impact assessment and flood modelling.

This advice changes Council's previous planning advice in regards to the structures permissibility.

If the flood impact can not be determined the extent of fill is sufficient enough to change the applicable definition from agriculture (which is exempt) to earthworks (which requires development approval).

Accordingly it is recommended that the owner either reduce the height of the fill pad to that originally considered acceptable (450mm) or lodge a development application with flood modelling to consider the equestrian pad as it is in its present form.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Department of Energy and Water - Controlled Activity Permit dated 2 December 2008 (Water Management Act 2000) for works within 40 m of the waterway (ECM 18635608)
 2. Waterways Program Leader Memorandum on Erosion Issues at Dungay Creek, dated 4 September 2009 (ECM 18634568)
 3. **Confidential Attachment** Letter of complaint dated 19 April 2010 (ECM 18634590)
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16 [PR-CM] Major Project Application MP06_0153 for a 41 Lot Residential and Tourist Subdivision at Lot 156 DP 628026 Creek Street, Hastings Point

ORIGIN:

Development Assessment

FILE NO: DA10/0228 Pt2

SUMMARY OF REPORT:

The purpose of this report is to seek Council's endorsement of the proposed submission to the Department of Planning on the Major Project Application for the 41 lot subdivision at Lot 156 Creek Street, Hastings Point (Department of Planning Reference MP06_0153).

The proposal has been reviewed by Council staff from relevant planning, building, engineering and environmental units across Council.

The Officers raise serious concerns with this development and have requested that the Department consider refusing the application as currently proposed.

RECOMMENDATION:

That Council endorses that the attached draft submission relating to Major Project Application MP06_0153 at Lot 156 DP 628026, Creek Street, Hastings Point be forwarded to the NSW Department of Planning.

REPORT:

Applicant: Planit Consulting
Owner: Walter Elliott Holdings Pty Ltd
Location: Lot 156 DP 628026, Creek Street Hastings Point
Zoning: Part 2(e) Residential Tourist and part 7(a) Environmental Protection (Wetlands & Littoral Rainforests)
Cost: N/A (Department of Planning Development Application)

BACKGROUND:

Tweed Shire Council was first asked to review an application on this site by the Department of Planning in September 2006.

On 20 October 2006 Council provided the Department of Planning with information to assist in the formation of the Director General Requirements. Part of this submission stated:

“By way of background you should be aware that this property has had a long history of unauthorised work, particularly in the western part of Lot 156 with the construction of the existing artificial waterway as well as in more recent times clearing within the 7(a) Environmental Protection (Wetlands and Littoral Rainforest) parts of the property. These activities have generated a considerable number of submissions from the local community both to Council and the NSW Ombudsman. Given this history an important part of processing this application will be extensive consultation with the local community.”

In October 2008 Council was provided with a Draft Environmental Assessment. This application was for 57 residential allotments and one residue allotment for a resort development. The Department advised that they had already determined this Environmental Assessment as inadequate and that the Department were awaiting amendments by the proponent.

Furthermore on 27 October 2008 Planit Consulting requested Council's owners consent for roadwork's within Creek Street to accommodate the proposed Part 3A Application.

Council staff responded to this request with the following letter:

I refer to your letter of 27 October 2008, seeking consent from Tweed Shire Council as the owner of Creek Street Hastings Point, to lodge the subject Major Project Application with Department of Planning.

Please be advised that owner's consent shall not be granted at this time, as it is considered that the Preliminary Environmental Assessment fails to adequately deal with impacts of the proposed development on other land.

The main engineering issues upon which this is based are as follows:

- 1) The Engineering Impact Assessment (EIA) does not address stormwater runoff from all external catchments.*

The drainage assessment does not consider any stormwater catchments north of Creek Street (refer Figure 6.0). This is a significant deficiency in the EIA, as there is a large contributing catchment north of and including the North Star Caravan Park, which currently discharges to Cudgera Creek through the subject land. The catchment extends beyond Round Mountain Road to the north-west, and Tweed Coast Road to the north-east. A number of drainage channels have been constructed over time within this catchment, which enter the lake on the subject land.

The drainage assessment also fails to consider stormwater flows within Creek St itself. If street drainage is blocked by fill to the south, with no major flow outlet, this will cause flooding of existing low set dwellings along the street.

- 2) *The EIA does not properly consider the impact of the proposed development, specifically the filling of land, on flooding behaviour in the locality.*

The flood impact assessment is flawed in that it has not been calibrated against known flood events (e.g. the 30 June 2005 flood), and as such, the levels predicted for the existing and post-development case cannot be considered representative. The argument that the absolute levels are not critical for a comparative study is noted, however is not agreed. Pre-development inundation levels are too high to reflect filled land in the caravan park site, and post-development predictions show portions of the new filled development still being inundated. Neither situation provides an accurate and reliable basis for flood impact assessment or comparison.

Further, it is considered that the 30m grid used in the 2-dimensional flood modelling is too coarse to properly represent the local variations in topography (fill, structures, gullies etc.) and local watercourses and flow paths.

A cumulative development scenario should also be provided. While it is agreed that the extent of developable land is limited in Hastings Point, areas of existing development (i.e. the caravan park and residential allotments along Creek St) have not been filled to design flood level. To account for future redevelopment of such land, an ultimate development scenario where all urban zoned land is filled to 100 year ARI level must be considered.

If the above flooding assessment is unfeasible at this stage for the applicant, it is recommended that the lodgement of concept plans with the Department of Planning be deferred until Council's Coastal Creeks Flood Study is completed. This calibrated model will be available in 2009 for the applicant to conduct their flood impact assessments. The Coastal Creeks Flood Study will also include modelling of climate change scenarios in accordance with the Department of Environment and Climate Change "Practical Consideration of Climate Change" Guideline (Oct 2007).

Owner's consent cannot be provided until such time as adequate impact assessments are provided, which demonstrate that the proposed development, specifically the proposed filling, will have no significant adverse impact on local flooding and drainage for a range of flood and storm events as specified in Council's Subdivision Manual and the NSW Floodplain Development Manual."

This letter was discussed with the applicant at a meeting on 25 February 2009 who understood why Council at that time was refusing to grant owners consent. To date owners consent has still not been granted or re-requested.

In March 2009 Council was provided with a revised Draft Environmental Assessment for review. This application was for a 38 lot residential subdivision (including 5 nominated dual occupancy sites), two tourist allotments and two allotments (containing integrated housing).

On 16 April 2009 Council reviewed this application and provided the Department of Planning with a 13 page letter detailing issues with the application as submitted. This response forms an **annexure** to this report.

On 16 April 2010 Council were provided with a revised Environmental Assessment for review. This application is the exact application that is currently before the Department of Planning for determination (a 41 lot residential subdivision).

Council staff were extremely disappointed with the communication in regards to this test of adequacy review. Below is a chronology of the events surrounding this review:

16 April 2010 *Council Received Test of Adequacy from the Department of Planning to Review by 28 April 2010.*

28 April 2010 *TSC contacted the then DoP assessing officer (by phone) to advise that comments were still being prepared by Council officers, and that there were some serious concerns for the DoP to consider. The officer advised at that time that he couldn't see a problem with an extension to Council's outstanding comments to the end of following week (Friday 7 May 2010)..*

3 May 2010 *A new DoP assessing officer for the project called TSC to confirm that the extension was ok, provided that TSC could give a verbal explanation of the issues. TSC provided an explanation of the major engineering, planning and ecological concerns. It was stressed that TSC staff thought the test of adequacy should be rejected. The DoP officer seemed to understand the issues and advised TSC that they would await Council's comments.*

7 May 2010 *The DoP assessing officer rang TSC to advise that they could not wait any longer for Council comments. TSC advised him that the comments would be finalised immediately and sent through. The officer advised that Council's comments would be considered in the assessment of the project application, but that the Department of Planning had already approved the test of adequacy as being suitable for public exhibition. Council's comments were submitted to the DoP soon thereafter.*

On 7 May 2010 Council provided the Department of Planning with a 10 page letter detailing issues with the application as submitted. Disappointingly the revised Environmental Assessment failed to address many of the Council issued previously identified in April 2009. The full response forms an **annexure** to this report.

This same application has now been placed on public exhibition (between 2 June 2010 and 2 July 2010) and Council like any other objector has been presented with an opportunity to review the proposal and provide comment to the Department of Planning by 8 July 2010 (the Department of Planning gave a minor extension from 2 July to 8 July to accommodate the reporting of this matter to Council).

THE SITE:

The subject site is located within the Village of Hastings Point in the Shire of Tweed. Within the immediate vicinity, the following elements frame the context of the site:

- The North Star Holiday Resort is directly adjacent, located on the northern side of Creek Street. The holiday park contains both permanent and temporary sites and a three storey building to the front of the site facing onto the Tweed Coast Road.
- Medium Density Apartments and attached dwellings (Hastings Cove) are located to the north east of the site adjacent to Coast Road.
- Single Detached Dwellings adjoin the site, located between Creek Street and the northern boundary.
- Cudgen Nature Reserve adjoins the western boundary of the site. The southern boundary of the property adjoins the Mean High Water Mark (MHWM) of Christies Creek that connects to Cudgera Creek and a section of State Environmental Planning Policy 14 (SEPP 14) Coastal Wetland in the south east and eastern areas of the property.

The site is largely a vacant allotment (17.77 ha) with the exception of a single house recently constructed in accordance with development consent DA07/0600 (issued by Tweed Shire Council). Construction of this dwelling has been completed and the dwelling is currently occupied.

THE PROPOSED DEVELOPMENT:

The proposal is for the approval of a Concept Plan for a Residential and Tourist subdivision of the subject site. The following table summarises the proposed developments physical parameters.

Table 6: Physical Parameters			
Residential Allotments		37 (1.8995 ha) (includes 3 allotments of a size capable of containing dual occupancy development)	
Townhouse Allotments		2 (0.2915 ha)	
Tourist Allotments		2 (0.333 ha)	
Public Open Space & Roads		15.246 ha	
Proposal Description			
Lot Number	Plan Number	Address	Area
Lot 156	628026	No. 32 Creek Street, Hastings Point	17.77ha
Total Area			17.77ha
Details			
Total No. of Lots		41	
Total 2(e) zone area (existing)		7.02ha	
Total development footprint inc. roads		4.03ha	

Total public open space	0.51ha
Total rehabilitation area	1.94ha
Total EEC removal (saltmarsh)	1740m ²
Total dedication area (environmental lands) ex. Public open space. To be retained and monitored for environmental presence and removal as outlined in rehabilitation plan attached.	12.75ha
Open Space	Provided
Public Open Space – Local Parks TSC Requirement 1.13ha per 1000 population (assume 2.4 persons per allotment) NB. Structured Open space will be addressed by way of monetary contribution	0.51ha TSC Requirement equates to approx 1130m ² (41 lots @ 2.4 persons per lot)

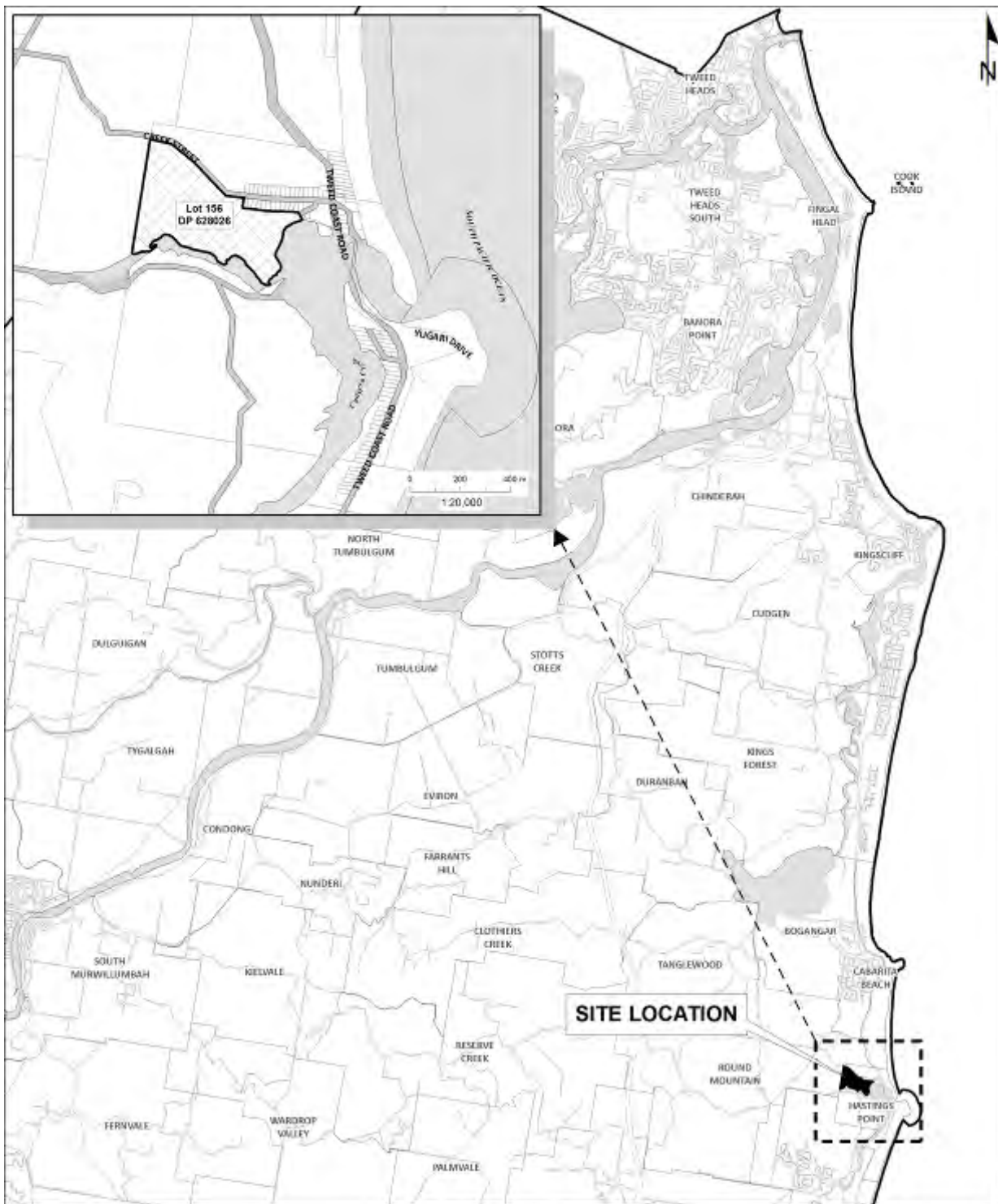
The applicant has provided that the proposed tourist allotments have been spatially separated from the existing dwellings along Creek Street and are of a land area that would not promote a single large resort proposal. They have further stated that the proposed tourist allotments are envisaged to be suitable for conventional medium density development also, given that the tourist zoning is identified as being removed within the Draft LEP 2010.

The remainder of the subdivision is largely comprised of low density single dwelling allotments. There are twelve (12) existing dwellings on the south of Creek Street and the proposed design shows that only two (2) of these existing dwellings would adjoin future proposed dwelling allotments.

Three (3) larger dwelling allotments (Lots 19, 32, 35) are provided within the layout and have the potential to be taken up as dual occupancy allotments by future owners as these lots are of a minimum size, in accordance with the Tweed Shire Council's DCP, to enable dual occupancy development

In regard to the existing dwelling that has been recently constructed on the site under DA07/0600, this dwelling will become part of the Townhouse housing within proposed Lot 31.

SITE DIAGRAM:



LOCALITY PLAN

Lot 156 DP 628026
Creek Street, Hastings Point

0 1 2 3 Km
1:100,000

Filename: z:\veer\planning\msd\A4P_B&W Site Plan.mxd

Author: J.Batchelor - Planning Reforms Unit

Date Printed: 24 June, 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 interest or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic; only if should not be used for survey or construction purposes and prior to any excavation a "Dig before You Dig" enquiry must be made by calling 1300. The information contained on this document remains valid for 30 days only from the date of supply.



Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastre: 25 June, 2010
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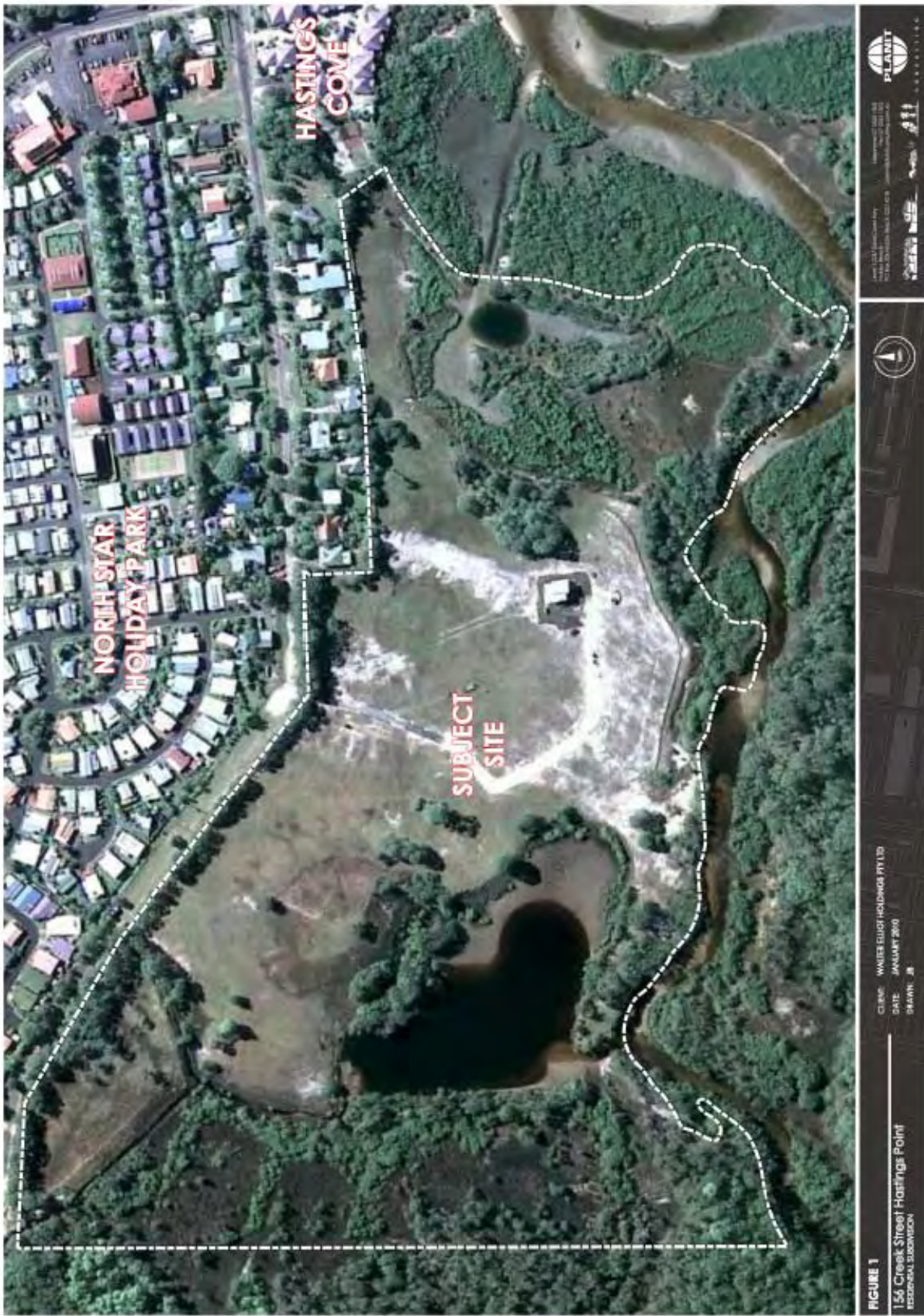
Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2464
PO Box 616
Murwillumbah NSW 2464

T: (02) 6670 2400 / 1500 202 672
F: (02) 6670 2463
W: www.tweed.nsw.gov.au
E: planningreforms@tweed.nsw.gov.au



TWEED
SHIRE COUNCIL

AERIAL PHOTOGRAPH:



ZONING PLAN:

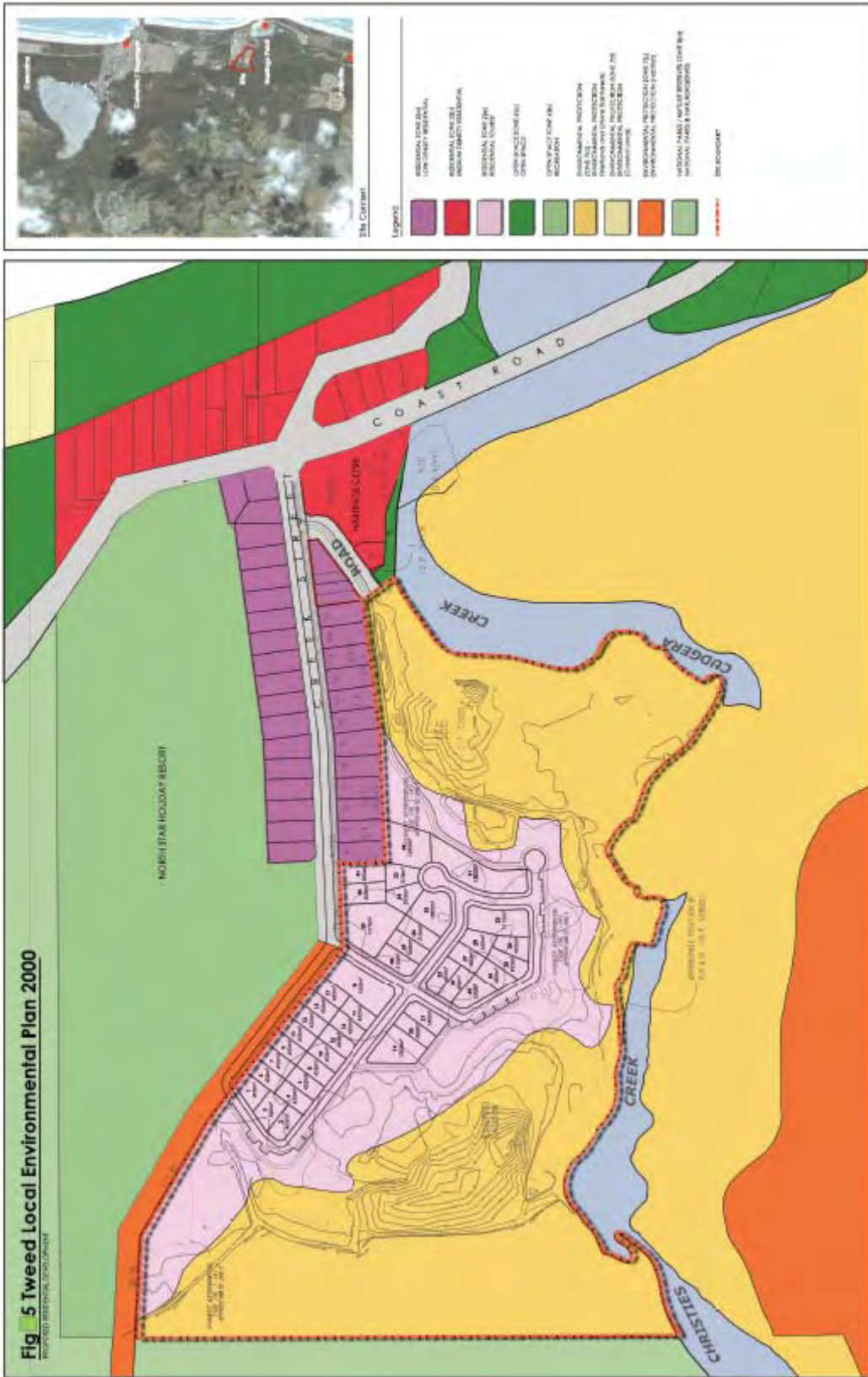


FIGURE 5 LEP - Zoning
 154 Creek Street Hastings Point
 REGIONAL TOWNSHIPS

CLIENT: WALTER ELIOT HOLDINGS PTE LTD
 DATE: FEBRUARY 2000
 DRAWN: JB

PLANITY
 Environmental Planning
 154 Creek Street Hastings Point
 Phone: 08 1300 727 727
 Fax: 08 1300 727 727
 Email: info@planity.com.au
 Website: www.planity.com.au

CONSTRAINT PLAN:



STATEMENT OF LANDSCAPING INTENT – REHABILITATION :

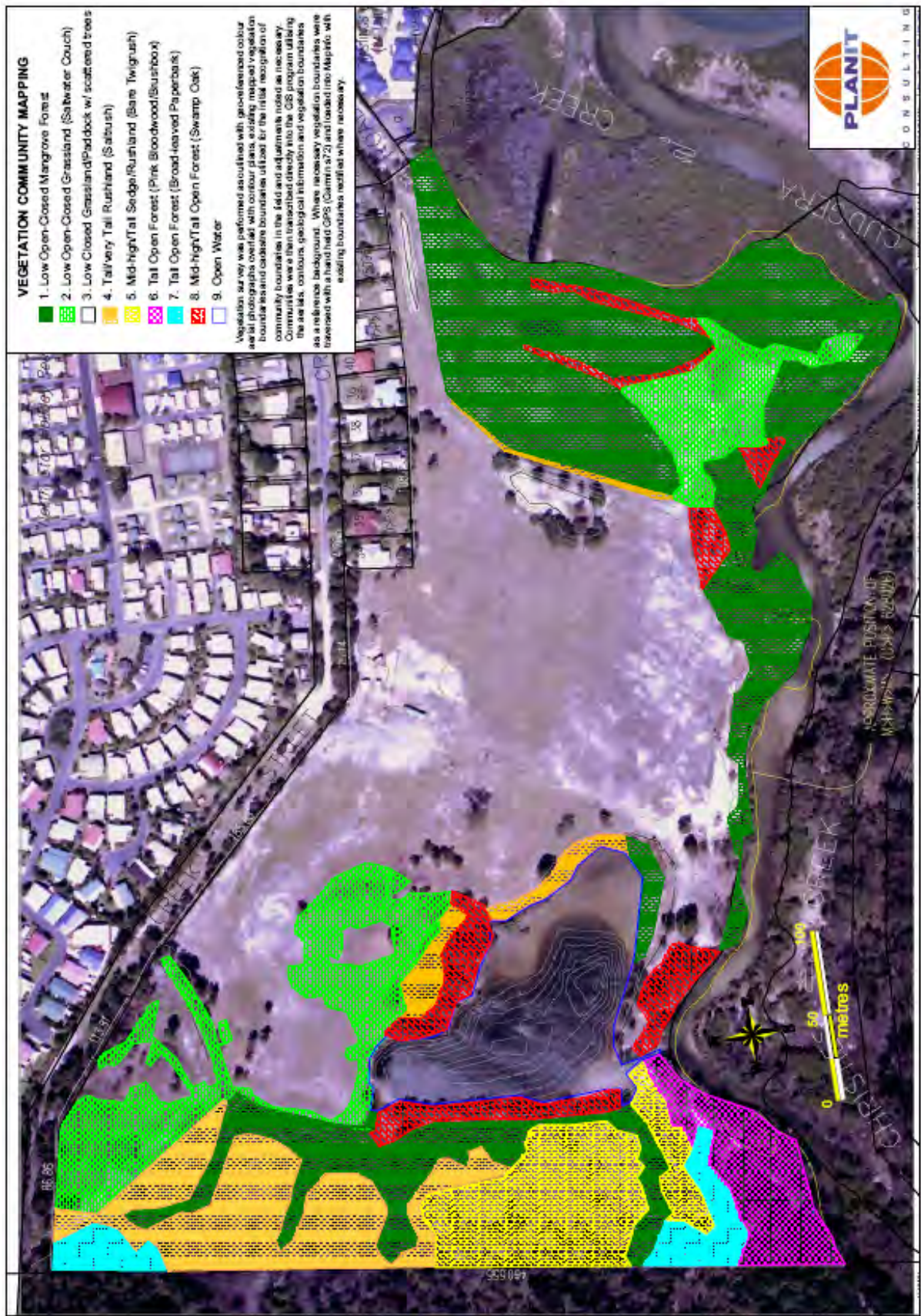


Statement of Landscape Intent
156 Creek Street Hastings Point
RESIDENTIAL SUBDIVISION

CLIENT: WALTER ELIOT HOLDINGS PTY LTD
DATE: FEBRUARY 2009
DRAWN: JB

PLANNIT
CONSULTANTS
156 CREEK STREET HASTINGS POINT
NSW 2540
WWW.PLANNITCONSULTANTS.COM.AU

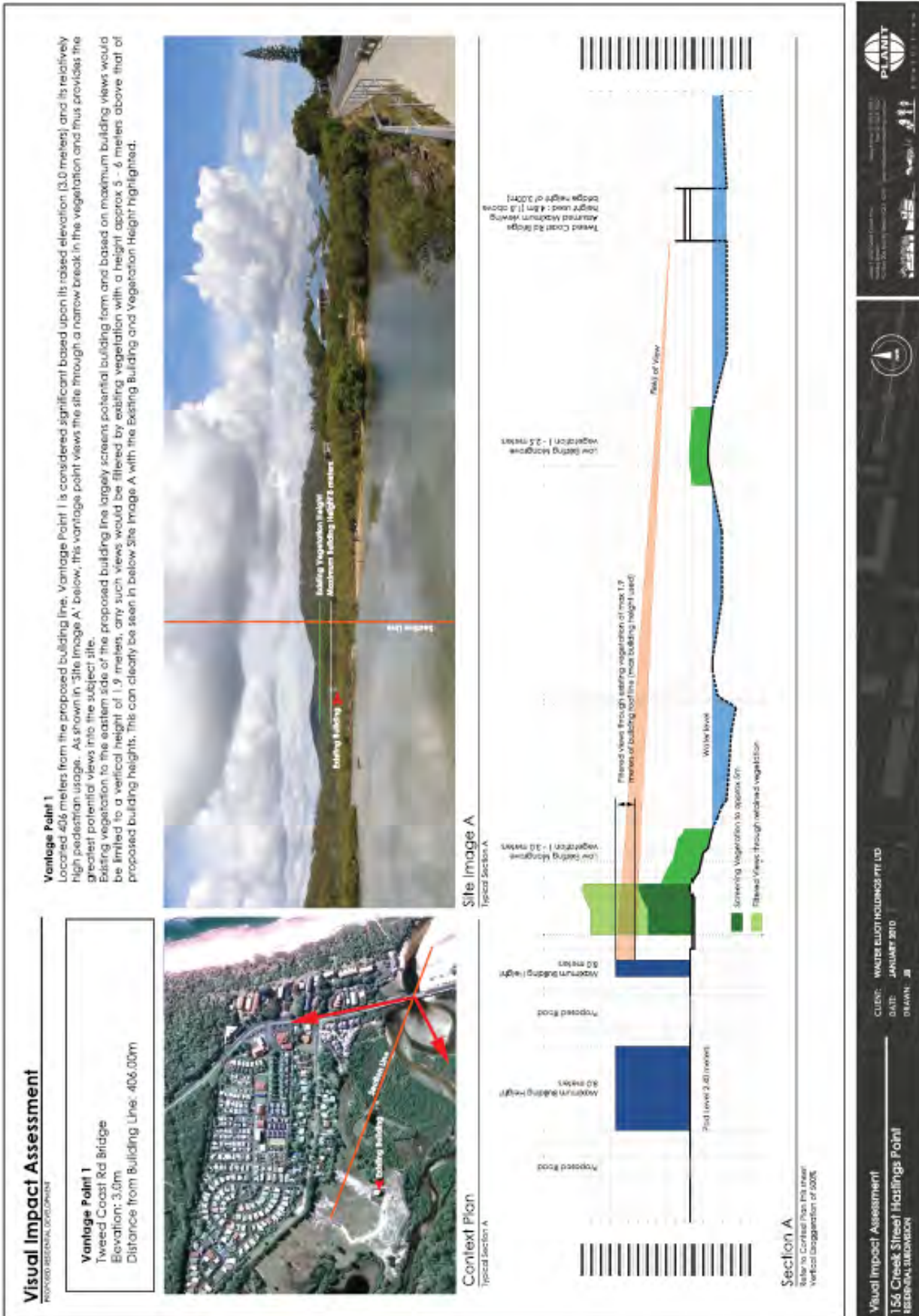
APPLICANTS VEGETATION MAPPING:



APPLICANTS TENURE MAPPING:



VISUAL IMPACT ASSESSMENT (more available on file):



Draft Submission

The subject application was placed on public exhibition between 2 June 2010 and 2 July 2010. Council like any other objector was presented with an opportunity to review the proposal and provide comment to the Department of Planning by 8 July 2010 (the Department of Planning gave a minor extension from 2 July to 21 July to accommodate the reporting of this matter to Council).

The Department of Planning have not paid for Council to undertake any detailed planning, ecological and engineering assessment. Accordingly in accordance with Council's adopted policy on the processing of Major Projects this assessment has only looked at matters that may affect Council in the long term for example major flood implications and maintenance as the future asset owner of public land.

Council has not undertaken a detailed ecological assessment and this should be undertaken by the Department of Planning as part of their assessment role as the consent authority.

The application was accordingly circulated to Council Officers with expertise in the following fields:

- Planning
- Traffic
- Infrastructure Engineering
- Water & Sewer Infrastructure
- Natural Resource Management; and
- Recreational Services.

Comments from Council Officers have been collated into the attached draft submission.

Major issues raised include the following:

Planning

The application relies on that part of the subject site zoned 2(e) Residential Tourist to facilitate the majority of this development. The application fails to adequately demonstrate how and why 41 residential lots incorporating 2 larger allotments that are for tourist use satisfy the 2(e) zone objectives which state:

Primary Objective

- *to encourage the provision of family-oriented tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motels, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short-term accommodation and day tourist facilities.*

Secondary Objective

- *to permit other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use.*

In addition the application fails to adequately determine the permissibility of the proposed road (emergency access road) within that part of the site zoned 7(a) which has the following zone objectives:

Primary Objectives

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

Secondary Objectives

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

The proposed road within the 7(a) zone needs assessment against Clause 8(2) of the Tweed LEP 2000. The applicant has only provided limited justification in this regard and only establishes that if this subdivision pattern were to be approved then the emergency road needs to be in that locality. The Clause 8(2) assessment does not consider alternative allotment configurations that would avoid the need for any road within the 7(a) zone.

Furthermore, the application fails to adequately demonstrate that the proposed road is within the applicant's land. Local testimony indicates that the water level from the adjoining Creek comes within 7-10m from the rear of properties in Creek Street (particularly Number 8 Creek Street). This may affect the applicant's land parcel as the applicants boundary is dictated by mean high water mark not a hard survey line. The Department of Planning should investigate this matter further.

Importantly the current application has failed to:

- Adequately address Draft Tweed LEP 2010 which has just come off public exhibition;
- Address Draft Hastings Point Locality Plan which specifically contains development provisions for this site. Given the extent of fill proposed this may cause an issue with the ultimate height of the built form.

The concern being, that with a potential fill up to 3.1 meters AHD, and dwellings of up to 8 metres, there may be a breach outside of the view field guidelines suggested (See page 140 of Draft DCP B 23).

In addition the extended areas of public open space shown as Point 9 on the Masterplan, should be part of a revegetated nature strip.

- Be accompanied by Tweed Shire Council's Owners Consent for works within Creek Street.
- Adequately demonstrate the visual implications of fill/road works etc for the existing residents within Creek Street. It is noted that the high road exiting the site abuts those

properties in Creek Street which may result in poor visual amenity for those existing properties. A visual analysis is needed.

- Adequately address the history of unauthorised works on this site.

Flooding & Stormwater Issues

In previous communication to the Department of Planning it was concluded that the subject application did not adequately address the flooding and stormwater issues affecting the site. Despite these comments, the Department of Planning (DoP) have publicly exhibited the Environmental Assessment (EA) for the Major Project Application.

The following comments reiterates the potential flooding and stormwater impacts of the development on the locality, for the consideration of the Department.

Flooding - Council's consultants have recently completed a new calibrated 2-dimensional flood model (TUFLOW) for the Coastal Creek floodplains (including Cudgera and Christies Creeks). This should be used as the basis for the applicant's flood impact assessment. By doing so the applicant can properly investigate impacts of the full range of design flood events, including the probable maximum flood (PMF) and climate change scenarios in accordance with the Department of Environment and Climate Change "Practical Consideration of Climate Change" Guideline (Oct 2007).

The applicant has provided a flooding assessment in the EA (Engineering Impact Assessment, Opus International Consultants). This does not appear to have utilised Council's flood model, but by various means has attempted to replicate Council's results in their own model. While the results appear to be comparable, without additional details such as model files and comparative mapping to verify the adequacy of the applicant's model, this approach cannot be properly assessed. The applicant has also failed to provide climate change assessments as required.

As such, the current flood modelling approach is unsatisfactory, and it is requested that the applicant obtains Council's Coastal Creeks flood model and undertakes the required post-development scenario assessment accordingly. This approach will provide the most consistent, rigorous and defensible means for assessing the potential impacts of the development, and limit the potential for third party appeals.

In previous memos, additional flood modelling scenarios were also requested to explore options to rectify changes in flood behaviour due to the previous history of site alterations, in conjunction with the rehabilitation plans for foreshore environmental land and open space. The applicant has failed to address these considerations in the EA flood assessment.

The EA adopts a design flood level (DFL) for the site of RL 2.4m AHD, and intends to fill the site to this level as a minimum, with an average of RL 2.8m AHD. Minimum habitable floor level for subsequent residential development is specified as RL 3.1m AHD. Since the project was initiated with DoP, Council has revised DCP Section A3 - Development of Flood Liable Land (Version 1.3), in consideration of the results of the Coastal Creeks Flood Study. Under DCP-A3 Version 1.3, greenfield residential subdivision of this kind must adopt a climate change DFL, in accordance with maps in Appendix D of the plan. As such, the subdivision requires a minimum fill level of RL 2.8m AHD, and a 0.5m freeboard to habitable floor levels, to RL 3.3m AHD. Due to proximity of the site to the creek mouth, this increase in peak flood levels is primarily due to sea level rise predictions in accordance with the adopted

benchmarks from the NSW Government. As a result of the DCP-A3 amendments, additional fill will be required across the site, and this must be incorporated into the post-development scenarios for the proponent's flood impact assessment. The "Summary Of Commitments and Mitigation Measures" (7.1.4) also needs to be updated with regard to the DFL.

As raised previously, there are inaccurate comments regarding the extent of flood liable land and the impact of the development in the EA. Section 2.7 of the EA states that:

"Areas of the site are currently below the Q100 flood level, including areas proposed to be contained within the developable area of the proposal ... Preliminary hydraulic modelling shows that the site can be filled to the design flood level ... with no detrimental impacts or cumulative effects on surrounding properties ... It has been shown that an area toward the eastern end of Creek Street, equating to that area opposite Lot 10 Creek Street has the potential to be flood prone as it is located slightly below the 1 in 100 year flood level. This constraint has been taken into consideration and an emergency road is provided for vehicular access in such a flood event."

This statement significantly understates the current extent of flood liable land in the locality. Considering the DFLs adopted in DCP-A3, the entire site and all existing residential properties fronting Creek St are liable to some degree of flooding in the 100 year ARI event. Further, the impact modelling shows that the filling will have impacts on the local area. Flooding is a significant constraint, as the DCP requirement to fill the site results in some degree of obstruction and constriction of existing flood flow paths from the west and the north to Christies Creek. Further, to satisfy the requirement for the development to provide flood free evacuation access to high land (as defined by DCP-A3), an evacuation route is proposed along the southern boundary of existing low-lying dwellings in Creek St, which has the potential to provide a barrier to existing stormwater and flood flows, to the detriment of these landholders.

These same issues also arise in Sections 2.18, 3.7, 4.5.10, and 5.1.3 of the EA.

Stormwater Management - The stormwater assessment and water cycle management plan (WCMP) in the Engineering Impact Assessment are unsatisfactory for the following reasons:

- (i) The stormwater catchments relied upon in the drainage design are not representative of the local area. Only one external catchment, "catchment C" consisting of the dwellings along the southern side of Creek St adjoining the development has been considered in the impact assessment. In reality the provision of fill on Lot 156, including the new high level evacuation route, will potentially block flows from these dwellings, as well as dwellings on the northern side of the street, the street itself (which is poorly formed and without longitudinal drainage along much of its alignment), and the adjacent caravan park, from entering the subject land in major storm events (if not minor events as well). If this flow path to the creek is blocked, this stormwater will potentially flood low lying dwellings along Creek St.
- (ii) The external catchments E3, E4 and E5 to the north have been considered in calculations, but are assumed to discharge solely to the existing open drains at the western end of Creek St. It is likely that in the pre-development case these flows arrive at the site as channel and sheet flow and disperse across the site towards Christies Creek. These flows will be restricted by the filled development unless some mitigation works are put in place, but these have not been addressed.

- (iii) Given the lack of existing drainage infrastructure in the locality, the predicted increases in stormwater runoff from the site (up to 49%) are not properly addressed. While on site detention may be provided under the WCMP, the impacts of changes to stormwater flow volumes and times of concentration may be significant on adjoining land, and the receiving water bodies (including bank stability, scour/erosion, ecological impacts etc).
- (iv) There is no design provided for the culverts under the filled formation of the emergency evacuation route. The design of an effective transverse drainage system that will remain free from blockage in major storm events is essential in protecting existing low-set dwellings in Creek St from increased damage and nuisance. If the evacuation route cannot be feasibly installed without significant impact, the development fails to satisfy the emergency response criteria in the DCP, and therefore cannot be supported by Council.
- (v) The flooding/stormwater assessment describes the division of the Christies Creek catchment between Cudgera and Cudgen Creeks. While such interaction is known to occur in large flood events, it is controlled by drainage structures under Kanes Road, so the full diversion of such a large catchment to Cudgen Creek cannot be so simply assumed. Council's 2-dimensional flood model should be utilised by the applicant to determine a more realistic interaction of flood discharge during flood and runoff events.
- (vi) Alternate stormwater quality control measures should be considered to the proposed proprietary devices, to adopt Water Sensitive Urban Design (WSUD) measures given the sensitivity of the surrounding ecology, and the apparent suitability of site conditions (extent of open space dedication, flat grades, soil type etc), in accordance with Development Design Specification D7 - Stormwater Quality.

Summary of Commitments - Section 7.1 Summary of Commitments and Mitigation Measures fails to commit the developer to protecting adjoining properties from adverse flooding and stormwater impacts, and to providing the necessary mitigation measures to ensure that this is achievable.

Flooding and Stormwater Conclusion - The subject Major Project Application is not supported as it fails to adequately address flooding and stormwater issues in the locality.

Traffic

There is inadequate assessment of pedestrian movement at the intersection of Creek Street and Tweed Coast Road especially since the provision of a right turn lane for vehicles on Tweed Coast Road will necessitate the removal of an existing pedestrian refuge. There is no mention in the report of replacing this pedestrian refuge. Many pedestrians will want to cross busy Tweed Coast Road from the development side to get to the beach, most likely down Peninsula Street. The traffic report has not identified how pedestrians can be safely catered for; e.g. where can a pedestrian refuge be safely and practically installed on Tweed Coast Road including provision of adequate sight distances.

This is an extremely important and serious pedestrian safety issue. Council, and the community, will possibly lose an important safety infrastructure item (a pedestrian refuge) without replacement. This requires resolution prior to consent as there appears to be no suitable replacement location for this refuge.

If this application were not amended the only opportunity to rectify this matter would be for Council to refuse any future Section 138 application for the works required by this development.

In regards to the Creek Street upgrade the application advises that Creek Street will be upgraded to a local access street, based on predicted traffic generation rates for the development. The minimum standard for a local access street is a 6m wide sealed carriageway within a 13m wide road reserve.

Council's Development Design Specifications – Road Design Specification D1 provides an indicative maximum volume of 1000 vehicles per day for a local access street constructed to absolute minimum standards as stated above.

Council's development design specifications also limit the length of a 6m wide local access street to a length of 200m, before the road carriageway would be required to be increased to a wider access street. The length of Creek Street (including the extension of Creek Street to service the subdivision) is appropriately 540m in length within a 20m wide road reserve. Creek Street would be required to have a pavement width of 7.5m from the proposed intersection on Creek Street providing access to the subdivision to the intersection of Creek Street and Tweed Coast Road.

Wider access streets are designed to cater for higher traffic volumes over longer distances and to provide for more intensive land uses such as integrated development or tourist development (such as this application) creating a higher density land use or where flexibility is required for future land uses.

If such engineering standards were enforced this could conflict with Draft DCP B23 – Hastings Point Locality Plan in terms of maintaining the character of existing streets like Creek Street.

For more detailed traffic considerations and road upgrade information please refer to the attached Draft submission to the Department of Planning

Water & Sewer Infrastructure

There are three main issues in regards to water and sewer servicing:

1. Water cycle management only refers to Basix requirement for rain water tanks whereas Council would like demand management addressed more fully – i.e. our minimum 5000 L tank for single lot dwellings, etc.
2. The issue of sewer connection is still ambiguous with a suggestion of parts of the site filled to 3 – 3.6 m with the suggestion of a lift station if that doesn't happen, whereas other parts of the document only show above 2.4m.
3. The acknowledgement that the 100mm water main is inadequate but it doesn't state that a larger main will be needed to connect to the trunk mains.

Open Space – Recreational Services

There are five major issues in regards to the applicants proposed open space areas:

1. Small turf and modified 'park' areas are too small for efficient maintenance

As described in Figure 9: Masterplan, there are 2 small turfed areas which represent a high cost to Council to maintain for minimal benefit.

Item 7: This tiny area of turf appears to provide no recreation value and is very inefficient in maintenance terms. It cannot be accepted.

Item 14: This area of around 1,000m² is variously called the 'Community Park' or Park Area 1. It is a small park area and Recreational Services Unit would strongly prefer a larger area for efficiency of maintenance.

Please note: Strong concern is expressed regarding the proposed play equipment close to the water and the road. All new playgrounds must comply with guidelines established in the 'Playground Audit for Tweed Shire Council' (July 2009). Appendix 3 of this audit establishes a procedure for assessing risks and mitigation. No playground facility may have a Facility Risk Rating that exceeds 13 as defined in Table 3A7 of this document. Information on this can be provided on request to the developer and or Department of Planning.

2. Informal Open Space

Figure 9: Masterplan indicates areas described as 'extended area of open space to be maintained with cleared understorey and vegetation cover to remain'. It is not clear why Recreation Services would do ongoing maintenance on such areas. Accordingly it cannot be supported.

3. Retaining walls in public open space or streetscape

It is very undesirable to have retaining walls in public open space. The cost to maintain, and possible requirement for fencing means Recreation Services cannot support the proposal.

4. Access to Lagoon in Figure 10, Public Open Space

Access to the lagoon is likely to occur as a result of the development, so it is desirable this access be controlled. Council will require more information on how the interface with the lagoon at the indicated access point will be managed.

5. Minor clarifications or corrections required

Figure 10 (Public Open Space) references a 'section elevation 3'. Figure 9 (Masterplan) also references a 'section elevation 3'. There is only one section 3 provided in the application, so both cannot both be correct. Clarification is sought.

Figure 10 (Public Open Space) indicates an 'existing lagoon'. This appears to be incorrect.

It is very unfortunate that the developer has not discussed the parks and open space design with relevant Council staff as some of these difficulties could have been resolved earlier.

Ecology

Major ecological concerns are raised in relation to this development. Overall the Major Project as exhibited cannot be supported from an ecological viewpoint because the level of information provided is insufficient to determine impacts both on and off the site in an ecologically sensitive area, and the potential for a significant impact on threatened species, ecological communities and the ecological functioning of the estuarine system is high. Ecological comments originally and subsequently submitted still apply as matters previously raised have generally not been satisfactorily addressed.

From an ecological viewpoint, it is considered the site is much better suited to single residential allotments along Creek Street and would be happy support the same density of development as currently exists on the southern side of Creek Street between the unnamed road reserve and the property, ie allotments of around 700m² with a single access off Creek Street prior to the start of Environmental Protection zoning.

a. Endangered Ecological Communities

- Saltmarsh is to be removed and inadequately compensated such that more will be lost than will remain, even after compensation actions. Saltmarsh has also been impacted by land maintenance practices to date. Saltmarsh is inadequately represented in the Tweed and is vital habitat for fish (particularly in provision of food for commercial fish species) and for shorebird roosts which are also inadequately represented in the Tweed.
- Four floodplain Endangered Ecological Communities (EECs) exist on the site and immediate surrounds. The occurrence of floodplain EEC's is highly dependant on small changes in topography, soils and hydrology. Major changes are proposed to stormwater drainage, flood flow and ground levels; no analysis has been undertaken to determine whether offset areas offer a suitable suite of conditions for EEC replacement; and in some cases, an existing EEC (in this case Saltmarsh) is proposed to be replaced by another (Swamp Sclerophyll). Information submitted with the application is insufficient to make a determination that the EEC's will not be significantly impacted and impacts appear very likely.

b. Threatened species

- Threatened fauna species and their habitat have been poorly considered and are very likely to be adversely impacted by the proposed development. The site is adjacent Cudgen Nature Reserve and adjoins a tidal estuary with records of significant species within and adjacent to the site. No significance assessment has been provided for the critically endangered Beach Stone Curlew (photographs supplied by residents show the species roosting at the estuary on the edge of the development site) or the Bush Stone Curlew (record adjacent the site). Koala records exist all around the site yet key feed tree species are proposed for removal and road works are proposed through this corridor. All three species are highly impacted by domestic pets which are regarded as key threats to the species' survival yet no restrictions on dog or cat ownership are considered, habitat is to be adversely impacted and inadequately compensated. Large old growth trees are proposed for removal without a thorough analysis of their ecological role. The use of nest boxes and artificial raptor poles to replace such valuable resources is ill-considered and inadequate to avoid immediate impacts.

c. Domestic Pet ownership

- Domestic cats and dogs should be prohibited on the site for the above reasons.

d. Ecological buffers

- Both the riparian buffer and the buffer to Endangered Ecological Communities has previously been argued as a minimum of 50m required to protect the estuarine and ecological values and this argument is supported by numerous legislative and policy documents as previously listed. Not only is restoration of such buffers not proposed but all buffers are significantly encroached, in some cases with only 10m to EECs or, in the case of Saltmarsh, the community itself will be lost in part. Recently released updated guidelines for development adjoining DECCW estate should be addressed in full.

e. Ecological restoration

- Ecological restoration generally is inadequate, ill-defined and conflicting within various parts of the documents. It also appears to be only replacing that zone that has been cleared or modified without consent. Therefore, compensation is essentially lacking. The plan is highly deficient in its methodology. Council will not accept dedication of land unless restoration meets agreed performance criteria.

f. Other issues which impact ecological values

- Roads - the main access road, the emergency evacuation route and individual driveways are proposed to be formed within land zoned for environmental protection and are not supported. The emergency evacuation route within the buffer to Cudgera Creek, is ill-considered and described and is not supported – it appears an area previously supporting wetlands has been filled and will require further fill leading to a permanent change to existing residential amenity and will alter flooding behaviour with detrimental impacts on residential amenity and ecological regimes, adapted to the particular site regime.
- Creek Street itself contains tree species of significance due to their age and fauna habitat values and their retention must be the starting point from which minor variation may be sought, rather than an assumption that all may be removed. Road access into the site should be gained from Creek Street road reserve only and not encroach into the environmental protection zoned section.
- Flooding impacts on surrounding sites has not been adequately assessed. Additional flooding of adjoining sites appears likely as a result of the development and the natural drainage regime of the site will be largely altered, ultimately affecting the vegetation and habitat qualities of the site and surrounds (including communities and species that are not able to withstand further loss).
- Acid sulfate soils are insufficiently considered. Council's experience in undertaking pipeline upgrades to the Hastings Point sewerage treatment was that pockets of very high acidity were found along Creek Street. Disturbance of these soils close to the creek is to be avoided. Dewatering is likely to be required for service provision, yet has not been addressed.

- Contaminated land issues are insufficiently addressed to enable assessment. Disturbance of any potentially contaminated land has the ability to cause highly detrimental impacts to the sensitive estuarine environment.
- Recreational access to Cudgera Creek - Direct access to the creek should be prevented in this sensitive area supporting marine vegetation. Instead creek access at the existing bridge area and beyond should be encouraged.

Density of development - Density is too high to enable ecologically sustainable development to be achieved on such a sensitive site in very close proximity to a tidal estuary.

OPTIONS:

1. That Council endorse the key themes in the attached draft submission to the Department of Planning on the Application for Lot 156.
2. That the Council proposes an alternative draft submission to the Department of Planning on the Application for Lot 156.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Council has the opportunity to make a submission to the Department of Planning on the proposed Application for Lot 156.

Various internal experts have reviewed the Environmental Assessment Report recently on public exhibition. These comments have been collated into the attached draft submission.

The purpose of this report is to seek Council endorsement of the key themes provided in the attached draft submission and reinforce to the Department of Planning that the application as submitted raises major planning, engineering and ecological concerns and should be refused in its current format.

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 Submission to the Department of Planning (ECM 18777467)
2. First test of adequacy comments (18778482)
3. Second test of adequacy comments (18778483)

17 [PR-CM] Rural Fire District Service Agreement

ORIGIN:

Building & Environmental Health

FILE NO: Emergency Services – Bush Fire Brigades

SUMMARY OF REPORT:

Councils have a number of roles and responsibilities under the Rural Fires Act 1997. Many of these roles are now performed on Council's behalf by the Rural Fire Service (RFS) through a Service Agreement between the two parties. The Service Agreements to date have been administered in successive, three year periods.

The latest Tweed Council Service Agreement expired in October 2009, and is now in need of a renewal.

Officers of Tweed Council and the RFS have been working together in the preparation of a new Service Agreement. A copy of a Draft Service Agreement is attached to this report.

It is therefore recommended that Council approves the General Manager to enter into a new Rural Fire District Service Agreement with the New South Wales Rural Fire Service and affix the Common Seal of Council to the agreement.

RECOMMENDATION:

That Council approves the General Manager on Council's behalf to enter into a new Rural Fire District Service Agreement with the New South Wales Rural Fire Service and affix the Common Seal of Council to the agreement.

REPORT:

Councils have a number of roles and responsibilities under the *Rural Fires Act 1997*. Many of these roles are now performed on Council's behalf by the Rural Fire Service through a Service Agreement between the two parties under the provisions of Section 12A of the Act. The Agreement also includes arrangements for the use and maintenance of District Equipment, the occupation of buildings, land and maintenance thereof, and the provision of administrative, environmental and accounting support services.

Councils across New South Wales contribute 11.7% to the Rural Fire Fighting Fund for the provision of these services. For the 2010/11 financial year the estimated contribution for Tweed Shire Council is \$155 433.

The format of the Agreement was determined between the Rural Fire Service and the Local Government Shires Association with inclusions determined between the individual Council and the relevant offices of the NSW Rural Fire Service. The Agreement format has changed slightly from previous years to a continuous agreement with either party able to terminate the agreement on receipt of written notification.

The Agreement has operated very successfully from Tweed Shire Council's perspective.

The Service Agreements to date have been administered in successive, three year periods.

The latest Tweed Council Service Agreement expired in October 2009, and is now in need of a renewal.

Officers of Tweed Council and the RFS have been working together in the preparation of a new Service Agreement. A copy of a Draft Service Agreement is attached to this report.

It is therefore recommended that Council approves the General Manager to enter into a new Rural Fire District Service Agreement with the New South Wales Rural Fire Service and affix the Common Seal of Council to the agreement.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Financial – Annual agreed contributions, current proposed contribution \$155 433 for 2010/11

Resources – utilisation of Council services for the maintenance of District Equipment, buildings and land, and administrative, environmental and accounting support services.

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 Service Agreement between Tweed Shire Council and the NSW Rural Fire Service (ECM 19130456)
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18 [PR-CM] Development Application DA09/0685 for a Two (2) Lot Subdivision at Lot 2 DP 772129 Hogans Road, Bilambil

ORIGIN:

Development Assessment

FILE NO: DA09/0685 Pt1

SUMMARY OF REPORT:

At its meetings on 18 May 2010 and 15 June 2010, Council considered an application to undertake a two (2) lot rural subdivision of a 95.23 hectare parcel of land zoned 1(a) Rural in Bilambil. At its meeting on 15 June 2010, Council resolved:

“That the application be approved in principle, and Council officers bring back a report with conditions for consideration.”

This report is in response to the latest Council resolution and includes recommended conditions of consent in the Options section should the Council want to approve the two lot subdivision.

RECOMMENDATION:

That Development Application DA09/0685 for a two (2) lot subdivision at Lot 2 DP 772129, Hogans Road, Bilambil be refused for the following reasons:

- 1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated compliance with the development standard as being unreasonable or unnecessary in accordance with State Environmental Planning Policy No. 1 – Development Standards.**
- 2. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with State Environmental Planning Policy (Rural Lands) 2008 as the proposal will result in:**
 - development being incompatible with surrounding agricultural uses,**
 - potential to create land use conflicts**
 - the proposed subdivision not supporting or enhancing the agricultural production of the site.**
- 3. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 1(a) zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not protect the rural character and amenity;**

4. Pursuant to Section 79C(1)(a)(i) the development proposal in seeking a subdivision for a residential purpose is not consistent with Clause 20(2)(a) of the Tweed Local Environmental Plan 2000, as the proposed Lot 2 is below the minimum requirement of 40 hectares.
5. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed.
6. Pursuant to Section 79C(1)(e) the proposed development will result in a development with a dwelling house located on an undersized allotment (Lot 2) that does not enjoy a dwelling entitlement.
7. Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest as the development would create an undersized lot (Lot 2) in the 1(a) Rural zone.

REPORT:

Applicant: Mr B Ricker
Owner: Ricker Pastoral Company Pty Ltd
Location: Lot 2 DP 772129 Hogans Road, Bilambil
Zoning: 1(a) Rural
Cost: N/A

SUMMARY:

At its meetings on 18 May 2010 and 15 June 2010, Council considered an application to undertake a two (2) lot rural subdivision of a 95.23 hectare parcel of land zoned 1(a) Rural in Bilambil. Despite Council Officers recommending refusal, at its meeting on 15 June 2010, Council resolved:

“That the application be approved in principle, and Council officers bring back a report with conditions for consideration.”

In accordance with the resolution of Council dated 15 June 2010 in the Options section of this report provides draft conditions of consent should Council decide to approve this application.

Please note that the proposed Lot 1 (76.17ha) will comprise a structure that appears to have been illegally converted into a dwelling. The draft Condition 1 of this report details a recommended resolution to resolve this matter.

Furthermore, the Draft Conditions include a restriction on further subdivision of proposed Lot 1. This restriction reads at follows:

7. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
 - (a) Easements for sewer, water supply and drainage over **ALL** public services/infrastructure on private property.
 - (b) Proposed Lot 1 is not to be further subdivided.

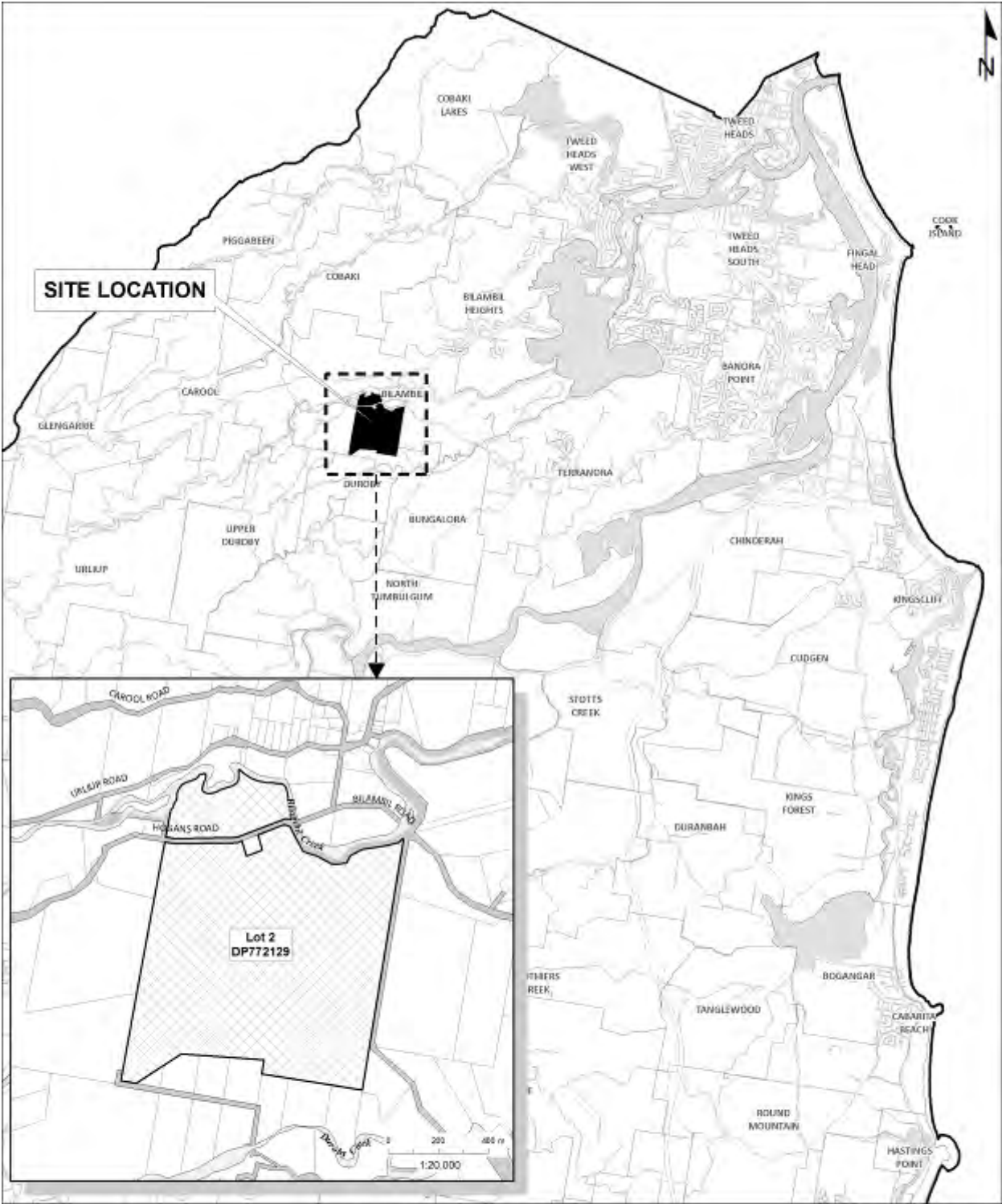
Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally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

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

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

SITE DIAGRAM:



LOCALITY PLAN

Lot 2 DP 772129,
Hogans Road, Bilambil

0 0.5 1 1.5 2 Km
1:100,000

Filename: z:\esr\planning\mxd\4dp_B&W SitePlan.mxd

Author: J Bathelet - Planning Reforms Unit

Date Printed: 04 May, 2010

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Coordinate System - NGA Zone 56
Datum - GDA 94

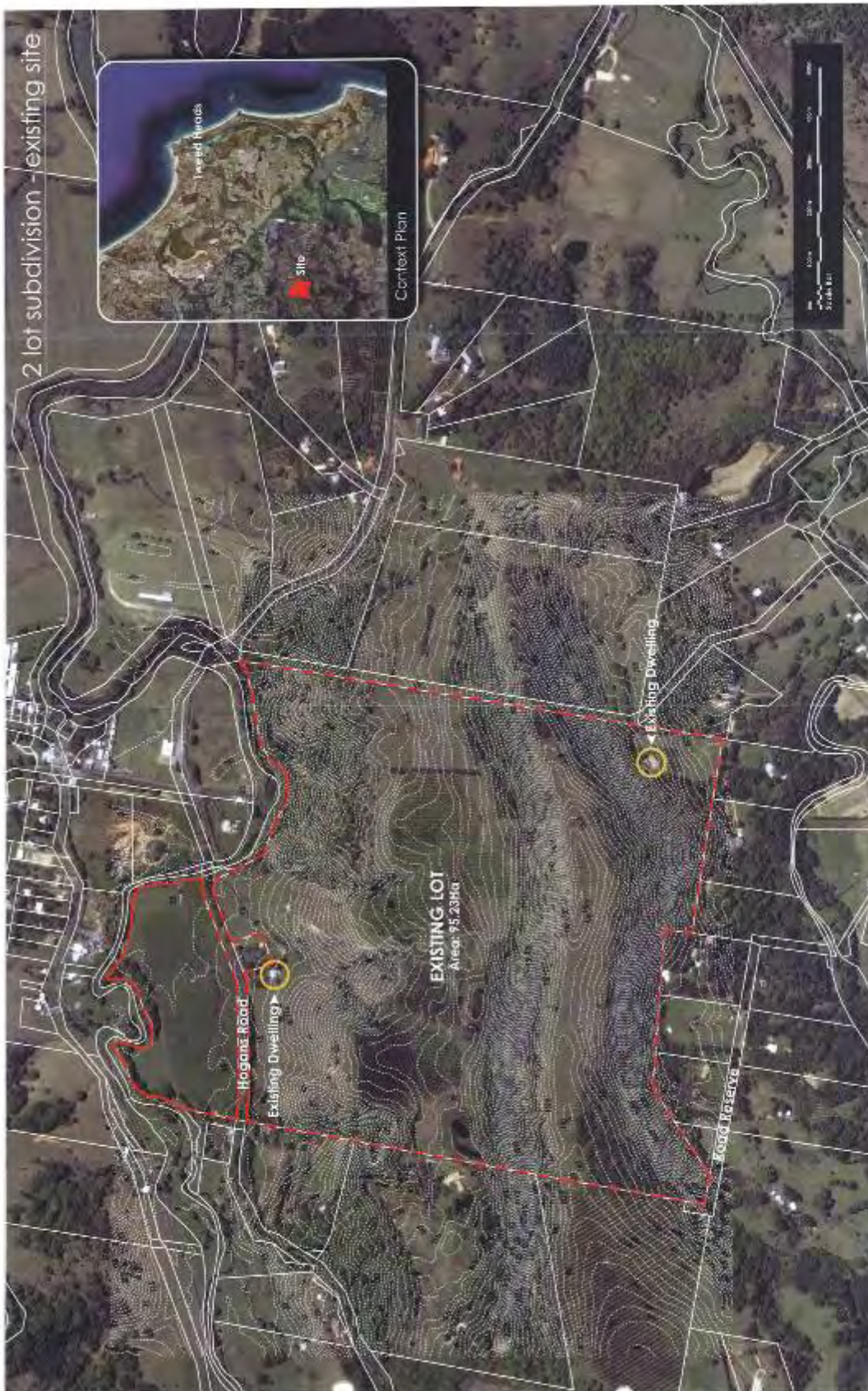
Cadastral: 04 May, 2010
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DEVELOPMENT PLANS: Existing Lot Layout



PLANNING CONSULTANTS

DATE: 10/07/2010

SCALE: 1:1000

PROJECT: RICKER PASTORAL - 2 LOT SUBDIVISION

EXISTING SITE

CUBIC DATE: 10/07/2010 DRAWN: S.

Proposed Lot Layout



OPTIONS:

1. Determine the application as per the recommendation (by way of refusal) having regard to the previous Council Officers reports.
2. Determine the application by way of approval in accordance with the following Draft Resolution as follows:
 - A. That Development Application DA09/0685 for a two (2) lot subdivision at Lot 2 DP 772129, Hogans Road, Bilambil be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan prepared by Planit Consulting and dated September 2009, except where varied by the conditions of this consent. [GEN0005]
2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications. [GEN0125]
3. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. [GEN0135]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

4. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [PSC0005]

5. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

(a) Tweed Road Contribution Plan: 6.5 Trips @ \$2358 per Trips (\$2143 base rate + \$215 indexation) S94 Plan No. 4 Sector12a_4	\$12851.68*
(b) Open Space (Casual): 1 ET @ \$526 per ET (\$502 base rate + \$24 indexation) S94 Plan No. 5	\$441.84*
(c) Open Space (Structured): 1 ET @ \$602 per ET (\$575 base rate + \$27 indexation) S94 Plan No. 5	\$505.68*
(d) Shirewide Library Facilities: 1 ET @ \$792 per ET (\$792 base rate + \$0 indexation) S94 Plan No. 11	\$665.28*
(e) Bus Shelters: 1 ET @ \$60 per ET (\$60 base rate + \$0 indexation) S94 Plan No. 12	\$50.40*
(f) Eviron Cemetery: 1 ET @ \$120 per ET (\$101 base rate + \$19 indexation) S94 Plan No. 13	\$100.80*
(g) Extensions to Council Administration Offices & Technical Support Facilities 1 ET @ \$1759.9 per ET (\$1759.9 base rate + \$0 indexation) S94 Plan No. 18	\$1478.32*
(h) Regional Open Space (Casual) 1 ET @ \$1031 per ET (\$1031 base rate + \$0 indexation) S94 Plan No. 26	\$866.04*
(i) Regional Open Space (Structured): 1 ET @ \$3619 per ET (\$3619 base rate + \$0 indexation) S94 Plan No. 26	\$3039.96*

- * *Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.*

[PSC0175]

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

[PSC0825]

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

- (a) Easements for sewer, water supply and drainage over **ALL** public services/infrastructure on private property.
- (b) Proposed Lot 1 is not to be further subdivided.

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

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

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

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

[PSC0845]

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

The following information must accompany an application:

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

- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

10. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.

[PSC0945]

11. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[PSC1165]

12. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to a point no less than 45 metres from the front boundary of each allotment.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1175]

13. Prior to the issue of a Subdivision Certificate the applicant is required to lodge an application to alter the onsite sewerage management system servicing the dwelling located at Cavendish Road under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval. The alteration works shall be undertaken in accordance with the recommendations contained within the HMC Compliance and Feasibility Report HMC 2009.077 dated September 2009 or to the satisfaction of the General Manager or Delegate.

[PSCNS01]

14. Prior to the issue of a Subdivision Certificate the applicant is required to lodge an application to operate the two (2) separate onsite sewerage management systems on the property under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

[PSCNS02]

15. Details of the existing right of carriageway are to be shown on the plan of subdivision prior to the issue of a Subdivision Certificate.

[PSCNS03]

16. Prior to the issue of a Subdivision Certificate the unauthorised dwelling is to be removed or rendered uninhabitable, or made lawful.

[PSCNS04]

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

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

1. At the issue of a subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 1, to a distance of 10 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. At the issue of a subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 2, to a distance of 20 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire protection 2006' and the NSW Rural Fire Services document 'Standards for asset protection zones'.

Design and Construction

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

3. The existing dwelling(s) on proposed Lots 1 and 2 are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the decision of the determination the applicant may determine to lodge an appeal with the Land and Environment Court.

POLICY IMPLICATIONS:

Should the recommendation of this report be upheld, no direct policy implications will occur.

CONCLUSION:

As stated in previous Council reports, Council Officers consider that approval of an allotment substantially below the development standard, will allow for the potential lawful creation of an additional allotment, thus the proposal is contrary to the zone objectives and the rural planning and subdivision principles within State and Local Environmental Planning Policy Frameworks. However, if Council resolves to approve the application, appropriate conditions of consent have been provided.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Council report dated 18 May 2010 (ECM 18186088)
 2. Council report dated 15 June 2010 (ECM 18186092)
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19 [PR-CM] Development Application DA10/0066 for a Two (2) Lot Subdivision at Lot 10 DP 1034435, No. 285 Clothiers Creek Road, Nunderi

ORIGIN:

Development Assessment

FILE NO: DA10/0066 Pt1

SUMMARY OF REPORT:

This development application is being reported to Council due to the Department of Planning's Circular PS08-014 issued on 14 November 2008 requiring all State Environmental Planning Policy No. 1 (SEPP No. 1) variations greater than 10% to be determined by full Council. In accordance with this advice by the Department of Planning, officers have resolved to report this application to full Council. The standard is varied up to 97.3%.

The SEPP No. 1 variation relates to Clause 20(2)(a) of the Tweed Local Environmental Plan 2000 (LEP 2000) which states that consent may only be granted to subdivision of land within Zone 1(b2) if the area of each allotment created is at least 40 hectares. Proposed Lot 12 has a total area of 5.99ha and is inclusive of the totality of 1(b2) zoned land on the subject site (1.08ha). This land is currently located within an 8.55ha allotment (current Lot 10), the majority of which is zoned 1(c). An existing 97.3% variation to the abovementioned development standard currently relates to the site.

The applicant seeks consent for a two (2) lot rural residential subdivision, including an addition to the existing 8m wide Right of Carriageway to provide access to proposed Lot 11.

Concurrence was granted by the Director General in this instance for the following reasons:

- The proposal is consistent with the objectives of the zone; and
- The size of the existing lot is not large enough to maintain agricultural pursuits. The portion of the land affected by the zone 1(b2) is neither altered nor affected by this subdivision proposal.

The proposal was not required to be notified or placed on public exhibition.

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

RECOMMENDATION:

That Development Application DA10/0066 for a two (2) lot subdivision at Lot 10 DP 1034435, No. 285 Clothiers Creek Road, Nunderi be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and**

Plan No 17891D Sheet 1 Revision A Ref. No. M30974, prepared by B&P Surveys Consulting Surveyors and dated 6 May 2010

Plan No 17891D Sheet 2 Revision A Ref. No. M30974, prepared by B & P Surveys Consulting Surveyors and dated 6 May 2010,

except where varied by the conditions of this consent.

[[GEN0005]

- 2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.**

[[GEN0125]

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

[[GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- 4. 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]

- 5. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.**

RURAL ACCESS

- (a) The existing gravel track providing access to the dwelling site on proposed lot 11 shall be upgraded to a 3.0m wide, 150mm compacted gravel pavement with a two(2) coat bitumen seal from the junction with the existing bitumen driveway to the dwelling site on proposed lot 11.**

[[PCC0875]

- 6. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.**

[[PCC0935]

- 7. Prior to the issue of a Construction Certificate for civil works the following detail in accordance with Councils Development Design and Construction**

Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - stormwater drainage
 - water supply works
 - Accessway
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[[PCC0985]

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

[[PCC1155]

PRIOR TO COMMENCEMENT OF WORK

9. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[[PCW0745]

DURING CONSTRUCTION

10. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.
- [[DUR0005]
11. 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]]

- 12. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:**

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[[DUR0215]]

- 13. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".**

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[[DUR0795]]

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

[[DUR0815]]

- 15. 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]]

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

[[DUR0995]]

- 17. 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]

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

[[DUR1025]

19. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[[DUR1795]

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

[[DUR1875]

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

Roadworks

- (a) Final inspections - on maintenance
- (b) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

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

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

[[DUR1895]

22. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[[DUR1955]

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

[[DUR2015]

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

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

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

[[DUR2375]

25. Erosion and sediment control measures shall be placed and maintained to the satisfaction of the General Manager or his delegate.

[[DURNS01]

26. It is a condition of an approval to install, construct or alter a sewage management facility that the facility is not used (or used as altered) until the Council has given the applicant for approval notice in writing that it is satisfied that the facility has been installed, constructed or altered in substantial accordance with the approval.

[[POC1025]

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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[[PSC0005]

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

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

Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP6: 1.2 ET @ \$10709 per ET \$12,850.80

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

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

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

[[PSC0165]]

30. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

(a) Tweed Road Contribution Plan:

6.5 Trips @ \$1601 per Trips \$10407

(\$1455 base rate + \$146 indexation)

S94 Plan No. 4

Sector10_4

(b) Open Space (Casual):

1 ET @ \$526 per ET \$526

(\$502 base rate + \$24 indexation)

S94 Plan No. 5

- (c) **Open Space (Structured):**
1 ET @ \$602 per ET \$602
((\$575 base rate + \$27 indexation)
S94 Plan No. 5
- (d) **Shirewide Library Facilities:**
1 ET @ \$792 per ET \$792
((\$792 base rate + \$0 indexation)
S94 Plan No. 11
- (e) **Eviron Cemetery:**
1 ET @ \$120 per ET \$120
((\$101 base rate + \$19 indexation)
S94 Plan No. 13
- (f) **Extensions to Council Administration Offices
& Technical Support Facilities**
1 ET @ \$1759.9 per ET \$1759.90
((\$1759.9 base rate + \$0 indexation)
S94 Plan No. 18
- (g) **Regional Open Space (Casual)**
1 ET @ \$1031 per ET \$1031
((\$1031 base rate + \$0 indexation)
S94 Plan No. 26
- (h) **Regional Open Space (Structured):**
1 ET @ \$3619 per ET \$3619
((\$3619 base rate + \$0 indexation)
S94 Plan No. 26

[[PSC0175]

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

[[PSC0725]

32. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[[PSC0785]]

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

[[PSC0825]]

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

[[PSC0845]]

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

The following information must accompany an application:

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

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

[[PSC0885]]

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

- (a) Compliance Certificate - Water Reticulation

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.

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

[[PSC0915]

37. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.

[[PSC0945]

38. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[[PSC1165]

39. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) and energising has been provided to a point no less than 45 metres from the front boundary of each allotment.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[[PSC1175]

40. Prior to the issue of the subdivision certificate the applicant shall obtain from Council approval to operate the existing on-site sewage management system servicing the dwelling on proposed lot 12 under Section 68 of the Local Government Act 1993.

[[PSCNS01]

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

1. Landscaping surrounding the existing dwelling is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

REPORT:

Applicant: Mr J Parsons
Owner: Mr J Parsons and Mrs SM Parsons
Location: Lot 10 DP 1034435, No. 285 Clothiers Creek Road, Nunderi
Zoning: 1(b2) Agricultural Protection, 1(c) Rural Living
Cost: \$50,000

BACKGROUND:

History

Current Lot 10 in DP 1034435 was created in 2001 following approval of K99/1284, a two-lot rural residential subdivision of Lot 8 in DP 803002 (10.02ha), on 28 January 2000. Lot 9 in DP 1034435 was also created, which is a 1.468ha parcel with a narrow frontage to Clothiers Creek Road with a Right of Carriageway over Lot 10 for means of access and water supply. Lot 8 was inclusive of the minor portion of land currently zoned 1(b2).

Lot 8 in DP 803002 was created in 1990 following approval of subdivision 80/90. This subdivision was a rearrangement of two allotments, Lot 13 in DP 567949 (14.97ha) and Lot 6 in DP 773854 (37.86ha), both of which had frontage to Eviron Road to the north. The subject site was contained within the southern portion of the latter parcel. It was at this stage that the basic shape of the allotment was created to contain a minor portion of 1(b2) zoned land.

Aerial imagery indicates that the basic shape of the subject site was created originally to cater for a small pocket of vegetation located in the north-eastern corner. It was not possible historically to use this land for agricultural purposes and the subsequent shape of the allotment through the subdivision history reflects this. This can be verified through aerial imagery dating back to 1962.

Structures on the subject site are lawful:

- D90/0097: erection of a private dwelling
- 0637/90B: swimming pool.

The Subject Site

The subject property is legally described as Lot 10 DP 1034435 and is more commonly known as 285 Clothiers Creek Road, Nunderi. The property has an area of 8.552 hectares and contains an existing residential dwelling, swimming pool and various farm sheds and improvements. Vehicular access to the site is provided by way of an existing bitumen driveway from Clothiers Creek Road. The property is irregular in shape being defined by an access handle fronting the road.

The site is generally clear of vegetation other than a remnant pocket of bushland in the north east corner of the site. Scattered vegetation is also found on adjoining properties, whilst the land to the north is utilised for the growing of sugar cane.

A dam is located centrally along the northern boundary of the existing allotment.

An existing 3m wide easement for water supply is located adjacent the existing bitumen driveway and benefits Lot 9 in DP 1034435. An existing 8m wide and variable width Right of Carriageway is located generally over part of the existing bitumen driveway and is for the purpose of gaining vehicular access to Lot 9 in DP 1034435.

There is a Restriction to User that burdens all allotments within DP 1034435. Terms of the restriction relate to satisfactory On-Site Sewer Management Systems, driveway configurations and water storage facilities.

The Proposed Development

The applicant seeks consent for a two (2) lot rural residential subdivision, including an addition to the existing 8m wide Right of Carriageway to provide access to proposed Lot 11. Land areas of the proposed lots are as follows:

- Lot 11 = 2.56ha
- Lot 12 = 5.99ha (retention of existing dwelling)

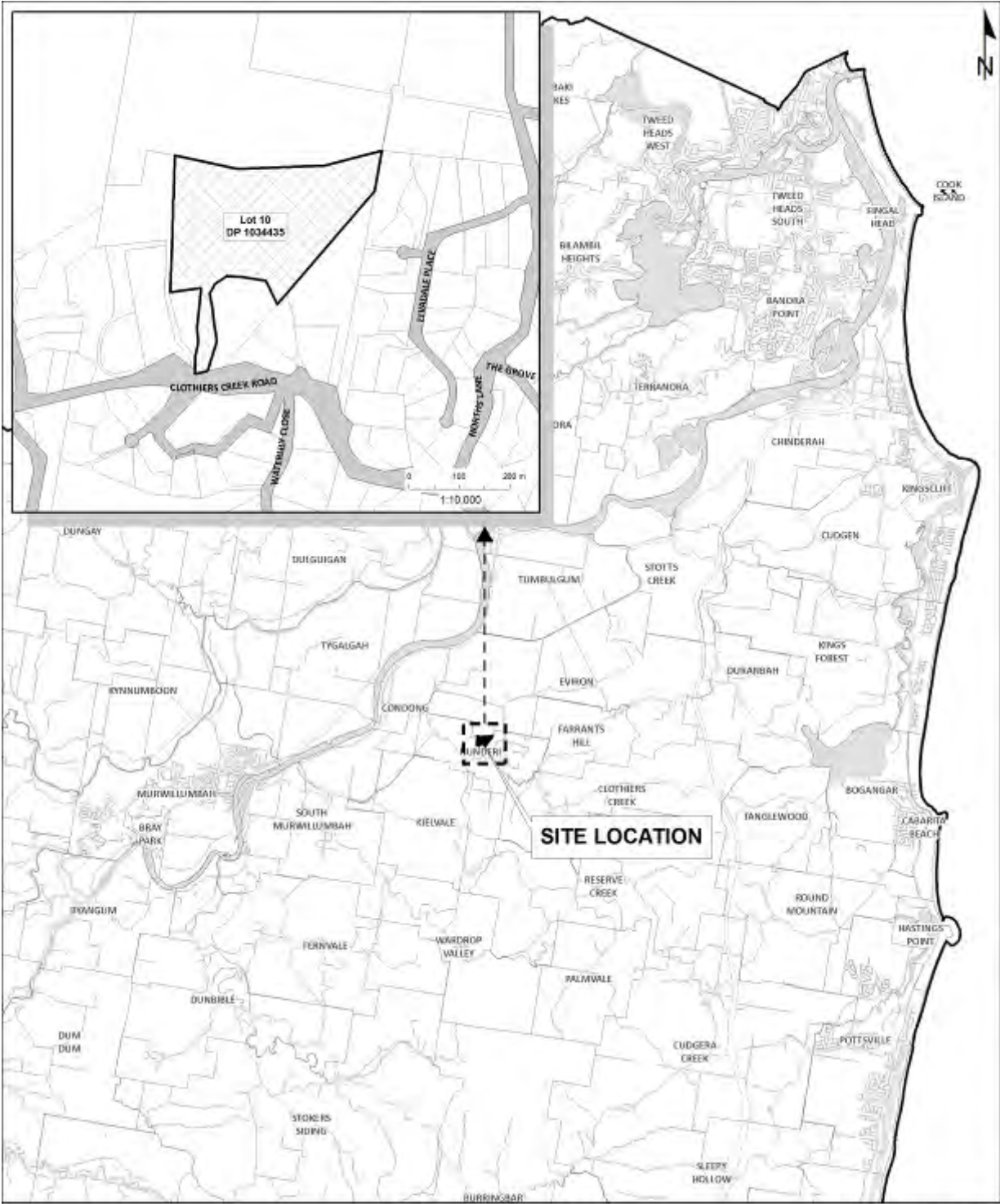
The proposal includes:

- Subdivision of the site into 2 residential lots (Torrens Title)
- Additional provision of Right of Carriageway over the existing bitumen driveway to benefit proposed Lot 11
- Nomination of a suitable dwelling site for proposed Lot 11.

Summary

Having regard to the site's characteristics, the site history, intended use, proximity of surrounding rural residential and agricultural development, amenity issues and an assessment against SEPP 1 and Clause 20(2)(a) of the Tweed LEP 2000 in particular, the proposed two (2) lot subdivision is, on balance, considered suitable for the location and therefore the proposed development is recommended for approval.

SITE DIAGRAM:

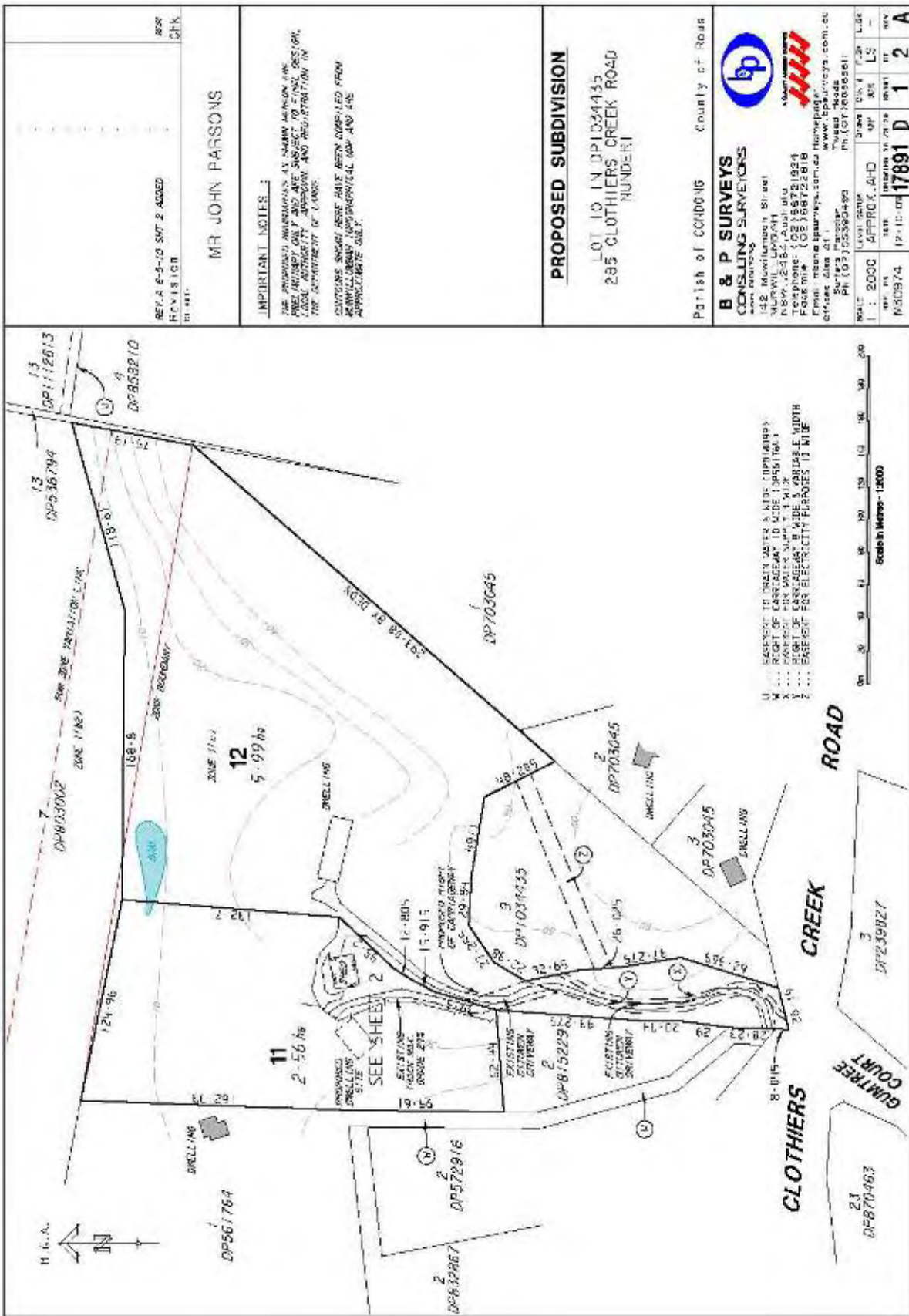


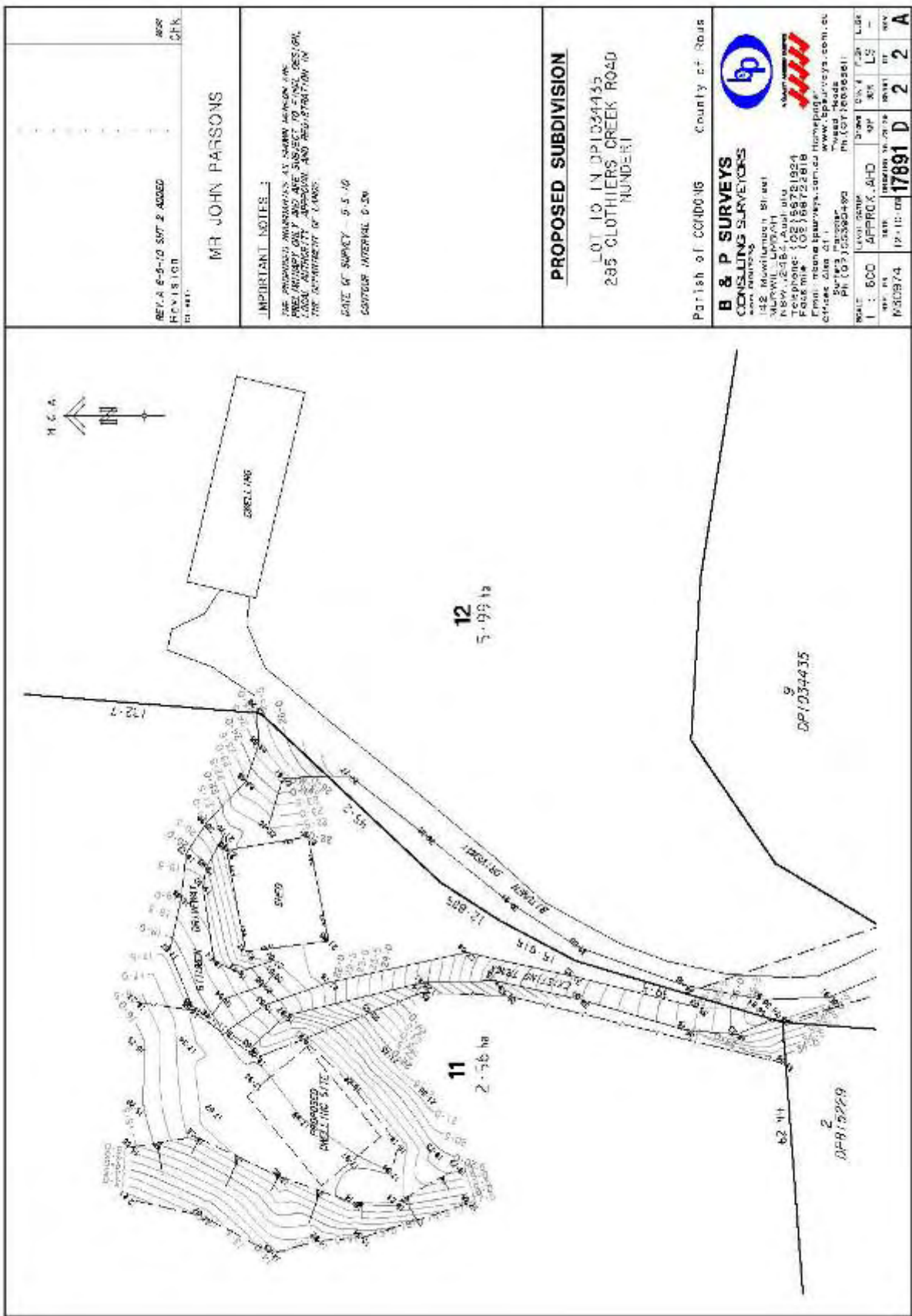
LOCALITY PLAN

Lot 10 DP 1034435
No. 285 Clothiers Creek Road, Nunderi

<p>Filename: z:\esrp\planning\mxd\A4P_B&W_SitePlan.mxd</p> <p>Author: J.Bachelor - Planning Returns Unit</p> <p>Date Printed: 24 June, 2010</p>	<p>GDA</p> <p>Cadastre: 25 June, 2010 @ Dept. of Lands & Tweed Shire Council</p> <p>Coordinate System: - MGA Zone 56 Datum - GDA 84</p> <p>100 NOT A SCALE COPY ONLY - NOT CERTIFIED</p>	<p>Circle and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484</p> <p>T: (02) 6670 2400 / 1300 202 872 F: (02) 6670 2483 W: www.tweed.nsw.gov.au E: planning@twecouncil.nsw.gov.au</p>	<p>TWEED SHIRE COUNCIL</p>
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DEVELOPMENT PLANS:





REV. A 6-9-10 SWT 2 ADDED
 CHECK
 10-11-10

MR JOHN PARSONS

IMPORTANT NOTES:
 THE PROPOSED ANCESTRAL SITE SHOWN HEREON IS NOT A CULTURAL HERITAGE SITE AS DETERMINED BY THE DEPARTMENT OF LANDS.
 DATE OF SURVEY - 5.5.10
 CONTOUR INTERVAL 0.5m

PROPOSED SUBDIVISION
 LOT 10 LN DP1024435
 285 CLOTHIERS CREEK ROAD
 HUNDEET

Parish of COMBOIS County of Bourke
B & P SURVEYS
 CONSULTING SURVEYORS
 www.bpsurveys.com.au
 142 Murrumbidgee Street
 Murrumbidgee NSW 2571
 Telephone: (02) 58781924
 Fax: (02) 58722818
 Email: mps@bpsurveys.com.au
 www.bpsurveys.com.au
 Survey Licence No. 100556499
 Practising Address
 Murrumbidgee NSW 2571



SCALE	LEVEL	APPROX. AHD	DATE	BY	REV
1 : 500	---	---	---	---	---
M30874	---	---	12-11-09	17891 D	2 2 A

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

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

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

Clause 5 - Ecologically Sustainable Development

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

Clause 8 - Zone objectives

The site is zoned 1(c) Rural Living & 1(b2) Agricultural Protection as per the Tweed LEP 2000.

1(c) Rural Living Zone

Primary objectives of the 1(c) Rural Living zone relate to the enabling of rural residential development which does not compromise rural activities within the vicinity, detract from rural amenity or place unreasonable demands for the extension of public amenities or services. They also permit quality rural residential development that makes a positive contribution to existing local rural character.

The secondary object of the zone enables other development that is compatible with rural residential development.

The proposed subdivision is consistent with the applicable primary objectives of the zone in that it represents quality rural residential development of appropriate scale and character to that of the locality. It will not result in a burden on public amenities or services.

Dwelling houses not connected to Council's reticulated sewerage system are permissible if they are located on allotments with a minimum area of one (1) hectare (refer Clause 21 of the Tweed LEP 2000). The proposed lots, at 2.56ha and 5.99ha meet the minimum requirement of one (1) hectare.

1(b2) Agricultural Protection Zone

The primary objective of the 1(b2) Agricultural Protection Zone relates to the protection of identified prime agricultural land from fragmentation and the economic pressure of competing land uses.

The secondary objective allows other development that is compatible with agricultural activities.

Dwelling houses are permissible with consent on an allotment of at least 40 hectares. This is discussed in detail below in this report in relation to the SEPP 1 variation to development standards.

In any case, the proposed subdivision does not alter the original zoning configuration of the subject site and does not impact upon the historical and continuing use of the 1.08ha portion of land zoned 1(b2) for purposes other than agricultural activity. The land is vegetated and used as open space in association with existing rural residential development. This land use is considered compatible with the zone objectives.

Clause 15 - Essential Services

Council's reticulated potable water supply is available to the area. A water reticulation service exists for the dwelling in existing Lot 10 (proposed Lot 12). This will be maintained.

Recommended conditions of consent shall require the provision of service for proposed Lot 11 from Clothiers Creek Road to the proposed Lot 11 frontage in accordance with Council's standards.

Council's piped effluent disposal infrastructure is not available within the area.

Electricity services are currently provided to the area via Country Energy infrastructure. Telecommunications services are currently provided to the area via Telstra Infrastructure.

Clause 16 - Height of Building

There are no buildings proposed as part of the development application.

Clause 17 - Social Impact Assessment

The scale of this development proposal does not necessitate a social impact assessment.

Clause 35 - Acid Sulfate Soils

Council's Enlighten indicates that the site is generally covered by Class 5 Acid Sulfate Soils. There are a couple of small areas along the northern boundary that exhibit Class 2 soils. However, it is not envisaged that any earthworks will be required in these locations and the ground will remain undisturbed.

Other Specific Clauses

Clause 34 – Flooding

Council's Enlighten indicates that a section of the existing allotment is flood liable with a Design Flood Level of RL 4.5m AHD. This flood liable area is situated away from the proposed dwelling footprint on proposed Lot 11 and the existing dwelling on proposed Lot 12.

Specific Clauses

Clause 19 – Subdivision (General)

This clause allows subdivision to take place on the subject land with development consent.

Clause 20 – Subdivision in Zones 1(a), 1(b), 7(a), 7(d) and 7(l)

The main objective of this clause is to prevent the potential for fragmentation of rural land that would lead to an adverse impact upon its agricultural and/or environmental character. It is also to prevent unsustainable development and to protect the area of Tweed's water supply quality.

Clause 20 provides for the subdivision in 1(b2) zoned land if the area of each allotment created is at least 40 hectares. This application proposes to maintain the same 1.08ha area of 1(b2) zoned land (along with 4.91ha of 1(c) zoned land) within a parcel with a total land area of 5.99ha.

There is no change to the land zoned 1(b2). The land will be included in the proposed lot for the existing dwelling. No development is proposed on the land zoned 1(b2). It is therefore the subject of a SEPP 1 Variation Report which has received the concurrence of the Director General and is discussed in full at a later stage within this report.

Clause 21 – Subdivision in Zone 1(c)

The objective of Clause 21 is to ensure that the semi-rural character and environmental values of the locality are protected.

The proposal is in accordance with Clause 21 as each of the proposed lots which are not connected to the Council's reticulated sewerage system, have an area not less than 1ha. A tank water supply is nominated for use in association with the existing dwelling and will be required to be provided for any future dwellings.

Existing areas for on-site treatment and disposal of sewage in association with the existing dwelling have been reviewed and assessed as acceptable by the Environmental Health Unit.

Clause 22 – Development near Designated Roads

Clothiers Creek Road is a Council Designated Road. The objectives of this clause are to protect and improve the operation of designated roads and prevent

development being unsuitably located near a noisy designated road, or prevent development spoiling the scenic attractiveness of such a road.

Access to the subject site is from Clothiers Creek Road. However, this access is by way of a driveway only. The site does not have useful frontage to the designated road. Access will not be changed as a part of this application and it is not possible to locate dwellings any closer than 250m from this road.

Therefore, the objectives of this clause are considered to be satisfied.

Clause 24 – Setbacks to Designated Roads

As discussed above, the existing and proposed dwelling associated with the subdivision are located no closer than 250m from the designated road. This complies generously with the desired 30m setback set out in this clause.

Clause 39A – Bushfire Protection

The objective of Clause 39A is:

- to minimize bushfire risk to built assets and people and to reduce bushfire threat to ecological assets and environmental assets.

The development application was forwarded to the NSW Rural Fire Service on 24 February 2010 for consideration and comment, as the subject site is bushfire prone land. A response was received 30 March 2010. The Service recommended a condition be attached to the development consent, should it be granted.

The condition relates to Landscaping.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

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

The history of the use of the site for the past 50 years indicates that of dairy farming and residential use. The small parcel of land zoned 1(b2) Agricultural Protection has not been farmed, as indicated in aerial photography dating back to 1962.

Adjoining and surrounding land is utilised for rural residential and cane farming purposes.

The development would not lead to a loss of prime crop and pasture land, or adversely impact upon any nearby agricultural activities.

Clause 43: Residential development

Clause 43 of the North Coast Regional Environmental Plan 1988 (NCREP) provides guidelines for Council when considering residential development. These controls include density, site erosion and environmental constraints on the land.

Site erosion will be minimised as there are no works proposed. The density of the proposed development has been maximised without adversely affecting the environmental features of the land.

SEPP No. 1 - Development Standards

As discussed, the applicant seeks to vary the development standard regarding minimum allotment size in the 1(b2) zone for subdivision purposes as contained within Clause 20(2)(a) of the Tweed LEP 2000.

Clause 20(2) of the Tweed LEP 2000 states that:

Consent may only be granted to the subdivision of land:

- (a) *within Zone 1(a), 1(b2), 7(a), 7(d), or 7(l) if the area of each allotment created is at least 40 hectares.*

The applicant contends that *the land is not altered or affected by this proposed subdivision.*

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

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

“With reference to provisions of State Environmental Planning Policy No. 1 – Development Standards, we advise that a minor portion of subject land, located in the north-eastern corner is currently zoned 1(b2) Agricultural Protection. This land is not altered or affected by this proposed subdivision. We advise that this area of subject land is currently not, nor has been, used for agricultural purposes. The existing land form, land ownership and vegetation does not lend itself towards these uses.

The remainder of subject land is zoned 1(c) Rural Living, which is consistent with the character and focus of the lands to the east, west and south of the subject land. As such, we consider the proposed development is consistent with the planning objectives and criteria of this locality.

Due to the minor portion of subject land in the north-eastern corner being zoned 1(b2) Agricultural Protection, it is necessary to obtain flexibility in the application of planning controls operating over this said portion of land.

We note that the minimum lot size for land within zone 1(b2) Agricultural Protection is 40ha. The standard is considered unreasonable and unnecessary due to the following points:

- *subject land has always been less than 40ha*
- *the minor portion of subject land affected by zone 1(b2) Agricultural Protection is neither altered or affected by this subdivision proposal*
- *the existing topography, land uses and existing vegetation is not considered consistent with agricultural use."*

Assessment of the applicant's submission:

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

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

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

The objective of Clause 20(2)(a) of the Tweed LEP is achieved despite the variation to the development standard pertaining to minimum allotment size. The objectives of this clause ensure there are no detrimental impacts to the ecological or scenic values of the land and prevent further fragmentation.

The proposed subdivision is minor and is consistent with surrounding development. It does not compromising the ecological or scenic value of the subject site.

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

2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979*; and

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

The proposal provides for a Torrens Title subdivision that incorporates one new allotment and no unreasonable burden on public infrastructure.

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

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

The proposed non-compliance with Clause 20(2)(a) of the Tweed LEP 2000 is not considered to raise any matter of significance for State or regional planning.

No public benefit issues are adversely affected by not being able to maintain the development standard in this case as it is already non-compliant and the degree of non-compliance will not intensify.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with the Tweed LEP 2000 is considered to be justified in this instance and is not likely to result in an adverse planning precedent as it is localised. As such, the granting of this application is unlikely to impact upon public benefit.

As stated previously in this report, concurrence was granted in this instance by the Director General for the following reasons:

- The proposal is consistent with the objectives of the zone; and
- The size of the existing lot is not large enough to maintain agricultural pursuits. The portion of the land affected by the zone 1(b2) is neither altered nor affected by this subdivision proposal.

SEPP (Rural Lands) 2008

This SEPP introduces rural planning principles to facilitate the orderly and economic use and development of rural lands for rural and related purposes. It provides controls for rural subdivisions and identifies State significant agricultural land. It also implements measures designed to reduce land use conflicts.

None of the provisions contained within the SEPP relate specifically to this site. The land is not considered State significant agricultural land. Measures designed to reduce land use conflicts are aimed at creation of residential land uses through subdivision on land that is adjacent existing farming activities, which does not apply to this development.

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

The shire-wide Draft Local Environmental Plan was recently placed on exhibition. The draft zones are R5 Large Lot Residential and RU1 Primary Production. The proposed subdivision includes a minor 1.08ha portion of land draft zoned RU1 that will not be affected by the proposal. Minimum allotment sizes for the draft zones are as follows:

- 1ha for R5
- 40ha for RU1.

This is consistent with current zoning provisions. Objectives for both zones are also consistent with current zoning provisions.

Dwelling houses are permissible forms of development in both draft zones. A 'dwelling house' is a form of 'Residential' development'.

Land Use Controls:

R5

3 Permitted with consent

Bed and Breakfast Accommodation; Dual Occupancy (attached); Dwelling houses; Home Industry; Roadside Stalls;
Any other development not specified in item 2 or 4

RU1

3 Permitted with consent

Agricultural Produce Industries; Animal Boarding or Training Establishment; Aquaculture; Bed and Breakfast Accommodation; Biosolid waste applications; Boat Sheds; Cellar Door Premises; Dual Occupancies (attached); Dwelling houses; Extractive Industries; Farm Buildings; Farm Stay Accommodation; Flood Mitigation Works; Forestry; Helipads; Home Based Child Care; Home Businesses; Home Industries; Intensive Livestock Agriculture; Mining; Roadside Stalls; Rural Worker's Dwellings; Turf Farming; Water Recreation Structures; Water Storage Facilities.

Any other development not specified in item 2 or 4

Clause 4.6 (6) states that consent must not be granted under this clause for a subdivision of land in Zone RU1 if:

- a. The subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- b. The subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

In the case of this subdivision proposal, the development standard is varied considerably which would require the applicant to justify the contravention of the development standard and for concurrence of the Director-General to be obtained by the consent authority.

This is a similar process to that which is conducted under SEPP 1, which has been discussed above in this report.

It is therefore concluded that the subdivision proposal may be assessed as a form of development that would be considered favourably under the draft zoning provisions.

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

Tweed Development Control Plan

A3-Development of Flood Liable Land

Council's Enlighten indicates that a section of the existing allotment is flood liable with a Design Flood Level of RL 4.5m AHD. This flood liable area is situated away from the proposed dwelling footprint on proposed Lot 11 and the existing dwelling on proposed Lot 12.

A5-Subdivision Manual

DCP A5 provides various guidelines for the subdivision of land and aims to facilitate "best practice" subdivision development in line with the policies of Council and the State. The DCP defines "subdivision" liberally as "the division of land into two or more parts" and includes the creation of lots in community title subdivisions. Parts of this DCP that are applicable to the proposal have been addressed below with the conclusion that subject to various conditions attached to this report the application is compliant with the provisions of this part of the DCP.

A5.5.2 Physical Constraints

The rural subdivision proposal is consistent with the surrounding neighbourhood and utilises the existing rural layout and topographical features.

The existing and proposed dwelling sites for this proposed subdivision are both located above acceptable 2009 flood levels. Filling land on a floodplain does not form part of this application. The dwelling sites are not located within any natural water course or drainage system.

The proposed subdivision will not involve the clearing of any vegetation. It integrates with the surrounding rural environment and compliments existing scenic rural landscapes. The proposed dwelling site and additional access for Lot 11 is considered to be sensitive to the visual amenity of the site and as such is deemed not to detract from the scenic quality or view corridors of the surrounding neighbourhood.

A5.5.3 Rural Water Courses & Drainage

The subject land is traversed by natural gullies and water courses. The proposal will not change or affect the natural flow paths.

A5.5.4 Rural Subdivision Structure

The proposed subdivision is consistent with the zone objectives and is consistent with the existing rural character and amenity of the adjoining rural neighbourhood to the east, west and south of the subject land. The proposed subdivision is not an isolated rural development and is not anticipated to provide an unsustainable demand on public amenities and services.

A5.5.5 Rural Subdivision and Lot Layout

The position of the proposed new lots was determined taking into consideration the topography, position of existing structures, the landscape and visual character and the environmental values of the locality. The proposed lots comply with the minimum lot sizes outlined in Clause 21(2) of the TLEP 2000 for the subdivision of land zoned 1(c).

A5.5.6 Rural Movement Network

The subject land gains access from Clothiers Creek Road via an existing bitumen driveway. A Right of Carriageway will be provided over the existing bitumen driveway which will benefit proposed Lot 11 and the width of such will comply with the minimum standards as per the DCP. A total of three allotments will share this existing driveway, which is acceptable to the requirements. The proposed subdivision will not affect the existing situation regarding the traffic volumes and the like.

On-site sewer management will be carried out in accordance with the necessary environmental and health protection guidelines and proposed Lots 11 and 12 will be connected to the public reticulated water supply, which enters the site off Clothiers Creek Road.

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

Clause 92(a) Government Coastal Policy

The subject land is not affected by the coastal policy.

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

Access, Transport and Traffic

The proposed two-lot subdivision has frontage to Clothiers Creek Road which is an asphalt sealed road pavement in excellent condition. The horizontal, vertical alignments and cross section profile are considered satisfactory.

Adequate site distance exists at the intersection of Clothiers Creek Road.

A public transport system currently services Clothiers Creek Road and the Nunderi area. This is accessible to the proposed development.

Access to proposed Lots 11 and 12 will be via the existing 'Right of Carriageway' laneway from Clothiers Creek Road which is contained within existing Lot 10 DP 1034435 and serves existing Lot 9 DP 1034435. The existing laneway is bitumen sealed and in good condition.

Currently no footpaths are constructed in Clothiers Creek Road. Adequate parking and manoeuvring is available to each proposed allotment.

The proposed development will not generate any significant additional traffic to the Clothiers Creek Road and Nunderi area. However, the road network in the area has sufficient capacity to cater for any additional traffic.

(c) Suitability of the site for the development

Surrounding Land Uses / Development

The property is generally surrounded by rural residential development to the east, south and west but overlooks the extensive cane field system of the Tweed Valley to the north.

Amenity

The proposed dwelling site is setback approximately 150m from the boundary with adjacent cane growing activities. It is noted that the existing dwelling on Lot 10 is located closer than the proposed dwelling. Further, another dwelling exists on the adjacent Lot 1 DP 561764 about 50m from the boundary.

The proposed 150m setback is considered reasonable to minimise the potential for cane farming practices to impact upon further residents.

Flora and Fauna

The main vegetation affecting the property is located in the north east corner of the site and to a lesser extent on the property to the west. The majority of the property is clear of any bushland and is utilised in part for intermittent grazing of livestock.

Topography

The property is situated on the northern side of a small hill in Nunderi and has elevated views overlooking the cane fields of the Tweed Valley to the north.

The subject site is a combination of flat, gentle and moderately sloping land. The land slopes up initially from the formed Clothiers Creek Road frontage then slopes down in a gentle manner to the rear.

Site Orientation

Views from the existing dwelling and proposed dwelling sites are in a north and north-west direction across the existing adjoining agricultural lands. The proposed dwelling site for Lot 11 will not visually impede the existing dwelling or adjoining dwelling's view corridors.

Effluent Disposal

An On-Site Sewage Management Design Report was submitted. The report assesses the treatment system associated with the existing dwelling and provides design detail for a new system for the proposed dwelling.

It is considered that the on-site sewage treatment and disposal method as detailed in the Design Report including all recommendations of the report is sufficient to attain an acceptable level of environmental impact within the allotment boundaries as assessed in accordance with AS1547/2000.

Contaminated Land

Application documentation states that the 'subject land is currently not, nor has been, used for agricultural purposes'.

The current Lot 10 was created by a previous subdivision and notes on the file indicate that a letter was provided to Council which confirmed that the property was used for dairying for the previous 50 years.

This information remains relevant and no further information was sought in support of the application.

Stormwater Drainage

The proposed lots have sufficient grades to convey stormwater to the existing watercourses within the respective proposed allotments. Proposed Lot 11 will discharge to the existing gully / watercourse to the west of the proposed dwelling footprint and proposed Lot 12 will continue to discharge stormwater as per the existing stormwater discharge arrangement.

Small watercourses on the site discharge to dams located at the northern boundary of the existing allotment. On-site detention is not required and stormwater will be directed to the existing watercourses / gullies.

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

The application was not required to be notified but was referred, as integrated development to NSW Rural Fire Service for comment. One condition in relation to landscaping was imposed.

(e) Public interest

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

OPTIONS:

1. Approve the development application with conditions; or
2. Refuse the development application with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed two (2) lot subdivision is consistent with the applicable environmental planning instruments, the Tweed Development Control Plan and policies. The proposal will not result in adverse cumulative impacts. It is considered the site is suitable for the development.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

20 [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

ORIGIN:

Development Assessment

FILE NO: DA08/1056

SUMMARY OF REPORT:

At its meeting on 18 May 2010, Council refused the Development Application DA08/1056 for a Rural Worker's Dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay.

Council has been served notice of a Class 1 Appeal against Council's determination in the NSW Land and Environment Court. The first call-over with the Court has been set down for Monday 9 August 2010 and Council's position on defending the Appeal to enable engagement of solicitors is requested.

RECOMMENDATION:

That:

- 1. Council instructs its solicitors to suspend acting on the original Council resolution to commence proceedings (for a breach of the Environmental Planning and Assessment Act 1979) dated 18 May 2010 and defend the Class 1 application (Case No. 10535/10 filed by J & P Griffis in the Land and Environment Court on 6 July 2010) and on completion of the Class 1 proceedings proceed with action required by Council's resolution dated 18 May 2010 if necessary.**
- 2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**

REPORT:

The proposed development (DA08/1056) is for the conversion of a 360m² farm shed to a rural worker's dwelling approximately four kilometres north of Murwillumbah.

The subject site has an area of 2.04ha, with frontage to Tomewin Road and Sanderson Place, Dungay. The site incorporates a dwelling, associated pool and tractor shed at the front of the site. The unlawfully converted farm shed is located to the rear of the site.

The farm shed was approved on 4 September 2006. In breach of Condition 26 of the development consent, the farm shed was converted for use as a dwelling.

The development standard within Clause 18(3) of the Tweed Local Environmental Plan 2000 that allows a rural worker's dwelling to be located within the 1(a) Rural Zone is varied up to 95%. Concurrence was not granted by the Director General and the rural worker's dwelling was not considered suitable for the location.

Council officers submitted a report to Council's meeting of 18 May 2010 recommending refusal DA08/1056. At this meeting Council resolved to refuse the application based on the following reasons:

"RESOLVED that: -

- A. *Development Application DA08/1056 for the conversion of an existing farm shed to rural workers dwelling at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay be refused for the following reasons:*
- 1. The Department of Planning has not issued concurrence.*
 - 2. The proposed land use does not comply with the 40 hectare minimum development standard contained within Clause 18(3) of the Tweed LEP 2000.*
 - 3. The SEPP 1 objection has not demonstrated that the development standard is unnecessary and unreasonable.*
- B. *Council engages it's Solicitors to commence legal proceedings (for a breach of the Environmental Planning and Assessment Act 1979) in respect of the unauthorised works at Lot 1 DP 803636, No. 9 Sanderson Place, Dungay, and seek reinstatement of the use as farm shed as part of the legal proceedings."*

Following Council's determination, the officers engaged the firm Sparke Helmore Lawyers to act upon Council's resolution to commence legal action in respect of the unauthorised use of the shed.

Council has since been served notice of a Class 1 Appeal against Council's determination. Council's Solicitors have advised (see Confidential Attachment) that it is accepted Land and Environment Court practice that in circumstances where both Class 1 and Class 4 action are concurrently activated for one matter, that the Court will deal with the Class 1 action first, before the Class 4 action is considered.

OPTIONS:

Comment:

There are no alternate options given Council has no authority to negotiate Consent Orders given the application was not granted concurrence from the Department of Planning.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will be required to engage legal representation regarding the Appeal. Costs will be incurred as a result of the Appeal.

Should Council proceed with the original resolution at this stage, the Land and Environment Court will hold a Class 4 application in abeyance until such time as the Class 1 appeal is determined.

However, should the Class 1 appeal prove unsuccessful, Council may initiate Class 4 proceedings against the applicant as originally intended in the resolution dated 18 May 2010.

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. **Confidential Attachment** Letter from Council's Solicitors dated 25 June 2010 (ECM 18976874).
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21 [PR-CM] Refund of Application Fees Associated with Development Application DA09/0482 and Construction Certificate CC09/0416 for Alterations to Existing Tennis Shed Providing a Usable Building for the General Community During Community Activities at Lot 23

ORIGIN:

Development Assessment

FILE NO: DA09/0482 Pt1

SUMMARY OF REPORT:

The applicant, Uki Public Hall and Recreation Reserve Trust, has requested a refund of Council's fees associated with Development Application and Construction Certificate relating to the subject development. The landowner and applicant are a non-for profit organisations with the subject development providing a public benefit to the community. The total amount requested is \$345.40.

The break down of Council's fees are as follows:

DA fee	\$198.50
Environment Enforcement Levy	\$9.50
Construction Certificate Application	\$125.40
Inspection Fee	\$220.00
TOTAL	\$345.40

The Uki Public Hall and Recreation Reserve Trust, has received two donations in the last three consecutive years being an amount of \$1200 on 30 September 2008 and \$550 on 18 August 2009. The donations policy states: *That an individual or an organisation shall not be eligible for any more than two donation grants in any consecutive three year period.*

RECOMMENDATION:

That Council's fees associated with Development Application DA09/0482 and Construction Certificate CC09/0416 for alterations to existing tennis shed providing a usable building for the general community during community activities at Lot 233 DP 721129, No. 1462 Kyogle Road, Uki not be donated to the Uki Public Hall and Recreation Reserve Trust, as the donation policy does not permit more then two donations within any consecutive three year period.

REPORT:

As per summary

OPTIONS:

1. Council donates a total of \$345.40 to the applicant being the fees associated with DA09/0482 and CC09/0416.
2. Council declines to donate Council's fees associated with DA09/0482 and CC09/0416.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The applicants request for a refund of Council's fees associated with the Development Application and Construction Certificate is supported as the landowner and applicant are non-for profit organisations with the subject development providing a public benefit to the community.

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.

22 [PR-CM] Development Application DA09/0106 for a Roadside Stall at Lot 10 DP 252918, No. 852 Tyalgum Road, Eungella

ORIGIN:

Development Assessment

FILE NO: DA09/0106 Pt1

SUMMARY OF REPORT:

Consent is sought for a roadside stall to be located within the prescribed 30m setback distance to a designated road under Clause 24 of the Tweed Local Environmental Plan 2000. A SEPP 1 objection has been submitted by the applicant in this regard as the proposed roadside stall is located only 12m from Tyalgum Road, a Council designated road. Planning officers have reviewed the SEPP 1 objection and consider that strict application of Clause 24 is unreasonable and unnecessary in the circumstances of the case, given the minor nature of the proposed development and the SEPP 1 objection should be supported.

The proposed roadside stall has a total area of 20m² and will sell organic produce grown on the subject farm. A total of two (2) car parking spaces have been supplied to the satisfaction of Council's Traffic Engineer, with ample room within the site boundaries for additional parking if required.

The application has been reviewed by Council's Development Traffic Advisory Group (DTAG) and Council's Development Assessment Engineer, Traffic Engineer, Building Surveyor and Environmental Health Officer and appropriate conditions have been applied by each officer.

As such, conditional approval of the application (inclusive of the SEPP 1 objection) is recommended.

RECOMMENDATION:

That:

- 1. State Environmental Planning Policy No. 1 objection to Clause 24 of Tweed Local Environmental Plan 2000 regarding a 30m setback for development from designated roads be supported and the concurrence of the Director-General of the Department of Planning be assumed.**
- 2. Development Application DA09/0106 for a roadside stall at Lot 10 DP 252918, No. 852 Tyalgum Road Eungella be approved subject to the following conditions:**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Site Plan and Location Plan submitted to**

Council 9 March 2009 and car parking plan submitted to Council 21 June 2010, 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. **The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.**

[GEN0300]]

4. **Only primary products produced on the property on which the stall is situated are permitted to be sold from the roadside stall. All produce offered for sale from the roadside stall is to be whole i.e.: no sale of cut produce is permitted without prior approval from Council's General Manager or delegate.**

5. **The total area of the roadside stall shall not exceed twenty (20) square metres.**

[GENNS01]

6. **The approved advertising sign shall have an area of not greater than 1m x 1.2m and shall be displayed wholly within the boundaries of the subject site at all times. The sign shall be removed at the close of business each day.**

7. **The stall shall not be adapted or used for residential accommodation or for any purpose other than a roadside stall without prior consent from Council's General Manager or delegate.**

[GENNS02]

PRIOR TO COMMENCEMENT OF WORK

8. **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]

9. 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]

10. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

DURING CONSTRUCTION

11. The provision of a minimum of two (2) off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code. Car parking spaces are to be constructed of compacted screened road base and clearly marked as 'customer parking' at all times.

[DUR0085]

12. 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]

- 13. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:**

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

- 14. The 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]

- 15. 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]

- 16. 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]

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

[DUR1395]

- 18. All display shelves or benches must be of a durable, smooth, impervious material capable of being easily cleaned.**

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 19. 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]

20. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website www.foodnotify.nsw.gov.au or alternatively by contacting the NSW Food Authority on 1300 650 124.

[POCNS01]

USE

21. 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]

22. Hours of operation of the business are restricted to the following hours:-

7.00am to 6.00pm Monday to Sunday

[USE0185]

23. The use being restricted to the floor area designated on the approved plan. No retail activities shall occur outside the nominated stall area (20m²) as identified on the approved plan.

[USE0415]

24. No intensification of use beyond the provision of the sale of whole produce (no cutting allowed) sold on the same property of the farm is permitted without the approval of the General Manager or his delegate.

[USE0855]

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

[USE0965]

26. Either a suitable management plan for the water supply of the rainwater tank at the farm stall is put in place and regular testing shows that the water is free of contamination OR a warning sign is placed at the water outlet of the rainwater tank of the farm stall with the wording "*WARNING - The drinking water here is not monitored or treated. Water quality may not meet Health Guidelines*" or "*Warning - water not suitable for drinking*".

[USENS01]

27. All practicable measures shall be taken to protect displayed foods from the likelihood of contamination including pests, dust and dirt.

[USENS02]

28. Any premises used for the storage, preparation or sale of food are to comply with the provisions of the Food Act 2003.

[USENS03]

REPORT:

Applicant: Ms S Oberholster and I Willis
Owner: Ms S Oberholster
Location: Lot 10 DP 252918 No. 852 Tyalgum Road, Eungella
Zoning: 1(a) Rural
Cost: \$4,000

BACKGROUND:

Council has received a development application for a roadside stall to be located at Lot 10 DP 252918, 852 Tyalgum Road, Eungella. Tyalgum Road is a Council designated road and the subject property is an established organic farm.

The proposed stall measures 20m² in area and proposes an area of approximately 250m² inside the property boundary for the purposes of carparking which will be covered with crushed rock road base and graded.

The proposed stall will sell farm fresh organic fruit and vegetables that are grown on the subject allotment.

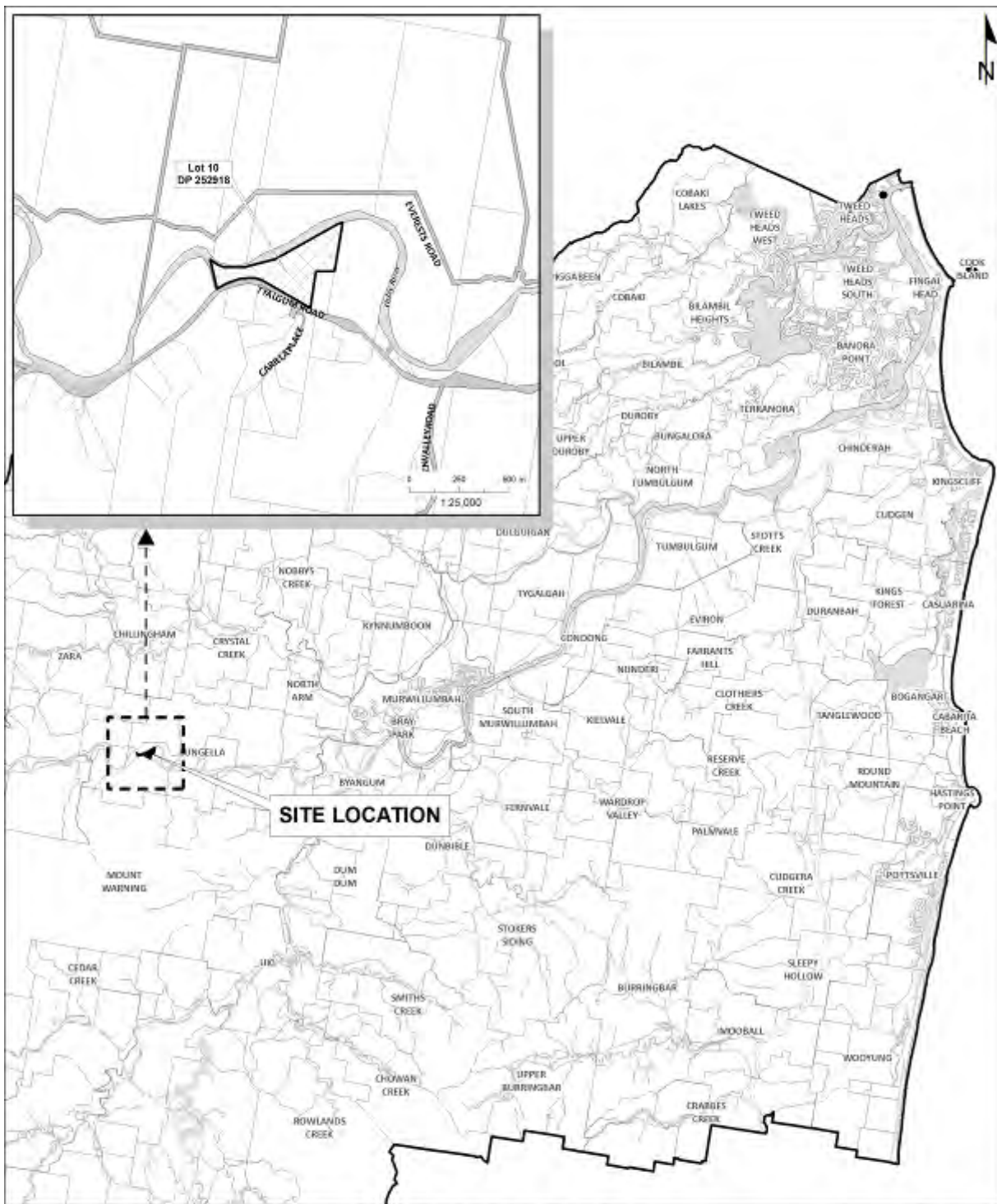
Removal of approximately 6.7m of existing post and rail fence will be required.

A small 'A-frame' blackboard sign is also proposed (1m x 1.2m), to be utilised only when the stall is in operation, and placed wholly within the property boundaries. It is noted that the applicant has not supplied specific hours of operation, indicating that opening hours will be dependant upon demand. As such, a condition limiting operation of the stall has been applied limiting operating hours to between 7.00am and 6.00pm Monday to Sunday.

A SEPP 1 Objection has been provided by the applicant in relation to Clause 24 – Setbacks to Designated Roads of the Tweed Local Environmental Plan. Clause 24 requires development for the purposes of a roadside stall within the 1(a) Rural zone to be setback a minimum of 30m from the designated road. The roadside stall is proposed to be located 12m from Tyalgum Road, a variation in excess of 10%. As such, the application has been reported to Council for determination in accordance with the Department of Planning's circular issued 14 November 2008.

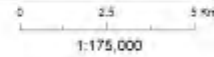
No submissions were received with respect to the proposed development.

SITE DIAGRAM:



LOCALITY PLAN

Lot 10 DP 252918
No. 852 Tyalgum Road, Eungella



Filename: z:\vsn\planning\msd\AAP_08&W_SitePlan.mxd

Author: J. Batchelor - Planning Reforms Unit

Date Printed: 24 June, 2010

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Cadastral: 25 June, 2010
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Coordinate System - WGA Zone 56
Datum - GDA 94

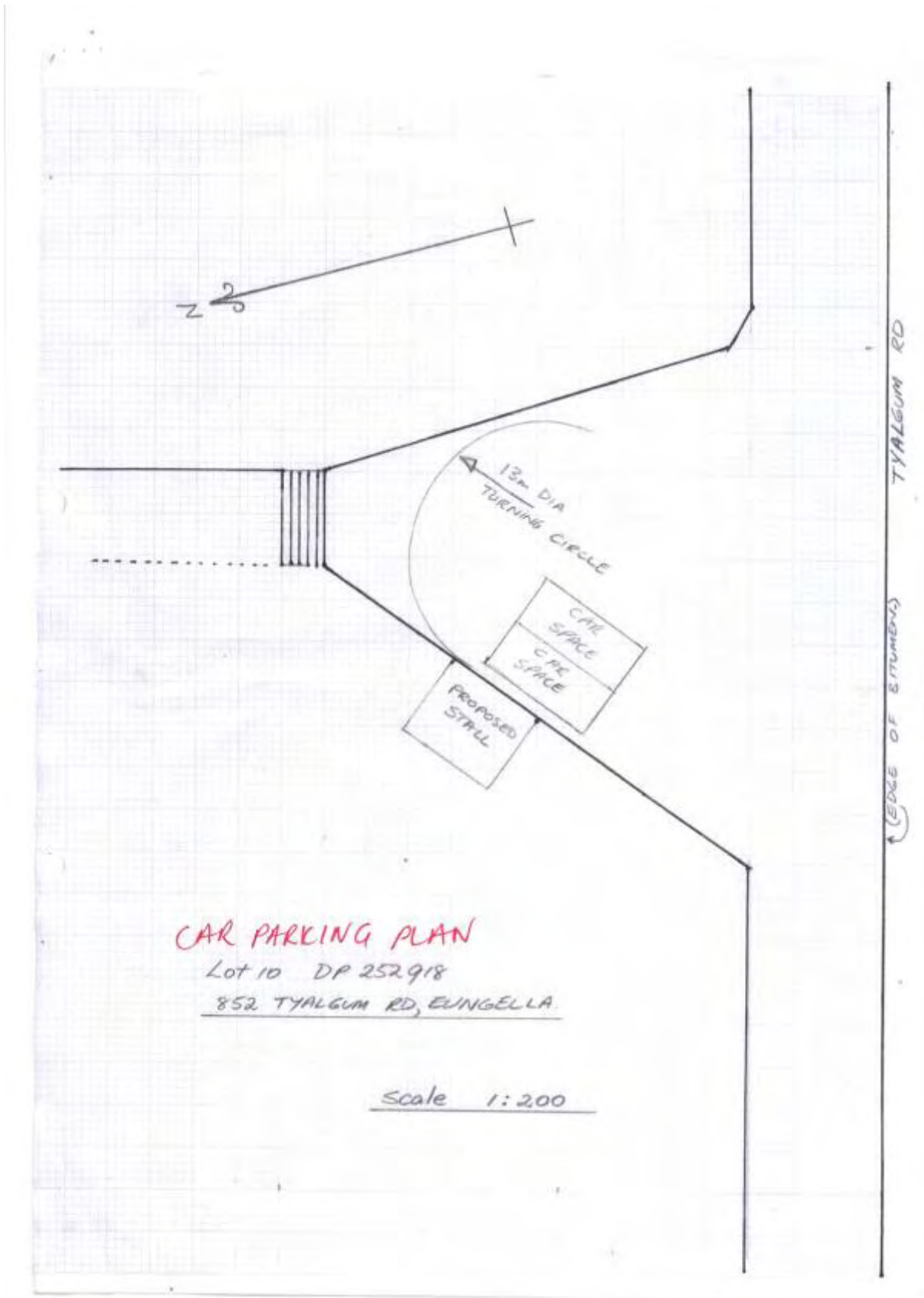
DO NOT SCALE
COPY ONLY - NOT CONTROL

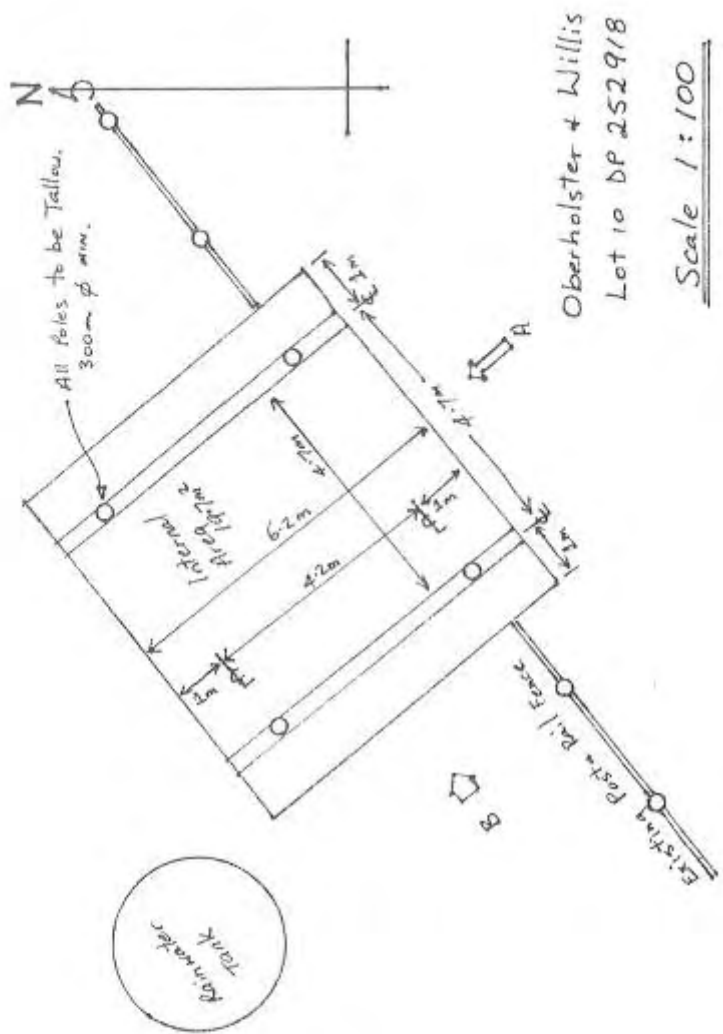
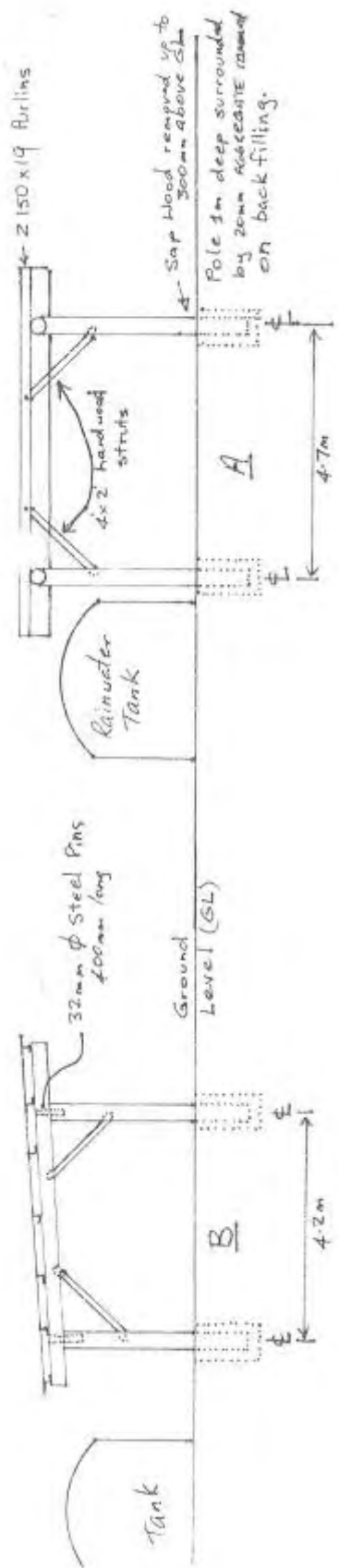
Civic and Cultural Centre
3 Tyalgum Road
Murrumbidgee NSW 2484
PO Box 616
Murrumbidgee NSW 2484
T: (02) 8870 2400 / 1300 202 372
F: (02) 8870 2480
W: www.tweed.nsw.gov.au
E: aap@info@tweed.nsw.gov.au



TWEED
SHIRE COUNCIL

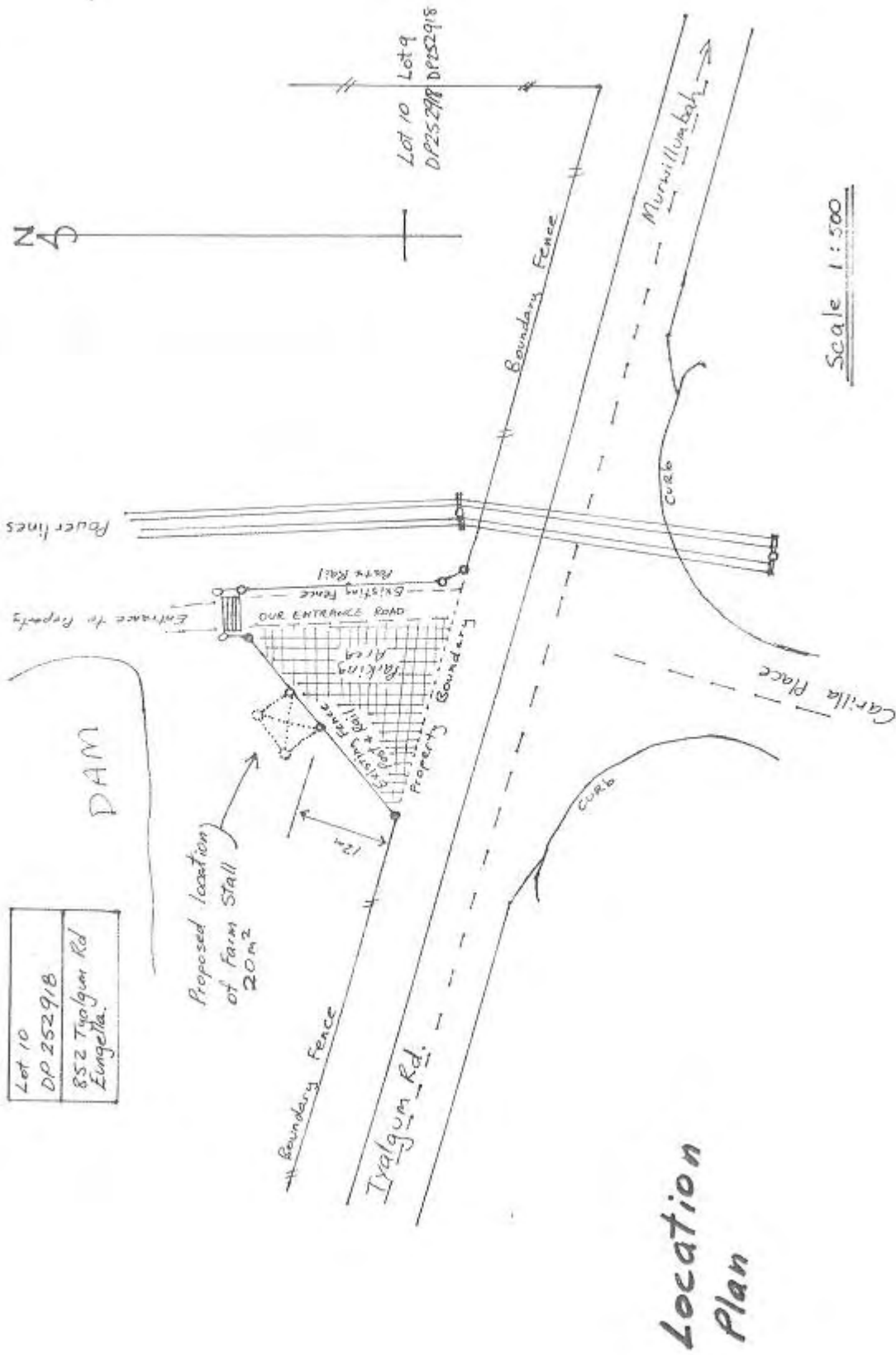
DEVELOPMENT PLANS:





Site Plan

Oberholster & Willis
 Lot 10 DP 252918
 Scale 1:100



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

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The subject development application is in keeping with the aims of the plan in that the proposed roadside stall encourages sustainable economic and cultural development whilst maintaining the environmental qualities of the area.

Clause 5 - Ecologically Sustainable Development

The proposal does not contravene the principles of ecologically sustainable development due to its minor location and ability to contribute to sustainable food growth.

Clause 8 – Consent Considerations

The consent authority may grant consent to development only if:

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

The subject proposal is consistent with the primary objective of the zone, being a permissible use within the 1(a) Rural zone which maintains rural use of the site. The proposal is considered to be consistent with the aims and objectives of the TLEP 2000 as it facilitates the sale of the primary products grown on the site and allows for the sustainable economic use of the site and the continuance of production of certified organic produce. The subject proposal is not considered to result in any unacceptable cumulative impact on the community, locality, catchment or Tweed Shire as a whole due to its minor nature. Approval of this application is not considered to set a precedent for further like applications as each would be assessed on its merits and likely require its own SEPP 1 objection.

The proposal is considered to be consistent with Clause 8.

Clause 11 – Zone Objectives

Under the Tweed LEP 2000, the subject land is zoned 1(a) Rural, within which a Roadside Stall is permissible with development consent (Item 2).

The provisions of Tweed LEP 2000 require the proposed roadside stall have a maximum gross floor area of 20m². The proposed stall does not exceed this requirement.

The objectives of the 1(a) Rural zone are to:

Primary Objective

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

Secondary Objective

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

The proposed roadside stall (which meets the size criteria for the 'roadside stall' and is permissible with consent in the zone) is considered to accord with both primary objectives in that the development facilitates sustainable economic utilisation of natural resources and contributes to the rural nature and amenity of the local area. The proposal is also considered to accord with the secondary objectives in that it enables sustainable economic development which relies on the rural values of the land.

The proposal is considered to be wholly consistent with Clause 11.

Clause 15 - Essential Services

The proposal does not require connection to, nor will impact upon essential services at the site. A rainwater tank is proposed for the collection of roof water from the stall. Appropriate conditions have been applied by Council's Environmental Health Officer with regard to water quality (this is addressed further under 'Water Supply' below).

Clause 16 - Height of Building

The proposed stall has a maximum height of 3.4m which is entirely consistent with the 3 storey residential height limit of the subject site.

Clause 17 - Social Impact Assessment

The proposal is minor and is not considered to result in any significant positive or negative social impacts, aside from potential economic returns for the owner.

Clause 35 - Acid Sulfate Soils

The subject site displays Class 5 Acid Sulfate Soils which require a management plan for any works within 500m of Class 1, 2, 3 or 4 land that are likely to lower the water table below 1m in adjacent Class 1, 2, 3 or 4 land. The subject proposal is minor and involves laying footings to a maximum of 1m deep. The site is not located within 500m to any other class of soils and the proposed works will not result in the lowering of the water table. No further consideration with regard to Acid Sulfate Soils is required. This has been confirmed by Council's Environmental Health Officer.

Other Specific Clauses

Clause 22 – Development along Designated roads

Clause 22 of the Tweed LEP 2000 requires Council to protect and improve the capacity, efficiency and safety of designated roads. The proposal relies upon Tyalgum Road as its means of vehicular access, a Council designated road. The following comments are offered in relation to Clause 22(4):

The development due to its nature, scale and volume of traffic likely to be generated is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road. Further, the location and design of access points, sufficient sight distance and on-site traffic movement and parking arrangements, appropriately ensures that through traffic movement on the designated road (Tyalgum Road) is not impeded and does not prejudice any future improvements or realignment of Tyalgum Road.

Council's Development Traffic Advisory Group (DTAG) and Development Assessment Engineer have reviewed the application in this regard and returned no objections.

Accordingly, the proposal is considered to satisfy Clause 22 of the Tweed LEP 2000.

Clause 24 – Setbacks to Designated Roads

Clause 24 of the TLEP requires Council to control development along designated roads.

The provisions of Clause 24 require the proposed roadside stall be setback a minimum of 30 metres from the designated road (Tyalgum Road).

The proposed stall is located 12 metres from Tyalgum Road, and an accompanying SEPP No. 1 Objection has been submitted accordingly. The details of the SEPP No. 1 Objection have been discussed in full further in this report, concluding that with regard to the proposed stall, in particular its minor nature, the 30m setback development standard is considered unreasonable and unnecessary in this instance.

Clause 34 – Flooding

The site is identified as 'could be' flood prone on Council's GIS system, due to proximity of the Oxley River which forms the rear boundary of the subject allotment. The proposed roadside stall is not habitable and no regulations exist with regard to minimum floor levels for a roadside stall. No impacts with regard to flooding are envisaged.

Clause 39A – Bushfire Protection

The site is partially bushfire prone (at the rear and in excess of 100m from the proposed stall), though the bulk of the subject locality is predominantly cleared. The proposed stall is not habitable and no impacts with regard to bushfire are envisaged.

Clause 47 – Advertising Signs

A removable 1m x 1.2m a-frame blackboard sign is proposed to direct potential customers to the stall. This is permissible in a rural zone under Clause 47 because it is directing the travelling public to what will be a lawful business, is considered to be of a reasonable size for such a purpose and relates to a lawful use of the land on which it is to be displayed (i.e.: an organic farm within a rural zone).

The proposed sign is considered to be in keeping with the character of the locality and is not considered to adversely affect the locality in terms of appearance or size, will not detract from the rural character of the area and will not contribute to visual clutter though the proliferation of signs.

The proposal is consistent with Clause 47.

The proposed roadside stall is considered to be generally consistent with the Tweed Local Environmental Plan, notwithstanding the SEPP 1 variation to Clause 24 (Setbacks to Designated Roads) which is discussed under SEPP 1 below.

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.

The proposed roadside stall and car parking area are minor and is located in an area outside an existing fence, adjacent to the driveway for the subject lot. The stall does not encroach upon any land in use for agricultural purposes on the subject site or any adjoining lots.

The proposal is consistent with Clause 12.

Clause 15: Rivers, streams and wetlands

The subject site is bounded at the rear by the Oxley River, which is located in excess of 220m to the proposed roadside stall. No further consideration in this regard is required and the proposed stall is not considered to have any impacts on the Oxley River in terms of water quality, water flows or habitat loss.

The proposal is consistent with Clause 12.

Clause 29A: Natural areas and water catchment

No vegetation clearing is proposed, nor is the proposed development located in any of the prescribed zones (protection, scenic protection or escarpment preservation). The proposed roadside stall has no implications in terms of the water catchment of the Oxley River.

The proposal is consistent with Clause 12.

The proposal is consistent with the applicable provisions of SEPP (North Coast Regional Environmental Plan) 1988.

SEPP No. 1 - Development Standards

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

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

The subject application contained a SEPP 1 objection in regards to the 30m setback required by Clause 24 (Setbacks to Designated Roads) of the Tweed Local Environmental Plan 2000 for development of this nature within the 1(a) Rural zone. The application proposes a 12m setback to Tyalgum Road. The proposal constitutes greater than a 10% variation (i.e.: located closer than 27m to Tyalgum Road) and as such, the application is being reported to Council.

In *Wehbe v Pittwater Council* (2007) NSW LEC 827, Chief Justice Preston ruled that an applicant for a SEPP 1 Objection “*must satisfy the consent authority that the objection is well founded*”. The most commonly invoked way of demonstrating this (also established by Preston J in *Wehbe v Pittwater Council* (2007)) is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved

notwithstanding non compliance with the standard. This is the method relied upon by the applicant in their justification below:

“We believe that compliance to the above standard is unreasonable and unnecessary in our circumstances. The reasons for this are:

- 1. As the proposed development is for a roadside farm produce stall so as to attract passing traffic a set back in excess of 30m would fundamentally comprise the concept of a roadside stall in that it would no longer be at the roadside. This we believe demonstrates that the standard in this instance is unreasonable to apply in particular clause 24(3).*
- 2. On our property we only have one real option for the location of such a stall that would ensure the safe entrance and egress of customers and that is where we have proposed it in the plans submitted. The only problem with this location is that there is a long dam running parallel to the designated road with its central long axis at about the 30m distance from the road. Consequently for a stall to be no less than 30m would mean our stall would need to be on the other side of the dam making it about 70m from the road. Additionally this would then necessitate customer traffic travelling on our single lane road across the dam wall. This we believe demonstrates that the standard in this instance is unreasonable to apply in particular clauses 22(4)(a) &(b).*
- 3. The structure proposed is a stall not a dwelling so issues like traffic noise would not be a problem. This we believe demonstrates that the standard in this instance is unreasonable to apply in particular clause 22(4)(e).*
- 4. The proposed structure is proposed to be made of solid tallow wood poles, giving not only great strength but a rustic rural appearance. This we believe demonstrates that the standard in this instance is unreasonable to apply in particular clause 22(4)(f).”*

Planning Comments

In addition to being satisfied that the SEPP 1 Objection is well founded, the consent authority must also be of the opinion that *“granting of consent to that development application is consistent with the aims of this Policy as set out in clause 3”* and consider the matters in clause 8(a): *“whether non-compliance with the development standard raises any matters of significance for State or regional environmental planning; and (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The aims of the policy are as follows:

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

Sections 5(a) (i) and (ii) are as follows:

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

With respect to Sections 5(a) (i) and (ii) it is considered that the proposed roadside stall does not hinder the proper management, development and conservation of any resources, in particular agricultural land that surrounds the subject site. The proposal is considered to have minimal environmental impacts whilst contributing to the economic welfare of the community and facilitating orderly and economic use of the subject site. Further, non compliance with the development standard is not considered to raise any matters of significance for State or regional environmental planning.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with Clause 24 of the LEP is considered to be justified in this instance and is not likely to result in an adverse planning precedent. As such, the granting of this application is unlikely to impact upon public benefit and the objection is considered to be well founded.

Based on the above, support of the subject SEPP 1 Objection is considered appropriate in this instance.

SEPP No. 64 – Advertising and Signage

The SEPP outlines the following in regards provisions for signs within rural areas:

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

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

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

The subject signage is consistent with the requirements of the SEPP in that the sign is displayed on the premises to which the proposed sign relates, and will serve to identify the business and proprietor.

The proposed sign is considered to be consistent with the provisions of SEPP 64.

SEPP (Rural Lands) 2008

The SEPP outlines the following 'Rural Planning Principles':

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

Planning Comment:

The proposed roadside stall promotes sustainable economic activity on the subject site for the current capacity of the farm, as well as allowing for further productive use of the land for more intensive cropping purposes.

- (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;*

Planning Comment:

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

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

Planning Comment:

The subject proposal maintains the rural use of the subject site and may facilitate further growth of the organic farm which has the potential to provide social and economic benefits through the employment of local workers and generation of profit for the landholders and cost effective local produce for consumers.

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

Planning Comment:

The proposed development is minor and is not considered to impact on the social, economic and environmental interests of the broader 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;*

Planning Comment:

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

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

Planning Comment:

The proposed development is minor and is not considered to have any significant impacts on the local community in terms of social and economic welfare, notwithstanding the potential positive impacts outlined under principle (c) above.

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

Planning Comment:

The proposal is minor and does not have any ramifications for rural housing.

Based on the above, the proposal is considered to entirely accord with SEPP (Rural Lands) 2008.

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

The draft shire wide Tweed Local Environmental Plan 2010 zones the subject site RU2 – Rural Landscape and defines a roadside stall as “*a place or temporary structure used for retail selling of agricultural produce or handcrafted goods (or both) produced from the property in which the stall is situated, or from an adjacent property*”.

Under Clause 5.4, the ‘retail floor area’ of a roadside stall must not exceed 30m².

A roadside stall remains permissible with consent in the RU2 – Rural landscape zone and the floor area of the subject proposal (20m²) is consistent with the 30m² maximum control for the ‘retail floor area’ of the stall under the draft shirewide LEP 2010.

The proposal is consistent with the draft shire wide Tweed Local Environmental Plan 2010.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The proposed location of the roadside stall is adjacent to an area of approximately 250m² which will be covered with crushed rock roadbase and graded. Under DCP A2, no specific requirement for carparking has been specified, with a note applied to ‘assess parking on its merits, with all parking to be within property boundaries’. Utilising the ‘shop’ rate (5.4 spaces/100m² GFA) results in a parking requirement of only 1.08 spaces (not inclusive of ESD reduction).

Council’s Traffic Engineer has advised that a minimum of two (2) car spaces must be provided, designed to AS2890. The applicant has submitted a plan showing two

car spaces (2.4m x 5.4m each) which has been accepted by Council's Development Assessment Engineer (see file note dated 30 June 2010).

The above assessment is considered to demonstrate that the proposed roadside stall has ample parking inside the property boundaries.

The proposal is consistent with DCP A2.

Note - * The application was also referred to DTAG (discussed below) and conditions have been applied relating to construction of the carpark area.

A3-Development of Flood Liable Land

The subject site is identified as 'could be' flood prone. However, there is no minimum floor level for a roadside stall (which is obviously not habitable). No further consideration with regard to flooding impacts is required. Two conditions of consent have been applied as follows:

- The stall shall not be adapted or used for residential accommodation or for any purpose other than a roadside stall;
- Flood free storage shall be provided for equipment susceptible to water damage.

The proposal is consistent with DCP A3.

A4-Advertising Signs Code

The application includes a 1m x 1.2m 'a-frame' blackboard sign to serve as business identification and advertise specific produce for sale.

The DCP permits a maximum of five (5) business identification signs per business premises (which will not be exceeded by the subject proposal) and specifies types of signs which are permissible and prohibited.

The following objectives are also provided for signage in rural areas:

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

The subject 'a-frame' sign is a permissible type of signage, however it exceeds the maximum size (900mm x 1200mm) by 12cm² (being 1000mm x 1200mm). This is considered to be a very minor increase which will not have an adverse impact on the locality in terms of size or visual appearance. The proposal is considered to be consistent with the objectives for signage in rural areas, being removable, small scale, single (i.e.: one sign only) and located wholly within the property boundary at all times (conditions have been applied in this regard).

The proposed sign is considered to be consistent with DCP A4.

A11-Public Notification of Development Proposals

The proposal was notified to nearby and adjoining landholders for a period of fourteen (14) days from 1 April 2009 to 17 April 2009. No submissions were received as a result of the notification process.

A13-Socio-Economic Impact Assessment

The proposal is not anticipated to have a significant social or economic impact on the locality and a social impact assessment is not required.

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

Clause 92(a) Government Coastal Policy

The subject site is not located on land to which the Government Coastal Policy applies.

Clause 92(b) Applications for demolition

No demolition is proposed in the application.

Clause 93 Fire Safety Considerations

This application does not propose a change of building use and Clause 93 is not relevant.

Clause 94 Buildings to be upgraded

This application does not propose the rebuilding, alteration, enlargement or extension of an existing building. Clause 94 is not relevant to the proposal.

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

Context and Setting

The proposal is minor and in keeping with the rural character of the subject locality. No adverse impacts on the natural or built environment are envisaged in the locality, and the proposal has the potential to facilitate economic returns for the landholder (and possibly provide for future growth of the sustainable farming venture).

The proposal is consistent with the context and setting of the locality.

Access, Transport and Traffic

The proposed access and parking arrangements have been reviewed by the Development Traffic Advisory Group (DTAG) and Council's Traffic Engineer.

Minutes of the DTAG meeting (held 16 April 2009 and available in full on file) conclude that DTAG have no objections to the proposed development:

"It is reported that parking is wholly on private property with adequate sight distance in both directions for arrivals and departures. The location of the farm stall is opposite Carilla Place. The area designated solely for parking is 250m², with the entrance area including the area for parking and the entrance road being 320m², all of which will be covered with crushed rock road base and graded.

No objection is raised for the location of a 20m² farm stall within 30m of a designated road".

Council's Traffic Engineer has also reviewed the application and advised that a minimum of two (2) car spaces are required as well as a turning circle for a B99 vehicle, which have been shown on a plan prepared by the applicant and reviewed by Council's Development Assessment Engineer with no objections.

No further access/traffic concerns were raised with regard to the proposal.

Based on the above the proposal is considered to be appropriate from an access and traffic point of view.

Farmland of State or Regional Significance

The subject site is located on land identified as Regionally Significant Farmland. Referral to the Industry and Investment NSW (formerly DPI) is only required if land is mapped as being State Significant.

Industry and Investment NSW were contacted in relation to the application and advised that the proposed roadside stall is ancillary to the rural use of the site and no objections are raised (please see file note dated 8 April 2010).

Flora and Fauna/Natural Environment

The site of the proposed stall is cleared of all vegetation with much of the subject site classified as 'highly modified' under the Tweed Vegetation Management Strategy 2004. Council's records do not contain any occurrences of threatened flora or fauna on the site and no disturbance of the natural environment is necessary to facilitate the proposal.

No adverse impacts are anticipated on flora and fauna as a result of the subject proposal.

Construction

The proposed stall shall be constructed of timber poles with a tin roof. A condition has been applied requiring the roof to have low reflectivity so as not to interfere with any adjoining properties by way of reflection.

Council's Building Surveyor has reviewed the application and applied various conditions including the requirement for the applicant to obtain a Construction Certificate for the proposed stall.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The proposal is minor and is considered to be consistent with surrounding land uses, much of which is pasture land or small crops and single dwelling houses.

Water Supply

A rainwater tank is proposed for the collection of rainwater from the stall, located wholly within the subject allotment. There is a chance that members of the public may gain access to the water supply. Conditions have been applied by Council's Environmental Health Officer requiring either a suitable water management plan (to ensure adequate filtration/chlorination of the tank water before use) or the provision of signage specifying that the tank water is not suitable for drinking due to being untreated.

It is noted that only whole produce will be sold at the stall, which negates the need to use the tank water for washing cutting utensils/washing down cutting areas which may contaminate cut produce. This is addressed further below.

Food Premises

Only whole produce (low risk food) grown on the applicants farm will be sold at the proposed roadside farm stall (a condition has been applied in this regard). Additional conditions have been applied (by Council's Environmental Health Officer) in regards to the product for sale to be on display only above ground level on shelving or benches of durable, smooth, impervious material capable of being easily cleaned and only whole produce (no cutting of fruit or vegetables) to be sold unless prior written consent by the General Manager or his delegate is given.

Acid Sulphate Soils/Contaminated Land

Council's Environmental Health Officer has reviewed the application with respect to acid sulphate soils and contamination. The following comments were supplied:

"A search of Council ASS maps indicates that there appears to be no ASS issues. A search of Council's records indicates that there appears to be no cattle dip sites located at the proposed farm stall site. No further action".

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

No submissions were received during the assessment process.

(e) Public interest

The proposed roadside stall is considered to be consistent with all applicable planning controls and the SEPP 1 Objection is considered to be well founded and warranted based on the circumstances of this particular case. The proposal is considered to be generally in the public interest as it will facilitate economic activity in the subject locality whilst remaining consistent with the rural land use of the area and compatible with the natural environment.

OPTIONS:

1. Approve the application in accordance with the recommended conditions.
2. Refuse the development application for specified reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject application is considered to generally comply with statutory and policy requirements. Strict application of Clause 24 – Setbacks to Designated Roads of the Tweed Local Environmental Plan 2000 was considered unreasonable and unnecessary in this instance and the SEPP 1 objection is considered to warrant support. The impact of the proposal in terms of traffic has been assessed and determined to be acceptable and it has been demonstrated that sufficient car parking is available on site. The proposed development is not considered to have a significant impact on agricultural activities in the locality nor impact upon the social, cultural and environmental characteristics of the local environment.

Therefore the proposed development is recommended for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

23 [PR-CM] Public Notification of Amendments to Tweed DCP Notification Requirements for DAs Affecting Caravan Parks and Manufactured Home Estates

ORIGIN:

Development Assessment

FILE NO: GT1/DCP/A11

SUMMARY OF REPORT:

At its meeting of 15 December 2009, in response to a Notice of Motion brought forward by Councillor Skinner, Council resolved the following-

“That a report be brought forward to Council from the Director Planning and Regulation which identifies appropriate amendments to Section A11 of Tweed Development Control Plan 2008 which will facilitate a more pro-active requirement for Council to advertise and directly notify the owners and residents of all Caravan Parks and Manufactured Home Estates and the like in the Tweed Shire of incoming development applications.”

In response to this resolution, Council officers prepared a report to seek Council's endorsement to commence a process for the amendment of Section A11 of Tweed Development Control Plan (DCP) 2008, to require additional notification of residents of Caravan Parks and Manufactured Home Estates that are likely to be impacted by development applications.

This was reported to the Council Meeting of 16 February 2010 where it was resolved to hold a workshop. Following on from the workshop of 23 February 2010 a further report to the Council meeting of 16 March 2010 resulted with Council's endorsement for the public exhibition of a Draft Tweed DCP Section A11.

The Draft DCP was publicly exhibited from Wednesday 28 April 2010 to Friday 28 May 2010, with no submissions received.

It is therefore recommended that Council adopts the exhibited amendments to Tweed DCP Section A11.

RECOMMENDATION:

That:

- 1. Council adopts the draft amendments to Section A11 of Tweed Development Control Plan – Public Notification of Development Proposals Code as identified in this report, and in accordance with section 21 of the *Environmental Planning Assessment Regulation 2000*, and to give public**

notice of the resolution to adopt the Plan in its newspaper, the Tweed Link, within 28 days of this resolution.

2. The Draft Plan be further amended to include a savings and transitional provision to the effect that development applications lodged but not determined are to be assessed as if the amendments had not been made in relation to public notification requirements.

REPORT:

BACKGROUND:

Council Resolution

At its meeting of 16 March 2010 Council resolved the following:

“Council endorses the public exhibition of an amendment to clause A11.2.1 of Section A11 of Tweed Development Control Plan 2008 for a period of 28 days, in accordance with the Environmental Planning and Assessment Act and Regulations, through the insertion of the following:

Caravan Parks and Manufactured Home Estates

Permanent occupiers of caravan parks and manufactured home estates sites are to be notified in the same way as landowners are notified as set out in clause A11.2.1 “Who is to be notified?” (affected owners). In this regard individual sites occupiers are to be notified by mail identified by Council’s copy of the community map for each caravan park or manufactured home estate.”

Existing Notification Provisions Under DCP A11

The Tweed DCP Section A11 contains the following provisions regarding notification:-

A11.2.1 Who is to be Notified? (affected owners)

For applications for development listed in Table 1. The Council will cause notice of an application to be sent to:-

- (a) all persons who, according to Council property rating records, own land immediately adjoining the application site;*
- (b) owners of any land that the Council or delegated staff consider may be detrimentally affected by the application having regard to the following criteria:*
 - (i) the views to, from, and across/over the land;*
 - (ii) overshadowing;*
 - (iii) privacy;*
 - (iv) noise;*
 - (v) the visual quality of the building in relation to the streetscape and neighbouring properties;*
 - (vi) the scale of the proposed buildings;*
 - (vii) the likely effect on the drainage of adjoining sites;*
 - (viii) the siting of the proposed building in relation to the application site boundaries;*
 - (ix) hours of use;*
 - (x) nature of use;*
 - (xi) light spillage or reflection;*
 - (xii) means of access to or provision of private parking on the application site;*

- (xiii) *any covenant or easement benefiting the adjoining or neighbouring land or the Council;*
 - (xiv) *the height, materials and position of fences erected on the boundary;*
 - (xv) *traffic generation;*
 - (xvi) *particular circumstances of the application; and*
- (c) *any community group or government agency which may be affected by or have a legitimate interest in the application.*

Proposed Amendment to the Notification Provisions

The exhibited Draft DCP contains the same wording as the existing provision above but with the addition of a new sub-clause (d), which is in the following terms:-

- (d) permanent occupiers of caravan parks and manufactured home estates sites are to be notified in the same way as landowners are notified as set out in clause A11.2.1 Who is to be notified? (affected owners). In this regard individual site occupiers are to be notified by mail identified by Council's copy of the community map for each caravan park or manufactured home estate.

The new sub-clause (d) gives effect to the Council's resolution, broadening the notification requirements to capture permanent occupiers of caravan parks and manufactured home estates who may be affected by a development proposal.

Exhibition of the Draft Plan

The draft Plan was placed on public exhibition in accordance with the *Environmental Planning and Assessment Regulation 2000* from Wednesday 28 April 2010 to Friday 28 May 2010, totaling a period of 30 days. The draft Plan was notified in the Tweed Link and made available at the following locations:

- Murwillumbah Civic Centre from 8.00am to 4.30pm weekdays.
- Tweed Heads Civic Centre from 8.00am to 4.30pm weekdays.
- Kingscliff Library from 10.00am to 5.00pm Tuesday-Friday and 9.00am to 12 noon Saturday.
- Tweed Shire Council's website

No public submissions were received during the public exhibition period. It is noteworthy that one (1) telephone enquiry was received however, notwithstanding the Council Officer's advice to make a formal written submission, one has not been received.

The enquiry related to Caravan owners not being rate payers and should therefore not have the same rights as a rate payer. Notwithstanding the way in which the issue was raised it was assessed as providing insufficient grounds to warrant refusal or an amendment to the Draft DCP.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Implementation of the draft Public Notification of Development Proposals Code (Section A11 of the Tweed Development Control Plan) will not have any adverse implication on Council's forward budget estimates.

POLICY IMPLICATIONS:

The proposal represents a change in policy but is warranted given the long term tenure of the occupants of permanent caravan parks and manufactured home estates. It is not desirable to extend the additional notification to other occupiers as it is not possible to identify addresses, deliver mail effectively and justify notifying a large proportion of short term occupants in rented accommodation.

CONCLUSION:

The draft Plan has been in preparation since January and has been drafted and publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979 and Regulations. The proposed amendment to the DCP is minor in nature and will serve to increase the public awareness of development proposals to residents of caravan parks and manufactured home estates who might otherwise not be notified, but, who may nevertheless be potentially affected by a development proposal.

The proposed amendments to the Tweed DCP are considered to be in the public interest and are suitable for adoption.

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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24 [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 June 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.	DA09/0649
Description of Development:	Demolition of existing structures and construction of six (6) storey multi dwelling housing with basement carparking
Property Address:	Lot 7 DP 232124 No. 4 Endeavour Parade TWEED HEADS
Date Granted:	17/6/2010
Development Standard to be Varied:	Clause 32B(4)(b) - overshadowing
Zoning:	2(b) Medium Density Residential
Justification:	Six storey building complies with building heights in LEP but due to height causes a degree of overshadowing to adjacent foreshore open space. An 8-storey building south of the site also causes overshadowing of adjacent foreshore open space.
Extent:	Overshadowing of foreshore open space area after 3pm. No measures to quantify % or degree of overshadowing.
Authority:	Tweed Shire Council

DA No.	DA10/0146
Description of Development:	granny flat above existing garage
Property Address:	Lot 1 DP 848877 No. 12 Elizabeth Street FINGAL HEAD
Date Granted:	17/6/2010
Development Standard to be Varied:	Multi Dwelling Housing Densities in Zone 2a
Zoning:	2(a) Low Density Residential
Justification:	The proposed development does not comply with the development standard contained in Clause 51A of Tweed Local Environmental Plan 2000 as it relates to the density of the development. The purpose of the development is to create a Secondary Dwelling (Granny Flat) as a first floor addition to an existing detached garage.
Extent:	The proposed development does not comply with the development standard contained in Clause 51A of Tweed Local Environmental Plan 2000 as it relates to the density of the development. More than one dwelling per 450m ² .
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

25 [CNR-CM] Pottsville Beach Neighbourhood Centre

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

Council at its meeting of 20 April 2010 resolved:

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.*

These actions have now been completed and this report addresses the outcomes.

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 Street, Pottsville.

There is tremendous pressure for the Pottsville Beach Neighbourhood Centre to provide services for the rapid growing community. The current administration building is too small to accommodate the current organisations essential infrastructure and outreach services and limits capability of the centre to provide additional community services that are required. It has been identified in the recently adopted Pottsville Locality Based Development Code that expanding the services available at the community centre site is of first priority.

RECOMMENDATION:

That Council:

1. **Proceeds with the upgrade of the Pottsville Beach Neighbourhood Centre.**
2. **Votes the expenditure of \$1,096,000 to be funded from reserves held in Contribution Plan 15.**

- 3. Lodges a development application for the new administration building and associated works.**
- 4. Prepares tender documents and calls tenders for the new administration building and associated works.**

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 Street, Pottsville.

There is tremendous pressure for the Pottsville Beach Neighbourhood Centre to provide services for the rapid growing community. The current administration building is too small to accommodate the current organisations essential infrastructure and outreach services and limits capability of the centre to provide additional community services that are required. It has been identified in the recently adopted Pottsville Locality Based Development Code that expanding the services available at the community centre site is of first priority.

It was resolved at the April 2010 Council meeting that in the review of the Contribution Plan 15, consideration be given to revised building requirements at the Pottsville Beach Neighbourhood Centre. It was also resolved that community feedback be sought, and finalisation of the concept design and the preparation of an estimate be completed.

Concept design was finalised and community feedback was sought and was largely positive. This included information sessions at the centre and advertisement in the Tweed Link. A petition was also circulated around the local community where signatures were obtained from 2479 community members, 122 association members, 95 community partners and 123 room users over five weeks voicing support for the new building based on the concept designs. Three petitioners registered concerns regarding the development based on a desire to retain the old school building (not to be demolished under this plan), expense of construction versus refurbishment (the building is unsound and too small) and one concerned that contact had been made with a local Aboriginal authority (Land Council has been consulted within Environmental Effects Statement process).

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. The grant was for a Youth Mentoring Space and Recycling Shed adjacent to the Ebbtide building on the site. Pottsville Beach Neighbourhood Centre has confirmed that the grant may be used towards the new building if those facilities were to be provided as part of the new building. Construction of the facility must commence by December 2010 as a condition of the grant funds.

Further design considerations have been undertaken and an estimate and program for the proposed facility has been prepared.

It is now timely for Council to upgrade the facility to meet demands of the existing local community.

Project Funding

A summary of the estimated funds to complete the work is shown in the table below:

Items	Cost \$ Excl. GST
Demolition of the Existing Administration Building	\$28,000
Design and Construction of the New Administration Building	\$820,000
Provision of additional parking on the site	\$70,000
Provision of temporary office accommodation on site	\$25,000
Project and Construction Management Services and document preparation over entire project.	\$96,000
Contingencies	\$57,000
TOTAL	\$1,096,000

Current project funds available are \$84,000 from state government and \$400,000 from the Contribution Plan 15. Additional funds from Contribution Plan 15 and section 94 Contributions are required in the amount of \$712,000. The proposed changes to Contribution Plan 15 will provide the necessary additional funds. There is currently \$1.233 million held in reserve in this plan which is sufficient to undertake this project.

Expected Project Timeframe

An indicative program for the work with key completion dates is as follows:

- Lodge Development Application 23 July 2010
- Call Tenders 9 August 2010
- Close Tenders 15 September 2010
- Council Meeting to accept Tender 19 October 2010
- Award Contract 23 October 2010
- Commence Construction November 2010
- Complete Construction June 2011

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council's 7 year plan provides for a \$1.5 million to the Kingscliff Community Centre. This was to be funded from Section 94 Community Facilities Contribution Plan. Council is not in a position to proceed with this project as it requires the sand source for the nourishment of Kingscliff beach and redevelopment of the adjoining holiday park.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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26 [CNR-CM] Murwillumbah Community Centre

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

At its meeting of 24 January 2004 Council resolved to engage a design consultant and proceed with the concept design for the Murwillumbah Community Centre on the Knox park site. In May 2007 Bud Brannigan Architects was engaged to commence the concept design under Engagement Number HQ2006-178. The engagement was for a sum of \$126,060 (excl. GST). The engagement price included completion of a concept design and a detailed design.

The concept design was finalised in 2009 and since a period approximately 2½ years transpired the estimate and scope of work had been increased and the architect submitted a revised contract sum. A variation for an amount of \$54,840 (excl. GST) was approved at Council's meeting in December 2009. This resulted in a cost increase of the engagement to \$180,900 (excl. GST).

Further changes to the scope of work have resulted in variations being submitted for amounts of \$6170 (excl. GST), - \$11,000 (excl. GST) and \$12,000 (excl. GST). This has resulted in the contract sum being varied to an amount of \$188,070 (excl. GST).

There are sufficient funds available to fund the changes detailed above.

RECOMMENDATION:

That Council endorses the following variations for Contract HQ2006-178 Design of Murwillumbah Community Centre:

- 1. Stormwater Management Plan for an amount of \$6170 (excl. GST).**
- 2. Removal of Schedule of Quantities for an amount of \$11,000 (excl. GST).**
- 3. Additional changes to the concept design, which involved additional meetings and documentation for an amount of \$12,000 (excl. GST).**

REPORT:

At its meeting of 24 January 2004 Council resolved to engage a design consultant and proceed with the concept design for the Murwillumbah Community Centre on the Knox park site. In May 2007 Bud Brannigan Architects were engaged to commence the concept design under Engagement Number HQ 2006-178. The engagement was for a sum of \$126,060 (excl. GST). The engagement price included completion of a concept design and a detailed design.

The concept design was finalised in 2009 and since a period approximately 2½ years transpired the estimate and scope of work had been increased and the architect submitted a revised contract sum. A variation for an amount of \$54,840 (excl. GST) was approved at Council meeting in December 2009. This resulted in a cost increase of the engagement to \$180,900 (excl. GST).

In addition to the above, a Stormwater Management Plan was required to be submitted as part of the Development Application documents. This work was not included as part of the original engagement. The work was completed in January 2010 for an amount of \$6170 (excl. GST).

A Schedule of Quantities by the quantity surveyor was removed from the engagement as this work was considered to have no benefit to the project. This work was for an amount of \$11,000 (excl. GST).

Further changes to the concept design were then undertaken which resulted in a variation claim of \$18,750 (excl. GST) from the architect. Negotiations held at a meeting on 31 March 2010 resulted in an amicable agreement that \$12,000 (excl. GST) would be a fair and reasonable cost for the changes to the concept design, which involved additional meetings and documentation changes.

The changes detailed above have resulted in the contract sum being varied to an amount of \$188,070 (excl. GST). The variations have been approved by Council officers and now require the endorsement of Council.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Financial implications as per report.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

27 [CNR-CM] Home and Community Care 2009/2010 Indexation

ORIGIN:

Community Options

SUMMARY OF REPORT:

Council is in receipt of correspondence dated 4 December 2009 from Human Services, Ageing Disability and Home Care informing Council of the payment of indexation for recurrent funding of 2.42% in accordance with the current Funding Agreement. Indexation for each eligible service results in an additional \$14,943 for Community Options and \$666 for the Community Worker (HACC), a total of \$15,609 for the 2009/10 period.

RECOMMENDATION:

That Council:

- 1. Accepts the 2009/10 Service Improvement Funding from Department of Ageing, Disability and Home Care of \$15,609.**
- 2. Votes the expenditure.**

REPORT:

Council is in receipt of correspondence dated 4 December 2009 from Human Services, Ageing Disability and Home Care informing Council of the payment of indexation for recurrent funding of 2.42% in accordance with the current Funding Agreement. Indexation for each eligible service results in an additional \$14,943 for Community Options and \$666 for the Community Worker (HACC), a total of \$15,609 for the 2009/10 period.

Indexation is applied to recurrently funded services under the current agreement and will enhance the provision of services to assist the needs of frail aged people, younger people with a disability and their carers.



Human Services
Ageing, Disability & Home Care

Mr Mike Rayner
General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

COMMUNITY OPTIONS
DISABILITY/ACCESSIBILITY MTRS
GOVT GRANT - COMMUNITY OPTION

HACC
AGREEMENTS

TWEED SHIRE COUNCIL	
FILE No.	AGED SERVICES
DATE No.	
REQD: -	9 DEC 2009
ASSIGNED TO:	CORBETT, G
HARD COPY <input type="checkbox"/>	IMAGE <input checked="" type="checkbox"/>

AH09/57614

Dear Mr Rayner

2009-10 Indexation

The NSW Government recognises the essential role your organisation plays in delivering services to people in NSW. The Government is also aware of the need to support organisations to meet annual cost increases.

For 2009-10, the Government will pay indexation of 2.42 percent to non-government organisations that receive grants under the National Disability Agreement (NDA), Home and Community Care (HACC) Program and the Ageing Program.

The NSW Government determines indexation by considering factors such as the Consumer Price Index and general wage movements. If you are covered by the SACS Award, the 2009-10 indexation payment will more than cover the cost of the recent increases which take effect from 28 September 2009.

I ask that you give consideration to applying the surplus to the full year cost of the 2009 SACS Award increases which you will experience in 2010/11. Acquittal arrangements will make allowance for this. A range of "red tape" reductions will be introduced over the next year which will provide cost efficiencies to enable you to meet the full year cost from 2011/12 onwards.

Yours sincerely

Jim Moore
Chief Executive

Office of the Chief Executive | Ageing, Disability and Home Care, Department of Human Services NSW
Level 5, 83 Clarence Street, Sydney NSW 2000 | T (02) 8270 2000 | DX 10485 SSE | TTY (02) 8270 2167
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | www.adhc.nsw.gov.au

DataWorks Document Number: 9830681



Human Services
Ageing, Disability & Home Care

Mr Mike Rayner
General Manager
Tweed Shire Council (413)
PO Box 816
MURWILLUMBAH NSW 2484

Regional Contact: Delma Rigby
Region: Northern
Ref: AH09/57614 (AHA/12981)

2009-10 Indexation

Dear Mr Rayner

Ageing, Disability and Home Care has paid indexation to your organisation in accordance with Clause 6.3 of the Funding Agreement.

Indexation is applied to recurrently funded services that commenced prior to 30 June 2009 and which continue to receive funding under the current Agreement. The attached Schedule 1 Part B of the Service Description Schedule shows the new indexation amounts included in your grants funding. The indexation payments are back dated to start from 1 July 2009.

Should you have any further questions about indexation please contact your contract manager in ADHC Northern Office on (02) 6621 1400.

Yours sincerely,

A handwritten signature in black ink that reads 'Stephen Chanphakeo'.

Stephen Chanphakeo
A/Director
NGO Funding & Acquittals Unit
4/12/2009

SCHEDULE 1 Part B of the SERVICE DESCRIPTION SCHEDULE

Rev 1a

Funded Service Report for 2009-2010 Financial Year

Tweed Shire Council

A.B.N.: 90 178 732 496

List of Services for which Funding is Provided

Service Id and Name	Period of Agreement	Start Date	End Date	Funding Stream	Installment Type	Recurrent	CYE	Non Recurrent
496 Tweed Shire Community Options								
	3	01-Jul-2009	30-Jun-2012	Home and Community Care	Q	\$14,943	\$14,943	\$0
	3	01-Jul-2009	30-Jun-2012	Home and Community Care	Q	\$617,824	\$617,824	\$0
2376 Tweed Council Community Worker HACC								
	3	01-Jul-2009	30-Jun-2012	Home and Community Care	Q	\$27,544	\$27,544	\$0
	3	01-Jul-2009	30-Jun-2012	Home and Community Care	Q	\$666	\$666	\$0
16208 Support Coordination for Older Parent Carers								
	3	01-Jul-2009	30-Jun-2012	Disability Services	Q	\$213,284	\$213,284	\$0
19068 Tweed Shire Council Podiatry								
	3	01-Jul-2009	30-Jun-2012	Home and Community Care	Q	\$544	\$544	\$0
	3	01-Jul-2009	30-Jun-2012	Home and Community Care	Q	\$22,495	\$22,495	\$0
19104 Carer Assistance Packages for Older Parent Carers Far North Coast								
	3	01-Jul-2009	30-Jun-2012	Disability Services	Q	\$250,000	\$250,000	\$0
Tweed Shire Council Total:						\$1,147,300	\$1,147,300	\$0

Current as at 04 December 2009

Page 1 of 1

DataWorks Document Number: 8630681

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

28 [CNR-CM] Ageing Disability and Home Care 2009/2010 Additional Home and Community Care Department of Veterans' Affairs funding

ORIGIN:

Community Options

SUMMARY OF REPORT:

Council is in receipt of correspondence dated 18 June 2010 from Human Services, Ageing Disability and Home Care (ADHC) informing Council of the payment of non-recurrent funds of \$6909. ADHC receives information from Community Options Projects in regard to the clients and their services quarterly, by way of reporting of the Minimum Data Set Data (MDS). ADHC has offered this funding in recognition of the reporting of services that Community Options has provided to Department of Veterans' Affairs clients under the Home and Community Care (HACC) program.

This is one off funding that will enable Tweed Shire Community Options to deliver an enhanced level of service to the increasing needs of vulnerable people, at risk within our community.

This is considered a non-significant change to the current funding agreement and only requires Council to accept the funds and vote the expenditure.

RECOMMENDATION:

That Council:

- 1. Accepts the non-recurrent funds from Human Services, Ageing Disability and Home Care for the amount of \$6909, in recognition of the services provided to Department of Veterans Affairs clients under the Home and Community Care (HACC) program, for the 2009/10 financial year.**
- 2. Votes the expenditure.**

REPORT:

Council is in receipt of correspondence dated 18 June 2010 from Human Services, Ageing Disability and Home Care (ADHC) informing Council of the payment of non-recurrent funds of \$6909. ADHC receive information from Community Options Projects in regard to the clients and their services, quarterly by way of reporting of the Minimum Data Set Data (MDS). ADHC have offered this funding in recognition of the reporting of services that Community Options has provided to Department of Veterans' Affairs clients under the Home and Community Care (HACC) program.

This is one off funding that will enable Tweed Shire Community Options to deliver an enhanced level of service to the increasing needs of vulnerable people, at risk within our community.

This is considered a non-significant change to the current funding agreement and only requires Council to accept the funds and vote the expenditure.



Human Services
Ageing, Disability & Home Care

Mr Mike Rayner
General Manager
Tweed Shire Council (ID: 413)
PO Box 816
MURWILLUMBAH NSW 2484

AGREEMENTS.
GOVT GRANT-COMMUNITY OPTIONS
HACC
DISABILITY/ACCESSIBILITY MATTERS

TWEED SHIRE COUNCIL
FILE No: AGED SERVICES
HACC No:
REC'D: 24 JUN 2010
ASSIGNED TO: CORBETT, G
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

Contact: Rangan Sivapatham
Region: Central Office
ADHC Ref: AHI10/638
(AHA/12981)

2009-2010 Home and Community Care (HACC) Program - Department of Veterans' Affairs (DVA) Funding

Dear Mr Rayner

Ageing, Disability and Home Care (ADHC), Department of Human Services NSW has approved additional funding for your organisation.

These funds are provided as a non-recurrent grant in recognition of the services that your organisation provides to Department of Veterans' Affairs clients under the Home and Community Care Program. The intention of this grant is to assist in enhancement and improvements of operational capacity to your service delivery.

Changes to your funding are made pursuant to Clause 6.1 and/or Clause 4.1 of ADHC's Funding Agreement. This can include both significant and/or non significant changes.

Significant Changes

Where changes to your funding are considered significant as outlined in the Funding Agreement, you will find the following documents attached:

1. Two copies of the Acceptance of Funding Variation which are required to be signed by the Duly Authorised Representative(s) of your organisation
2. Revised Schedule 1, Parts B, D & E for this variation
3. Notice of Change of Duly Authorised Representative, to be updated and returned to ADHC if required

Ageing, Disability and Home Care, Department of Human Services NSW
Level 5, 83 Clarence Street, Sydney NSW 2000 | T (02) 8270 2000 | DX 10485 SSE | TTY (02) 8270 2167
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | www.adhc.nsw.gov.au

DataWorks Document Number: 18248198

Funding cannot be paid to your organisation until both copies of the Funding Variations are signed and returned to the **Director, NGO Funding and Acquittals Unit**. Once signed, the funding is considered part of your current Funding Agreement.

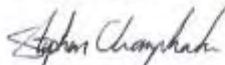
Non Significant Changes

Should the changes to your funding be considered non significant as outlined in the Funding Agreement, ADHC will assume that you accept these changes unless you advise otherwise in writing. Please refer to the attached Service Description Schedule to see the highlighted changes.

ADHC recognises that the timing of payments for this funding allocation may result in unspent funding in 2009/10. Payments for this allocation may be carried forward as part of the 2009/10 acquittal process. This will allow your organisation to retain the surplus funds to be expended in 2010/11. Please attach a copy of this letter to your 2009/10 acquittal to support any request to carry forward unexpended funding.

Payment transaction enquiries should be directed to **Ms Doreen Goodsir**, NSW Businesslink on **9765 3617**. **Mr Rangan Sivapatham** can also be contacted on **8270 2246** for general enquiries about your funding grant.

Yours sincerely



Stephen Chanphakeo
A/Director, NGO Funding and Acquittals Unit

18 JUN 2010

SCHEDULE 1 Part B of the SERVICE DESCRIPTION SCHEDULE

Rev 1a

Funded Service Report for 2009-2010 Financial Year

Tweed Shire Council

A.B.N.: 90 178 732 496

List of Services for which Funding is Provided

Service Id and Name	Period of Agreement	Start Date	End Date	Funding Stream	Installment Type	Recurrent	CYE	Non Recurrent
19845 Tweed Council Community Worker HACC - DVA	3	01-Jul-2009	30-Jun-2010	Department of Veterans Affairs	O	\$0	\$6,609	\$6,609
Tweed Shire Council Total:						\$0	\$6,609	\$6,609

Current as at 16 June 2010.

Page 1 of 1

DataWorks Document Number: 18248199

SCHEDULE 1 Part D of the SERVICE DESCRIPTION SCHEDULE

Rev. 1a

SERVICE DETAILS

Service Provider Name:	Tweed Shire Council
ADHC Region:	Head Office
Funding Program:	Department of Veterans Affairs

Service Name:	Tweed Council Community Worker HACC - DVA	Service ID:	19845
HACC MDS ID:		Service Type:	11.01 DVA - Agreement
Program:	DVA	Outlet Count:	1
Physical Flat/Unit/Street Number and Name:	PO Box 816	Physical Town or Suburb:	MURWILLUMBAH
Physical State/Territory:	NSW	Physical Post Code:	2484
Start Date of Funding:	01/Jul/2009	End Date of Funding:	30/Jun/2012

Local Government Area	Local Planning Area	State Electorate	Federal Electorate
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Tweed	Far North Coast
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Target Groups

SCHEDULE 1 Part D of the SERVICE DESCRIPTION SCHEDULE
Funding Summary - 2009/2010

Rev 13

Service Provider Name:	Tweed Shire Council
Service Name:	Tweed Council Community Worker HACC - DVA
Service ID:	19845

Service Type	Service Model	Payment Type	Start Date	Finish Date	Full Year Funding Amount	Current Year Amount	Outputs
11.01 DVA - Agreement	Regional Service Assistance Fund	Non Recurrent	01/Jul/2009	30/Jun/2010	6,609	6,609	0
Total Funding and Outputs:					6,609	6,609	0

DataWorks Document Number: 18248199

Schedule 1 Part D - Current as at: 16 June 2010 last Updated: 13 June 2010

Page 1 of 1

SCHEDULE 1 Part D of the SERVICE DESCRIPTION SCHEDULE

Rev 1a

Service Details

Service Provider Name:	Tweed Shire Council
Service Name:	Tweed Council Community Worker HACC - DVA
Service ID:	19845
Service Type:	11.01 DVA - Agreement

1. Service Type Descriptions:

Service Objectives

DADHC is a signatory to an agreement with the Department of Veteran's Affairs (DVA) in recognition of veteran access to the Home and Community Care (HACC) Program. Funding is currently provided under a fixed three year agreement (2006-2009) and is allocated annually to non-recurrent projects to enhance the HACC service system.

Description:

DVA Regional Service Assistance Funds may be used for any of the following purposes:

1. Service development
2. Set-up costs for relocated services; or
3. Contributions to vehicle replacement for small services

Activities:

DVA funding is to be used to enhance existing HACC services types

Outcomes:

Service outcomes should be consistent with HACC service being delivered

Measures:

Performance measures should be consistent with HACC service being delivered

2. Special Conditions

3. Assets

SCHEDULE 1 Part E of the SERVICE DESCRIPTION SCHEDULE

Rev 1a

SERVICE OUTLET DETAILS 2009/10

Service Provider Name:	Tweed Shire Council		
Service Name:	Tweed Council Community Worker HACC - DVA		
Service ID:	19845		
Outlet Name:	Tweed Council Community Worker HACC - DVA	Service Outlet ID:	29810
CSTDA MDS ID:			
Physical Flat/Unit/Street Number, Box Number, Street Name:	City of the Arts Space (Old Art Gallery) Tumbulgum Rd	Physical Town or Suburb:	MURWILLUMBAH
Physical State/Territory:	NSW	Physical Postcode:	2484
TTY Telephone Number:		Free Call Number:	
Recurrent Funding:		Recurrent Outputs:	
Non Recurrent Funding:	\$6,609	Non Recurrent Outputs:	
Local Government Area	Local Planning Area	State Electorate	Federal Electorate
Tweed	Far North Coast		
Target Groups			
Individuals			

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.

29 [CNR-CM] ComPacks 2010/11 Funding Agreement with NSW Department of Health

ORIGIN:

Community Options

SUMMARY OF REPORT:

Council has been contracted to NSW Department of Health for the past three years to provide the ComPacks program. The program has operated with a single unit cost per package since it began in 2003. In 2009/10 this was \$1500 per package and Tweed Community Options was contracted to provide a total of 795 packages (612 packages for 2009/10 plus 183 rolled over from previous years).

In reviewing overall costing data, NSW Health have decided to provide a more flexible funding model that incorporates the different levels of community care needs of ComPacks clients.

Council is in receipt of correspondence dated 18 June 2010 from NSW Department of Health offering funding for the ComPacks program for 2010/11. The total funding offered for this period is \$1,005,494 (GST exclusive), with a target of 884 packages of care being expected from implementation of the budget.

RECOMMENDATION:

That Council:

- 1. Accepts the funds from NSW Department of Health for the 2010/11 financial year for the amount of \$1,005,494 as per the funding agreement.**
- 2. Votes the expenditure.**
- 3. Signs the necessary funding agreement for 2010/11 and affixes the Common Seal of Council to documentation as required.**

REPORT:

Tweed Community Options continue to provide case management and broker community care support to patients who discharge from NSW Hospitals and who are referred to our program under the ComPacks referral and eligibility criteria. ComPacks consists of a series of supports, documented within a care plan, provided to the client for a period of up to 6 weeks post discharge from hospital. Most referrals come from The Tweed Hospital or Murwillumbah District Hospital.

Tweed Community Options staff have the skills and knowledge to ensure that those people referred for case management services, and linkages to the community care system, are efficiently linked into appropriate supports.

Council has been contracted to NSW Department of Health for the past three years to provide the ComPacks program. The program has operated with a single unit cost per package since it began in 2003. In 2009/10 this was \$1500 per package and Tweed Community Options was contracted to provide a total of 795 packages (612 packages for 2009/10 plus 183 rolled over from previous years).

Council is in receipt of correspondence dated 18 June 2010 from NSW Department of Health offering funding for the ComPacks program for 2010/11. The total funding for this period is \$1,005,494 (GST exclusive).

In reviewing overall costing data NSW Department of Health have decided to provide a more flexible funding model that incorporates the different levels of community care needs of ComPacks clients

The Funding Allocation Guidelines for Tweed Community Options are as follows:

Description	Examples	Max cost	Overall % of Funding	No of packages	Funding
Assessment only	The potential ComPacks recipient has been referred to COPS and has a formal assessment by a Case Manager. For some reason the package has not been delivered.	\$300	3	101	\$30,165
Band 1 (0-\$600)	These are packages that are low cost. There may be many reasons for this. For e.g.: The recipient has only had a 2 week of a 6 week package.	\$500	10	195	\$97,533
Band 2 (\$601 - \$1500)	These are mid cost packages and it would be expected most recipients would fall into this category. For e.g. the recipient that used 6 weeks of a package.	\$1,200	80	650	\$780,263
Band 3 (> \$1501)	These are high cost clients. For e.g. a recipient that had an intensive level of community supports.	\$2,500	10	39	\$97,533
Total				884	1,005,494

The Funding Agreement from NSW Health identifies more clearly what the contractual obligations are for both parties to the contract.

In summary the total funding for 2010/11 will be \$1,005,494 from NSW Health and a target of 884 packages of care being expected from implementation of the budget.



18 June 2010

Ms Linda Wiggins
Tweed Shire Council
Tweed Shire Community Options
PO Box 816
MURWILLUMBAH NSW 2484

Dear Ms Wiggins,

Re: ComPacks Funding Agreement 2010/2011

Thank you for continuing to participate in the ComPacks program.

The current ComPacks funding agreement with Tweed Shire Council ceases on 30th June 2010. Please find attached the Funding Agreement for the ComPacks program for 2010/2011. The total funding for this period is \$1,005,494 (GST Exclusive).

The conditions of this funding are outlined in the attached documentation and I would encourage you to make your ComPacks program staff familiar with these as there are some changes from previous years. In particular, there are changes to the programs funding bands, reporting and there will now be a requirement to gain pre-approval for packages anticipated to cost in excess of \$3,000.

Please print out **two** copies of **part 1** of the agreement and return both copies with signature to Health Support Services by post or email within 14 days of receiving. Could you also complete **page 14** with your organisations banking details. These documents will then be signed by the Department and a copy will be returned to you for your records.

The contact details are as follows:

Jonathan Gold
Contract Management Officer
Health Support Services
PO Box 1770,
CHATSWOOD NSW 2057
Ph: 02) 8907 1479
Email: Jonathan.gold@hss.health.nsw.gov.au

If you have any questions in regards to this matter please contact me on 9391 9921 or achan@doh.health.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink that reads "Anne-Maree Chant".

Anne-Maree Chant
ComPacks Program Manager

CC:

NSW Department of Health
ABN 92 697 899 630
73 Miller St North Sydney NSW 2060
Locked Mail Bag 961 North Sydney NSW 2059
Tel (02) 9391 9000 Fax (02) 9391 9101
Website www.health.nsw.gov.au

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. ComPacks Funding Agreement (ECM 18889816)
-

30 [CNR-CM] Federal Government Visions of Australia Program Grant Funding

ORIGIN:

Community & Cultural Services

SUMMARY OF REPORT:

The Federal Government's Visions of Australia Program has awarded an Exhibition Touring grant of \$97,610 (GST inclusive) to the Tweed River Art Gallery.

RECOMMENDATION:

That Council:

- 1. Accepts the Federal Government's Visions of Australia Grant for \$97,610.**
- 2. Executes all documentation required through the Visions of Australia Funding Deed with the designated 20 business days from the date of the Government's letter of offer dated 28 June 2010.**
- 3. Votes the expenditure and includes the funding as part of the 2010/2011 Art Gallery budget.**

REPORT:

The Federal Government, through the Visions of Australia Program, has announced the success of the Exhibition Touring application submitted by the Tweed River Art Gallery in April 2010.

The Exhibition Touring grant funding of \$97,610 (GST inclusive) has been awarded to produce, as an initiative of the Art Gallery, a touring exhibition titled *Surface Tension: the art of Euan Macleod 1991-2009*.

The success of the Art Gallery's application is an excellent result in a competitive funding round, reflecting the strength of the application, the subject matter of the exhibition and the growing integrity and reputation of the Gallery's professional programming. The grant funds will cover the fees involved in:

- production of travelling frames for the 47 public and private art work loans
- freight costs of the exhibition travelling to six venues across NSW, Victoria and Queensland
- publication of an exhibition catalogue documenting the survey
- production of a professional Education Kit
- production of a multi-media DVD featuring an interview with the artist
- travel fees for the Gallery Director and the artist to attend a number of public programs throughout the tour
- guest curator's expenses
- professional writing fees and
- administrative costs involved in travel and photography of art works.

The tour of the exhibition is as follows:

SH Ervin Gallery, Sydney	12 November 2010 –19 December 2010
Tweed River Art Gallery	28 January –27 March 2011
Orange Regional Gallery	29 April – 12 June 2011
Mornington Peninsula Regional Gallery	30 June – 7 August 2011
Newcastle Region Art Gallery	27 August – 16 October 2011
University of Queensland Art Museum	29 October –11 December 2011

The Tweed River Art Gallery Foundation Ltd and the Friends of the Tweed River Art Gallery have also committed funding to this survey exhibition. Their respective contributions were included in the grant funding application, and contributed to the success of the application.

Correspondence from The Honourable Peter Garrett AM MP, the obligations of the Funding Agreement and the Agreement are reproduced below:



The Hon Peter Garrett AM MP

Minister for Environment Protection, Heritage and the Arts

2170 - BUDGET - EXHIBITIONS
AGREEMENTS
2180 - CANOEAL - ART CALLART

TWEED SHIRE COUNCIL
FILE No: 2180 - Grants - Admin
DOC. No: B10/1118
REC'D: 23 JUN 2010
ASSIGNED TO: OXENHAM, O
HARD COPY <input checked="" type="checkbox"/>

M'LENNAN, R

Mr David Oxenham
Director
Community and Natural Resources
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Mr Oxenham

16 JUN 2010

Thank you for your application for funding from the Visions of Australia program.

I am delighted to advise you that, on the recommendation of the Visions of Australia Committee, I am offering funding of \$97,610 to contribute towards the touring costs for the exhibition *Surface Tension: the art of Euan Macleod 1991 – 2009*.

The funding is conditional upon you entering into a legally binding Funding Agreement with the Commonwealth through the Department of the Environment, Water, Heritage and the Arts. The Funding Agreement will not be finalised until any overdue acquittals of previous funding provided by this Department to your organisation are completed.

You should note that pursuant to the terms of the Funding Agreement, you are required to acknowledge the Australian Government's support for your project. This acknowledgement is an excellent opportunity for audiences to be made aware of Australian Government funding of Visions of Australia exhibitions.

A Departmental Officer will contact you shortly and provide you with copies of the Funding Agreement for signature. An annexure to the Funding Agreement contains guidelines for acknowledgement of both the Visions of Australia program and the Australian Government.

In the interim, if you have any queries, please contact Maria Gravias, Manager, Visions of Australia, by telephone on 02 6275 9519 or by email at: visions.australia@environment.gov.au.

Since its inception, Visions of Australia has been providing Australians, particularly those in regional areas, with the opportunity to have access to a wide variety of Australian cultural material.

Parliament House, Canberra ACT 2600

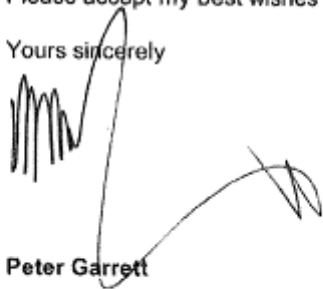
Telephone (02) 6277 7640

Fax (02) 6273 6101

Should you accept the offer of funding, your project will be contributing to the continuation of this achievement.

Please accept my best wishes for success with your touring exhibition.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Peter Garrett', written over the words 'Yours sincerely'.

Peter Garrett

COPY



Australian Government

Department of the Environment, Water, Heritage and the Arts

our reference
T34/14

Mr David Oxenham
Director
Community and Natural Resources
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

cc Ms Susi Muddiman, Director, Tweed River Regional Art Gallery

Dear Mr Oxenham

RE: *Surface Tension: the art of Euan Macleod 1991 - 2009*

I refer to the recent letter from the Minister for Environment Protection, Heritage and the Arts, the Hon. Peter Garrett AM MP, offering your organisation Funding from the Visions of Australia Program of \$97,610 towards the Tour of the above Exhibition. Please note that in accordance with the relevant Goods and Services Tax Ruling 2006/11, no goods and services tax (GST) is payable on the basis that the Funding paid is sourced from an appropriation, is of a funding nature and your organisation is a 'government related entity' for GST purposes.

You also indicated in your Application that you were reliant to some extent on Other Contributions which were not at that stage confirmed. This applies to \$1,000 from Friends of the Tweed River Regional Art Gallery and \$1,000 from Friends of the Tweed River Regional Art Gallery and Tweed River Regional Art Gallery Foundation. Could you please provide written confirmation at the time of returning the Funding Agreement, either that the Other Contributions specified have been confirmed, that other contributions have been secured in their stead, or, where this is not the case, information in relation to the status of efforts to procure other contributions to ensure the Activity can proceed to completion and continues to comply with Visions of Australia Objectives and Program Guidelines. Where you still do not have advice as to the outcome, please confirm as soon as this is advised. Please note that under clause 6.1.3 of the Funding Agreement, the Commonwealth has a discretion in relation to continued funding for the Activity in certain circumstances.

The offer of Funding is conditional upon your organisation entering into a legally binding Funding Agreement with the Commonwealth through the Department of the

Environment, Water, Heritage and the Arts. The Funding Agreement will not be finalised until any overdue acquittals of previous funding provided under the Visions of Australia Program to your organisation are completed.

Enclosed are two copies of the Funding Agreement. **This is an important legal document** which specifies your obligations in relation to the Funding, including your obligation to provide a Final Report in written and electronic form (including an acquittal of the Funds and Venue Reports from each venue that receives the exhibition) at the end of your Activity. You should read the document carefully and seek independent advice if required. You should note that the Funding is approved only for the Activity as specified in your Application. You may not change any aspect of that Activity unless you notify us and obtain our prior agreement in writing. Failure to do this may result in you being required to repay some or all of the Funding.

If you wish to accept this offer of Funding, please ensure that both copies of the Funding Agreement are signed by the relevant authorised office holder/s of your organisation. **Do not date the Funding Agreements.** Both signed copies of the Funding Agreement must be returned addressed as follows **within 20 Business Days** of the date of this letter, after which time the offer of funding lapses:

Ms Maria Gravias
A/g Director
Collections Support and Access
Department of the Environment, Water, Heritage and the Arts
GPO Box 787
CANBERRA ACT 2601.

The Funding Agreement will commence when the Commonwealth signs and dates the two copies of the Agreement. One copy of the Funding Agreement will be returned to you for your records. After you receive the signed copy of the Funding Agreement you should not undertake any work on the Activity until the starting date you have specified in your Application (Annexure A to the Funding Agreement) as the Commonwealth is not able to pay for any work that you do prior to that date.

Please note that your revised Activity start date is 6 September 2010 as the Activity start date for projects funded under Round 34 must be on, or after, 1 September 2010. As previously stated, Visions of Australia will not fund any Activity that has been undertaken prior to this date. Your revised Activity end date is 3 February 2012. This information was provided by you at the Department's request and now forms part of your Funding Agreement (Annexure A). Your Final Report is due on or within 60 Business Days of the Activity end date.

At the same time that you return the signed copies of the Funding Agreement you should also provide:

- certificates of currency or other evidence of your compliance with the insurance requirements of clause 24;
- details of your organisation's financial institution on the attached form; and

- where applicable, written confirmation that you have obtained any previously **unconfirmed Other Contributions** or complied with clause 6 of the Funding Agreement.

DO NOT provide an invoice. We will request this after the Funding Agreement has been signed by the Commonwealth.

Once you have complied with the above requirements the Funds will be paid directly into the bank account established in accordance with the requirements of the Funding Agreement (see Item B.1.4 of the Schedule to ascertain whether you need to maintain a separate bank account) providing your Activity is due to commence within the next 60 Business Days. Where your Application indicates that this is the case, but you will not be starting on the indicated date for any reason, please contact me as a matter of urgency:

Please note that where your Application indicates that you will not be commencing your Activity within the next 60 Business Days, the Funding will not be paid until 60 Business Days prior to the start of the Activity (in accordance with Item B.1.2 of the Schedule) and after you have provided written confirmation that your Activity will commence within the next 60 Business Days.


You should note the requirements of Annexure B to your Funding Agreement. Please contact me if you have any queries in this regard.

As part of your Final Report you will also need to provide a Venue Report from each Venue that has received your Exhibition. You should bring this to the attention of each Venue at the time that it hosts the Exhibition and either provide the Venue with a copy of the Report for completion, or provide the details of where the Report can be found on the Visions of Australia website at www.arts.gov.au.

Since its inception, Visions of Australia has been providing Australians, particularly those in regional areas, with the opportunity to have access to a wide variety of Australian cultural material. Should you accept the offer of funding, your Activity will be contributing to the continuation of this objective.

If you have any questions concerning your offer of funding or any other aspects of the Visions of Australia Program please contact me on (02) 6275 9519 or email visions.australia@environment.gov.au.

Yours sincerely



Maria Gravias
A/g Director
Collections Support and Access

28 June 2010

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council must meet the obligations of the Visions of Australia Funding Deed. The offer of funding is conditional upon Council entering into a legally binding Agreement with the Commonwealth through the Department of the Environment, Water, Heritage and the Arts. The required reporting and grant acquittal obligations of this funding will be completed by the Art Gallery Director.

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.

31 [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 St John Ambulance Kingscliff Cadet Service, provides the Banora Point Community Centre for a reduced fee of \$32 being 50% of the full fee of \$64 for a cadet first aid training course on 30 May 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 NAIDOC Committee, Minjungbal Cultural Museum and Trading Company, provides the South Tweed Hall for a reduced fee of \$23.50 being 50% of the full fee of \$47 for the NAIDOC Baby Show on 8 July 2010, and that Council's support is recognised with the following acknowledgement "This programme has been supported by Tweed Shire Council".**

REPORT:

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

Organisation Name	Request	Est \$ Amount of Waiver	Recommendation	Meet Guidelines?
St John Ambulance Kingscliff Cadet Service	Request fee be reduced for hire of Banora Point Community Centre on 30 May 2010 for cadet first aid training.	\$32	That the fee be reduced to \$32 being 50% of the full fee of \$64.	Yes
NAIDOC Committee, Minjungbal Cultural Museum and Trading Company	Request fee be waived for hire of the South Tweed Community Hall on 8 July 2010 for the NAIDOC Baby Show.	\$47	That the fee be reduced to \$23.50 being 50% of the full fee of \$47.	Yes

A copy of the request is reproduced below:

Page 1 of 1

From: Sally Quinn [bigsal1@bigpond.com]
Sent: Wednesday, 2 June 2010 5:58:32 PM
To: Corporate Email
Subject: St John Ambulance Kingscliff Cadet Division used Banora Point Community Centre on 30.5.10 to conduct first aid training. Seeking waiver or reduction of fees for this period of hire. Your support would be appreciated.

Sally Quinn
St John Ambulance
Kingscliff Cadet Division
PO Box 544
Banora Point
NSW 2486

Attn: David Martin
Tweed Shire Council
PO Box 816
Murwillumbah
NSW 2484

Dear David,

I am writing on behalf of St John Ambulance Kingscliff Cadet Division who meet at Banora Point Community Centre regularly. On Sunday May 30, 2010 the venue was used by the cadets to conduct a first aid training course. I am seeking a waiver or reduction of fees for use of the Banora Point Community Centre for this period of hire.

Your support would be appreciated.

Many thanks

Sally Quinn
Regional Officer Cadets
Northern Region
St John Ambulance Australia

Gabby Arthur

From: Carol Chandler
Sent: Tuesday, 15 June 2010 1:42 PM
To: Gabby Arthur
Subject: (DWS Doc No 17811255) FW: Waiving of fees

From: Minjungbal Museum [mailto:minjungbal@shopsafe.com.au]
Sent: Thursday, 3 June 2010 1:22 PM
To: Carol Chandler
Subject: Waiving of fees

To whom it may concern,

I am writing to you about the hire of HACC Centre at South Tweed Heads, Pacific Hwy. In recent years for our NAIDOC Celebrations we have had the fees waived. We have our baby show there on Thursday the 8th of July 2010.

We are hoping this will be possible this year as well. If this is not the correct department could you please forward it on to the appropriate.

Thanking you

Deidre Currie
Co-Ordinator
Naidoc Committee



FREE Animations for your email - by IncrediMail!

[Click Here!](#)

02/07/2010

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

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

POLICY IMPLICATIONS:

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

Festivals Policy.

Donations Policy.

Guidelines for Fee Reduction, Auditoriums, Meeting Rooms and Halls.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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32 [CNR-CM] EC2009-112 Tyalgum Water Treatment Plant Upgrade - Selection Of Tender Panel For Construction

ORIGIN:

Water

SUMMARY OF REPORT:

Expressions of Interest (EOI) were received from 11 contractors for inclusion on the tender panel for the upgrading of the Tyalgum Water Treatment Plant (WTP). The EOI document prescribed that the tender panel would comprise a maximum of four contractors.

Detailed examination of the 11 EOIs submitted identified four contractors who are considered capable of satisfactorily completing the proposed works.

RECOMMENDATION:

That:

- 1. Council accepts the following four contractors for inclusion on the tender panel for the upgrading of the Tyalgum Water Treatment Plant:**
 - **Aquatec-Maxcon Pty Ltd**
 - **Haulton Constructions (Aust) Pty Ltd**
 - **Pall Australia Pty Ltd**
 - **Veolia Water Solutions and Technologies (Australia) Pty Ltd**

- 2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed: -**
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**

 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Tyalgum village is currently served with drinking water from the Tyalgum Water Treatment Plant (WTP). The Tyalgum water supply was installed in the 1960's and the system extracts water from the Tyalgum Weir Pool, an integral part of Tyalgum Creek.

The weir pool has a usable storage capacity of 7.5 ML. The water drawn from the pool undergoes coarse filtration at the extraction point and is then disinfected using sodium hypochlorite solution. No other form of treatment is provided. The existing reticulation system currently services a population of 220 people. The average annual water extraction from the weir pool is 32 ML/a.

It has been identified that improved water treatment processes are required to ensure that potable water supply will meet the requirements of the Australian Drinking Water Guidelines.

During the period 2002/2003, the village was placed on severe water restrictions for a period of 25 weeks, when the Tyalgum Creek stopped flowing. During this period, potable water was carted 24 km from Murwillumbah to Tyalgum, at significant cost.

To ensure that supply of potable water to Tyalgum Village will meet Australian Drinking Water Guideline requirements and to reduce the requirement to cart potable water to the village during dry periods, it is proposed to construct a new water treatment plant.

Expressions of Interest

Expressions of Interest (EOI) were publicly advertised for the design, supply, installation and process commissioning of a new membrane filtration water treatment plant at Tyalgum. EOI closed on Wednesday 9 June 2010. The EOI document prescribed that the tender panel would comprise a maximum of four contractors. The pre-qualified list would be valid for twelve months from the close of Expressions of Interest.

Eleven EOI's were received from the following contractors:

- Aquatec Maxcon Pty Ltd
- Chatoyer Water Pty Ltd
- CHDW Investments Pty Ltd (Waterform)
- Haulton Constructions (Aust) Pty Ltd
- Integra Water Treatment Solutions
- iPools Australia Pty Ltd
- Odis Pty Ltd
- Orica Watercare
- Pall Australia Pty Ltd
- SAS Water Solution Pty Ltd
- Veolia Water Solutions and Technologies (Australia) Pty Ltd

Expression of Interest Evaluation

The EOIs were evaluated against the following criteria:

Criteria	Weighting
Mandatory Criteria (non weighted)	
Quality Assurance System	N/A
OHS& R Management System	N/A
Environmental Management System	N/A
Details of Proposed Membrane Equipment to be supplied	N/A
Details of Dimensional Requirements for Membrane Plant Building	N/A
Weighted Criteria	
Experience and level of performance of the Applicant on similar work	70%
Demonstration by the Applicant that resources are available to undertake the work	10%
Proposed delivery methodology	20%
Total	100%

All applicants were assessed against these criteria. Assessments were completed by Council's Evaluation Panel, consisting of Water and Wastewater Capital Works Engineer, Senior Contracts Engineer and Contracts Engineer. A summary of the evaluation process is included in CONFIDENTIAL ATTACHMENT A.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. CONFIDENTIAL ATTACHMENT A - "Tyalgum Water Treatment Plant Upgrade: Review of Expressions of Interest" July 2010 (ECM 18972625)

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33 [CNR-CM] Contract No. EC2009-068 Banora Point Wastewater Treatment Plant Upgrade

ORIGIN:

Water

SUMMARY OF REPORT:

This report outlines the tender for EC2009-068 Banora Point Wastewater Treatment Plant: Upgrade and provides a recommendation on the preferred tenderer.

Recommendations have been formulated based on defined selection criteria as included within this report. The results of the tender assessment process are detailed in the **CONFIDENTIAL ATTACHMENT**. Based on price and non-price criteria it is recommended that Council accepts the conforming tender from Tenix Australia Pty Ltd for EC2009-068 Banora Point Wastewater Treatment Plant Upgrade.

RECOMMENDATION:

That:

1. Council, subject to confirmation of the loan funding agreement, accepts the tender from Tenix Australia Pty Ltd for EC2009-068 Banora Point Wastewater Treatment Plant Upgrade for the lump sum of \$28,074,144.20 (including GST).
2. The General Manager be given delegated authority to approve variations up to 20% above the total price.
3. **ATTACHMENT** is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

REPORT:

Background

The Banora Point Wastewater Treatment Plant is located off Enterprise Avenue in Tweed Heads South.

This treatment plant catchment includes the areas of Tweed Heads, Banora Point, Terranora and Bilambil Heights. This area is continuing to expand and is directly affected from development pressures both from new developments and infill within the catchment. It is estimated that the population of this catchment will double over the next 30 years.

The Banora Point Wastewater Treatment Plant was constructed to its current design capacity 62,000 EP (15 ML/day) in 1995. The existing plant comprises a Biological Nutrient Removal (BNR) process with clarifiers and ultraviolet light disinfection. Average flows to the plant are now 15 ML/day meaning the plant is operating at its design capacity.

Approvals have now been received and construction is proposed to commence in September 2010 to upgrade the Banora Point Wastewater Treatment Plant. This upgrade will increase the capacity of the plant to 75,000 EP (18 ML/day) and significantly improve the quality of the final treated effluent. These upgrade works are expected to take 18 months to complete and the total value of these works is \$35M.

Treated effluent from the plant is discharged to the Terranora Inlet which is part of the Tweed River system. An environmental impact statement prepared as part of the approvals phase identified that improved effluent quality from the Banora Point Wastewater Treatment Plant would have beneficial effects on the receiving water quality.

The objectives of the Banora Point Wastewater Treatment Plant Upgrade project are to:

- Protect the environment of the lower Tweed estuary;
- Meet regulatory requirements for treatment and management of effluent;
- Address the community's issues and expectations
- Cater for the predicted population growth in the Tweed Heads/Banora Catchment area;
- Maximise the potential for reuse strategies to be implemented.

Tenders

Tenders were called following an Expression of Interest and Early Contractor Involvement processes in March 2010 for the upgrade of the Banora Point Wastewater Treatment Plant to 75,000 EP with improved effluent quality.

A total of four tenders were received in the tender box by the closing date of 5 May 2010.

Conforming tenders were received as follows: -

Tenderer
Tenix Australia Pty Ltd
Monadelphous Pty Ltd
Reed Constructions Australia Pty Ltd
Fulton Hogan Pty Ltd

Tender Evaluation

Tenders were evaluated against the following criteria to determine the best value for money offer:

Criteria	Weighting
Proposed Personnel	5%
Proposed Construction Sequencing	5%
Construction Methodology	5%
Price	85%

All tenders were assessed against these criteria.

The tender evaluation was conducted by Council's Tender Evaluation Panel, consisting of Director Community and Natural Resources, Water and Wastewater Capital Works Engineer and the NSW Public Works Project Manager for the project. A summary of the tender evaluation process is included in CONFIDENTIAL ATTACHMENT.

Based on price and non-price considerations, it is recommended that Tenix Australia Pty Ltd be nominated for EC2009-068 Banora Point Wastewater Treatment Plant Upgrade.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The total estimated project cost for delivery of the Banora Point Wastewater Treatment Plant Upgrade is \$35M. Approximately \$2.2M has been spent to date (up to the end of June 2010).

Council has recently accepted loan funding of \$16.825M under the NSW Local Infrastructure Fund for the Banora Point Wastewater Treatment Plant Upgrade.

Additional funding for this project will be provided through a combination of Council's Sewer Fund and external loans which are subject to a later report.

Contract EC2009-068 for the Banora Point Wastewater Treatment Plant Upgrade will only be awarded subsequent to confirmation of an acceptable external loan agreement.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (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 Supplementary Attachment - Banora Point Wastewater Treatment Plant Upgrade - NSW Public Works Tender Recommendation (ECM 18924331)**
-

34 [CNR-CM] Council Lease to Optus Mobile Pty Ltd - Round Mountain Reservoir Bogangar

ORIGIN:

Design/Water

SUMMARY OF REPORT:

Council currently leases an area of 30m² to Telstra at the Round Mountain Reservoir at Bogangar.

An application to lease a small sliver adjacent to the Telstra leased area has been received from Daly International Pty Ltd on behalf of Optus Mobile Pty Ltd has now been received. Daly International advises that Optus will be constructing a telecommunications facility on private land to the south west of Telstra area and require a sliver of land, 3m x .5m, to secure potential for future tenure. Rental for this area has been negotiated at \$1000 per annum.

The proposed lease area will not impact on the operation of the reservoir

RECOMMENDATION:

That:

- 1. Council enters into a lease with Optus Mobile Pty Ltd for an area of 1.5 m² at the Round Mountain Reservoir site at Lot 24 DP 1058759 at Bogangar for a term of five years with three options for five years each commencing with a rental of \$1000 per annum and annual CPI Increases subject to development consent being issued for the Optus facility.**
- 2. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

Council currently leases an area of 30m² to Telstra at the Round Mountain Reservoir at Bogangar.

An application to lease a small sliver adjacent to the Telstra leased area has been received from Daly International Pty Ltd on behalf of Optus Mobile Pty Ltd has now been received. Daly International advises that Optus will be constructing a telecommunications facility on private land to the south west of the Telstra leased area and require a sliver of land, 3m x .5m, to secure potential for future tenure.

Optus' facility will connect to the Telstra tower and the rental for this sliver lease has been negotiated at \$1000 per annum.

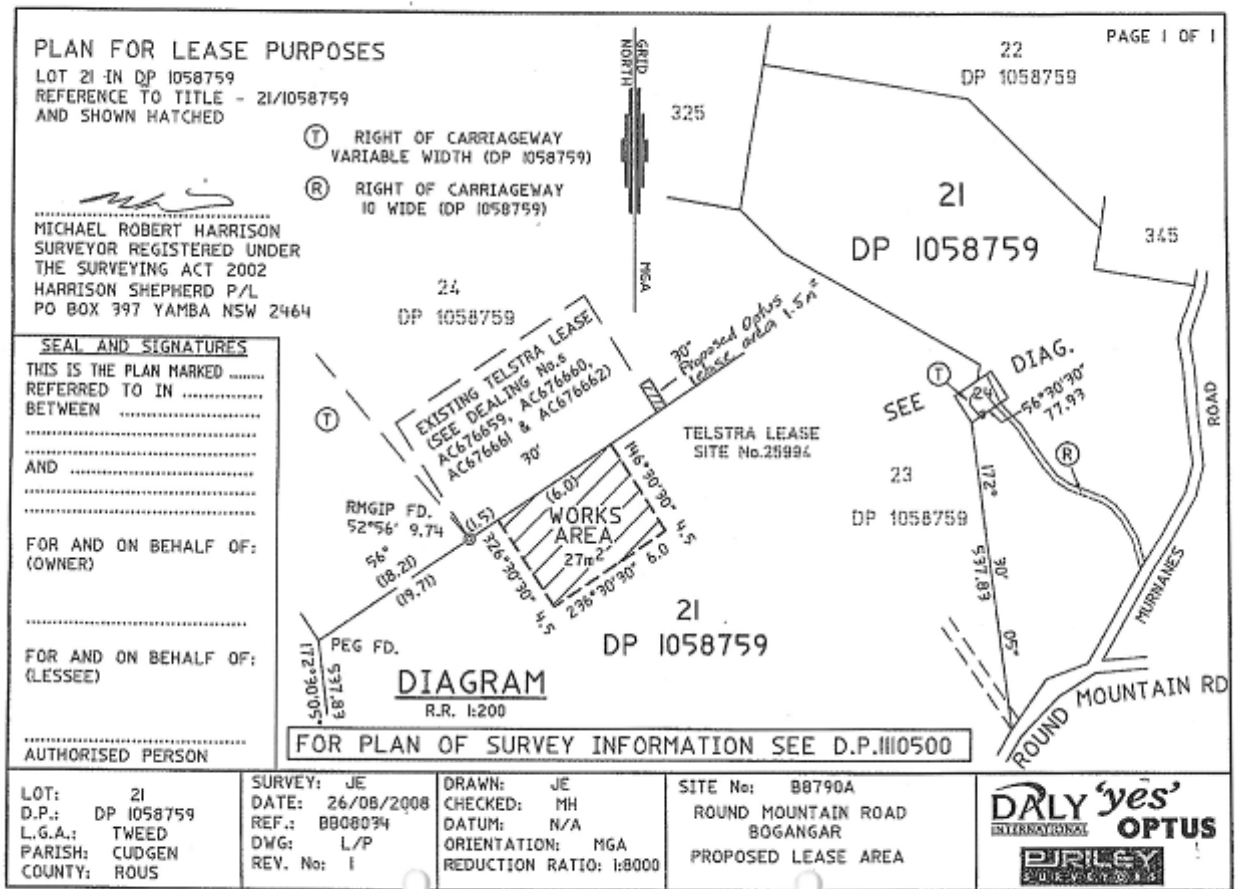
The proposed lease area will not impact on the operation of the reservoir, see the highlighted area adjacent to the Telstra compound to the south of the reservoir below:



Optus are seeking a lease of five years with three subsequent terms of five years, making a total of 20 years. The draft lease documentation has been received and approved by Council.

It is recommended that Council approve entering into a lease with Optus Mobile Pty Ltd subject to development consent, if required, and that all necessary documentation be executed by Council.

The plan below shows the proposed area adjacent to the Telstra compound:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Annual rental income of \$1000 per year for twenty years adjusted annually by CPI.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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35 [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 64 applications have been submitted for the Biodiversity Grant Program. Site visits have been made to 44 properties, 42 of which meet the Grant's criteria and 31 have been approved. The purpose of this report is to seek Council's approval to fund the remaining eleven 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:

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

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

- Rehabilitation of degraded habitats
- Restoration of previously cleared areas
- Threatened species recovery
- Management of threatening processes
- Monitoring and research

Applications under the program can be made throughout the year and are assessed using the following criteria:

- Ecological benefits (eg. ecological status, multiple ecological priorities, contribution to State and regional biodiversity targets etc);
- Value for money (including in kind contributions, external funding);
- Technical capability and applicant track record;
- Site security (preference will be given secure sites eg. conservation covenants, Environmental Protection zones etc);
- Ongoing maintenance requirements;
- Spread of projects across ecological priorities and the Shire (including projects funded from other sources).

To date 64 applications have been submitted for the Biodiversity Grant Program. Site visits have been made to 44 properties, 42 of which meet the Grant's criteria. Thirty one have been approved by Council, for which Agreements have been posted. The purpose of this report is to seek Council's approval to fund the 11 private landowners visited since the April Council meeting under the Biodiversity Grant Program to assist them as per the table below.

The proposed grants involve the provision of services by professional bushland regenerators to assist landholders to more effectively manage environmental weeds protect native vegetation and improve wildlife habitat.

Surname	Address	Total cost est. (\$)	Assessment
Moreton	Rowlands Creek	2205	Strong landholder commitment to maintain works in mod.-high biodiversity value flora and fauna area with connection to other high value properties.
Waight	North Tumbulgum	1920	Strong landholder commitment to maintain works in mod. biodiversity value flora and fauna area with connection to large veg. corridor.
Yates	Burringbar	680	The property owners have spent a lot of time working hard on their property. The funding would help reach a higher level of biodiversity linking the surrounding wildlife corridors.
Wallace	Dunbible	3400	The property owner has donated 22ha of property to biodiversity. The land is very significant in location sitting beneath and having connection to Mt Nullum Nature Reserve.
Roberts	Rowlands Creek	3400	The large property is positioned along Rowlands ck and has significant corridor connection with the Tweed River and Mt Warning National Park.
Graham	Stokers Siding	680	The owner has a strong commitment to rehabilitate a patch of forest that connects with other properties and riparian vegetation.
Patterson	North Arm	2380	Strong landholder commitment to maintain works in mod. biodiversity value flora and fauna area with connection to large veg. corridor. Weed severity is high.
Renton, Alderdice, Hall, Gray, Armstrong & Latham	Limpinwood	3400	Strong landholder commitment. Significant connectivity - one boundary with National Park, aspect and drainage from National Park to opposite boundary, a riparian corridor.
Mannett	Uki	1700	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.
Bennet	Urliup	680	Property cleared of Camphor laurel. Have offered training and advice to assist native regeneration.
Couchy Ck Co-op	Couchy Creek	3400	Strong landholder commitment. Significant connectivity - boundary with National Park. High biodiversity.

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:

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Nil.

36 [CNR-CM] Northern Rivers Food Links - Village Showcase Funding Applications

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

At its meeting on Tuesday 20 April 2010, Council resolved to establish a Local Government Area (LGA) Reference Group, comprised of Council staff, to assess Northern Rivers Food Links funding applications for the village showcase funding stream.

The Caldera Institute for Sustainable Community Development submitted an application in partnership with RSL Care, Stokers Siding Public School, Burringbar School of Arts, Uki Residents' Association (Ukira), Murwillumbah and District Chamber of Commerce and Murwillumbah TAFE. The application seeks \$50,000 to construct a community asset garden at the RSL Care retirement village in Banora Point, upgrade the Burringbar Hall kitchen to basic commercial standard, construct a community garden at Stokers Siding Public School, plant an edible streetscape in Uki, run a series of ten backyard field days across the Shire and deliver a 'Taste of the Tweed' event as part of Speed on Tweed 2010.

On Thursday 1 July 2010 the LGA Reference group, comprised of Gary Corbett, Manager Community and Cultural Services, Mark Tickle, Economic and Corporate Planner and Pamela Gray, Natural Resource Management Project Officer convened at the Coolamon Centre to assess the Caldera Institutes cluster application for village showcase funding. The application was assessed as compliant with funding eligibility and scored 80 out of a possible 100 points.

RECOMMENDATION:

That Council:

- 1. Endorses the Caldera Institutes village showcase funding application.**
- 2. Notifies the Northern Rivers Food Links Project Steering Committee of the decision.**

REPORT:

At its meeting on Tuesday 20 April 2010, Council resolved to establish a Local Government Area (LGA) Reference Group, comprised of Council staff, to assess Northern Rivers Food Links funding applications for the village showcase funding stream.

The village showcase funding stream aims to support community inspired food production initiatives such as community gardens, farmers markets and backyard vegetable gardens. \$50,000 has been allocated to fund the highest ranking village showcase project in each of the seven local government areas participating in Northern Rivers Food Links (ie. \$350,000 across the seven LGA's).

Community groups interested in applying for village showcase funding were encouraged to work together to submit a single funding application consisting of various projects across the shire. As a result, only one funding application was received for the Tweed.

The Caldera Institute for Sustainable Community Development submitted an application in partnership with RSL Care, Stokers Siding Public School, Burringbar School of Arts, Uki residents association (Ukira), Murwillumbah and District Chamber of Commerce and Murwillumbah TAFE. The project application, 'Tweed Local Food Systems Project' seeks \$50,000 to:

- Construct a community asset garden at the RSL Care retirement village at Banora Point to increase opportunities for community interaction whilst providing users with a supply of fresh fruit and vegetables.
- Upgrade the Burringbar Hall kitchen to basic commercial standard to provide a venue for producers to promote and value-add their product.
- Construct a community garden at the Stokers Siding School to provide an example for students, their families and the wider community of what can be achieved in a typical backyard.
- Construct an edible streetscape in Uki, comprising of 50 community members planting and caring for an appropriate fruit tree on the nature strip adjacent to their property.
- Backyard field days - a series of 10 field days across the shire to educate residents about backyard food production.
- 'Taste of the Tweed' at Speed on Tweed 2010 - an opportunity for local producers to showcase their products to race spectators. Note: there may be an opportunity to incorporate the 'local food cook off' between Councillor van Lieshout, a chef and hospitality student during this event.

On Thursday 1 July 2010 the LGA Reference group, comprised of Gary Corbett, Manager Community and Cultural Services, Mark Tickle, Economic and Corporate Planner and Pamela Gray, Natural Resource Management Project Officer convened at the Coolamon Centre to assess the Caldera Institutes cluster application for village showcase funding. The application was assessed as compliant with the funding guidelines and scored 80 out of a possible 100 points.

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 Northern Rivers Food Links in accordance with the adopted business plan.

No legal implications have been identified.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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37 [CNR-CM] Vegetation Screen - Casuarina Beach

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

A letter has been received from Consolidated Properties requesting the vegetation screen in Lot 500, adjacent to the Town Centre site at Casuarina Beach be removed. This screen had recently been replaced following storm damage and bush regenerators (at Council's expense) employed to plant more trees in the area due to the low recovery rate of the damaged area. The site had been subject to obvious and deliberate poisoning of more than 80 mature trees and saplings in late 2006.

RECOMMENDATION:

That Council:

- 1. Maintains the vegetation screen on Lot 500, adjacent to Cathedral Court, South Kingscliff until such time that the replanted vegetation is at the height of the vandalised and removed vegetation.**
- 2. Reconfirms its offer of a \$15,000 reward for information that leads to the conviction of person(s) responsible for the wilful damage of vegetation at Casuarina.**

REPORT:

A letter has been received from Don O'Rorke, Consolidated Properties, requesting the vegetation screen adjacent to the Town Centre site at Casuarina Beach be removed. This screen had recently been replaced following storm damage and bush regenerators (at Council's expense) employed to plant more trees in the area due to the low recovery rate of the damaged area.

A report went to the Council meeting of 19 December 2006 about the obvious and deliberate poisoning of more than 80 mature trees and saplings in Lot 500, Casuarina. A vegetation screen was erected in January 2007 in accordance with the following resolution:-

1. *Erects a framework fronting the affected area of the dune and cover with Hessian or a similar material until vegetation is re-established to its mature height and including the erection of appropriate signage.*
2. *Leaves the two large Casuarinas poisoned beside the cycleway in place and shroud with shade-cloth, barrier mesh or similar material until the trees become unsafe and need to be removed.*
3. *Removes the poisoned trees and replant with similar species.*
4. *Appeals to the community to appreciate and protect coastal vegetation, and report any information regarding illegal clearing or poisoning to Council.*
5. *Requests the General Manager to investigate the feasibility and implement, if able, the posting of a \$15,000 reward that leads to the conviction of person(s) responsible for the wilful damage of vegetation at Casuarina.*

There were 200 seedlings planted in January/February 2007. There was a very poor survival rate resulting in a low rate of vegetation regrowth and species diversity.

Council's Bushland Officer, John Turnbull inspected the site on 25 March 2009 and provided the following report:

"The vegetation in the cleared area is currently half the height it was prior to the poisoning of the vegetation and species diversity is extremely limited in comparison to the areas adjoining the site. Species that are present include Coastal Wattle, Snake vine and occasional small Coast Banksia.

The site is likely to take a several decades to recover without intervention and even then is still likely to be depauperate from the perspective of species diversity and habitat value compared to the adjoining areas.

No restoration plantings have been undertaken onsite and the sails have been in place since January 2007.

It would be beneficial to undertake plantings onsite if funds are available."

There were funds available for further rehabilitation works in Lot 500 bushland in the 7 Year Plan.

Council contracted a bush regeneration team to undertake rehabilitation and restoration works at the site early 2010. The vegetation screen has been renewed following storm damage and the vegetation growth will be reviewed in November 2010 to determine if growth and density has been sufficient to consider removal of the screen.

Reproduced below is a copy of the letter received from Consolidated Properties:

*Illegal Land Clearing
Vandalism.
LN: Tree - Removal
LN: 73335, Ppty: 102251.*

**CONSOLIDATED
PROPERTIES**

*WEEDS PROTECTION CONTRACT
No: 15ALT, Development
No:
D: 17 JUN 2010
SIGNED TO: RAYNER M
0 COPY IMAGE*

15 June 2010

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

Att : Mr Mike Rayner

*Lot 500 DP 1095235
Cathedral Crt. Kcliff*

Dear Sir,

Subject: Removal of Screens

Further to a meeting at the Tweed Shire Council offices with the mayor Councillor Warren Polglase, the Director of Planning and Regulation Mr Vince Connell and myself, Kings Beach No2 Pty Ltd as the owner of the Town Centre site at Casuarina Beach, formally requests the removal of the large view impairment screens that have been erected by Tweed Shire Council on the northern end of the site adjacent the Lot 500 dune area.

These screens were erected a number of years ago by the council following destruction of some of the vegetation in Lot 500, an action in which our company, or anyone associated with us, had no involvement. In terms of community response, we had no issue with the screens at the time and are supportive of measures taken to protect the public areas of vegetation. We are however moving into a new phase of the Casuarina Beach development, with the Town Centre due to commence shortly. This stage includes the construction of a new retail precinct, plus public parks and facilities on the eastern side of the site adjacent the cycleway and dune area.

In that regard, we believe that the point the Tweed Shire Council was trying to get across has been adequately made, and that the screens can now be removed. This will greatly enhance the amenity of the proposed public park and walk way / cycle way areas in the Town Centre.

NOTE: Copies also recieved for Vince Connell & Warren Polglase

Page 1

Consolidated Properties Group Pty Ltd ABN 41 614 443 361 • Level 11, 8/9 Queen Street • PO Box 5299 Brisbane, Q 4001 • t +61 7 3239 6250 • f +61 7 3231 1000

We look forward to the Tweed Shire Council acting favourably in this matter.

Should you have any queries, please do not hesitate to contact me.

Yours faithfully,



Don O'Rorke
Director
Kings Beach No 2 Pty Ltd
ABN 19 088 124 190
L765

CC: Warren Polglase
Vince Connell

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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38 [CNR-CM] Kingscliff Beach Foreshore Erosion

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

A significant erosion event is occurring at Kingscliff Beach. This erosion relates to storm events in 2009.

Works completed to date to arrest the erosion have an estimated cost of \$100,000 using geotextile material and sand. More permanent works would cost between \$700,000 and \$1,000,000 and provide for a higher level of protection. The current proposal is to allow the park to continue to erode until it reaches a point of equilibrium. There is currently no budget allocated for this work.

A letter and personal representations have been made to the Minister for Lands seeking assistance with a sand source for nourishment of Kingscliff Beach in accordance with Council's adopted Coastline Management Plan.

A letter dated 10 June 2010 has also been received from the Tweed River Entrance Sand Bypassing Project advising of the progress of their feasibility studies.

RECOMMENDATION:

That Council officers bring forward a report in the June quarterly budget review to provide for a budget adjustment for the unfunded works for the 2009/2010 financial year.

REPORT:

The southern section of Kingscliff Beach, adjacent to the north training wall of Cudgen Creek, has been actively eroding since late 2009. The erosion was predominantly in the southern corner and at one stage threatened the structural integrity of the north training wall and cut off access to the wall and wave break beach. Additional rock revetment was undertaken by Council on behalf of the NSW Land and Property Management Authority (LPMA) to stabilise the area and reinstate pedestrian access to the wall.

Recently, up to 40 to 60 meters of vegetated dune has been lost along a length of foreshore approximately 200 metres long. This is similar to the width of dune vegetation lost in the May 2009 storm along most of the Tweed Coast, particularly the northern ends of beaches. The main difference here is that the erosion has been due to an overall lowering of the beach profile over time and not a discrete storm event.

The attached report by Dean Patterson, Principal Coastal Engineer with BMT WBM explains the main processes and antecedent conditions that have caused this erosion event. This report also notes that it is not possible to predict when recovery of the beach profile will occur or how long it will take, and that the erosion may worsen before recovery commences.

Historical aerial photographs show that this area was unstable dunes periodically dissected by the Creek mouth prior to the construction of the training walls in the mid-1960's. Much of the current vegetation was planted following an erosion event in 1987 which cut back to the last row of trees between the foreshore and the park access road. The dune rebuilt over time and was replanted in the early 1990's.

Attached are aerial photographs showing the condition of the beach in May 2009 following the storm event that devastated most of the coastline. Note the frontal dune vegetation is intact and the sand is built up to the end of the wall. The September 2009 aerial photo shows that sand has moved out of this area and the erosion of the vegetated area has started. The erosion of this section was quite gradual over the ensuing months until early June 2010 when it accelerated substantially and is now eroding the access road through Faulks Park.

The Tweed Shire Coastline Hazard Study (Plate 1) identified this site as being within the immediate erosion hazard zone (red line is the straightened line, the red stars indicate the "storm bite" based on volume of sand in the dunes).



Plate 1: Extract from Tweed Coastline Hazard Study(TSC 2001). Red line is Immediate Hazard Line and red stars show the calculated storm bite.

The aerial photographs show that the sub-tidal area next to the training wall has lowered extensively over the last 8 to 10 months. This may be due to a change in the predominant wave action and swells moving the sand north faster than it can be replenished from the south (south side of the Cudgen Creek training walls). It is also obvious that in this same time frame, a lot more sand has been ingested into Cudgen Creek, silting the creek extensively.

The foreshore erosion is being caused by the beach trying to level itself out. There is a sand deficit offshore so it is compensating for this by pulling sand from the dunal system. This is an entirely natural process and only becomes an issue when it reaches infrastructure or assets that have been placed too close to the coastline. If the dune buffer was wider, the beach may well have evened out before reaching the park area.

The foreshore erosion will continue until there is enough sand moving into this area to fill the offshore area again. It would also appear that the erosion cell is moving northward and that further erosion is occurring to the vegetated dunes closer to the surf club.

Current Situation

The foreshore erosion has accelerated and is currently eroding the park access road in Faulks Park. All the vegetation has been lost apart from several large Pandanus trees in the corner near the Coastguard tower. These have been retained through the placement of rock. This extension of the rock wall would appear to be exacerbating the erosion directly in front and would appear to be causing a deepening of the near shore area in this corner. Until the flow of sand around the training walls is reinstated by favourable coastal processes, this area may continue to deepen.

In an attempt to protect the access road and the park amenity, an amount of approximately \$100,000 has been spent. This has provided a very short section of protection which may rapidly be outflanked by the adjacent unprotected erosion scarp.

It is not proposed to undertake any further works at this stage. Sections of the road and bank are likely to be subject to further erosion.



Plate 2: Oblique aerial of site taken Tuesday 15 June 2010.



Plate 3: Oblique aerial of site taken Tuesday 15 June 2010. Note erosion cell is now heading northwards along Kingscliff Beach.



Plate 4: Looking north along the erosion scarp, Faulks Park, 17 June 2010.

It is not desirable to place a full rock wall along the foreshore in this location for a number of reasons including amenity, cost, impact on coastal processes (rock revetment without subsequent sand nourishment usually results in erosion rates increasing) and the need for the works to be removable if required.

Council has provided a Review of Environmental Factors to the LPMA and requested a Crown Land Licence for the dredging of Cudgen Creek to improve navigation access in the creek and use this sand for nourishment in front of the proposed revetment works. This will go in some way to restore the dune system, however, the volumes available will not provide a large buffer. The success of these works is dependant upon the flow of sand being reinstated in the near future which will see the beach and dune reform over time.

Costs

To date approximately \$100,000 has been expended. An additional \$50,000 is estimated to cover dredging and associated works. A grant is being sought for the dredging works but the option of allowing the foreshore to erode will also result in a cost to reinstate vegetation and access points to the beach when the erosion has stabilised and started accreting.

The cost to retain this section of foreshore permanently is likely to be in the order of \$700,000 - \$1,000,000. It is considered that use of large geotextile sand filled bags is far superior to the use of rock for a number of reasons and is likely to be a similar cost, if not cheaper, than for supply and placement of full rock revetment.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council needs to provide a budget allocation for the unfunded emergency works in the June quarterly review. This is estimated at \$100,000. A potential allocation of \$50,000 may also be required to fund dredging works in the 2010/2011 budget.

Any more permanent works to retain the foreshore at its present location in the short term would require a significant budget allocation.

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. Proposal for "Design of a Geobag Seawall for Kingscliff Beach". (ECM 18494264)
 2. Notes on Recent Erosion at Kingscliff, Dean Patterson, BMT WBM Pty Ltd. (ECM 18536150)
 3. Letter from Tweed River Entrance Sand Bypass Project (ECM 18300346)
-

39 [CNR-CM] Amended Fees and Charges Stotts Creek Resource Recovery Centre (Clean Fill)

ORIGIN:

Waste Management

SUMMARY OF REPORT:

Council's supply of clay and overburden material at Stotts Creek Resource Recovery Centre is being depleted. The clay and overburden material is taken from a 'borrow pit' area adjacent to the landfill area. The material is used to cover the landfills, construct new landfill walls, intermediate capping, and remediation over the site. Supplies of suitable material are running low. A supplementary supply of material is usually presented at Stotts Creek Resource Recovery Centre as 'clean fill' from various excavation and construction sites. In July 2009 clean fill became subject to the NSW Government Waste & Environment Levy, thus artificially inflating the disposal gate fee of this material. This has resulted in an increase in the disposal costs per tonne for clean fill to cover the \$20.40 per tonne levy remittance to the State Government, and amortise some fixed operational costs. The current disposal gate fee is \$35.00 per tonne. Many waste transporters have found alternative uses and disposal options for this material. In order to induce some of this material back to Stotts Creek Resource Recovery Centre, and avoid having to pay for material to be carted in, it is proposed to reduce the clean fill disposal gate fee to \$21.00 per tonne to cover levy liabilities only.

RECOMMENDATION:

That the disposal gate fee of \$21.00 per tonne for clean fill at Stotts Creek Resource Recovery Centre be adopted subject to a public exhibition period of 28 days.

REPORT:

Council's supply of clay and overburden material at Stotts Creek Resource Recovery Centre is being depleted. The clay and overburden material is taken from a 'borrow pit' area adjacent to the landfill area. The material is used to cover the landfills, construct new landfill walls, intermediate capping, and remediation over the site. Supplies of suitable material are running low. A supplementary supply of material is usually presented at Stotts Creek Resource Recovery Centre as 'clean fill' from various excavation and construction sites. In July 2009 clean fill became subject to the NSW Government Waste & Environment Levy, thus artificially inflating the disposal gate fee of this material. This has resulted in an increase in the disposal costs per tonne for clean fill to cover the \$20.40 per tonne levy remittance to the State Government, and amortise some fixed operational costs. The current disposal gate fee is \$35.00 per tonne. Many waste transporters have found alternative uses and disposal options for this material. In order to induce some of this material back to Stotts Creek Resource Recovery Centre, and avoid having to pay for material to be carted in, it is proposed to reduce the clean fill disposal gate fee to \$21.00 per tonne to cover levy liabilities only.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Reduced income from Stotts Creek Resource Recovery Centre.
Reduced operational costs from having to cart clean fill material into Stotts Creek Resource Recovery Centre.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

40 [CNR-CM] Contract Extension EC2008-152 Management of Stotts Creek Landfill Facility

ORIGIN:

Waste Management

SUMMARY OF REPORT:

Contract EC2008-152 Management of Stotts Creek Landfill Facility was awarded to Solo Resource Recovery. The Contract commenced on 1 December 2009, and was awarded for a contract term of 12 months. The conditions of the Contract allow Council to offer an extension of an additional 12 months to the existing contractor.

RECOMMENDATION:

That Council offers to Solo Resource Recovery an extension of 12 months on Contract EC2008-152 Management of Stotts Creek Landfill Facility.

REPORT:

Contract EC2008-152 Management of Stotts Creek Landfill Facility was awarded to Solo Resource Recovery. The Contract commenced on 1 December 2009, and was awarded for a contract term of 12 months. The conditions of the Contract allow Council to offer an extension of an additional 12 months to the existing contractor.

The Contract provides for the operation of the landfills, operation of the recycling areas, operation of the buy back centre (tip shop), the completion of landfill cells up to and including the Final Landfill Cover, and the operation and maintenance of the leachate and stormwater control systems.

Two breaches of the Environmental Protection Licence 6108 for Stotts Creek Landfill have occurred during the current Contract Term. Both breaches related to unauthorised discharge of leachate into the sites stormwater system following significant rainfall events. The Department of Climate Change and Water (DECCW) was advised of both breaches within 24 hours in accordance with the licence conditions. No follow up or regulatory action was taken by DECCW in response to the breach notifications. Solo Resource Recovery has made improvements to the leachate management on-site and has implemented a leachate management plan in response to the breaches. All other conditions of the Contract and Environmental Protection Licence have been implemented to a satisfactory standard.

Council officers are continuing investigations to seek approval for a new landfill at the adjoining land holdings off Eviron Road. Council is not in a position to offer any long term landfill contract until any new landfill has been approved and licensed. An extension of 12 months on the current Contract would allow until December 2011 to finalise investigations, and submit the necessary Environmental Assessment, Landfill Environmental Management Plan, and Licence Application necessary to seek the new landfill approval.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The original tender process was conducted in accordance with Section 55 of the Local Government Act 1993 and Part 7 (Tendering) of the Local Government (General) Regulation 2005.

Funding for this Contract is provided through gate fees from waste materials presented at the Stotts Creek Resource Recovery Centre and a portion of the Landfill Management Fee apportioned to all rateable land under s501A of the Local Government Act.

POLICY IMPLICATIONS:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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41 [CNR-CM] Entomological Control Report for period March to May 2010

ORIGIN:

Entomology

SUMMARY OF REPORT:

The following report outlines insect/vermin management and associated research carried out between March and May 2010.

RECOMMENDATION:

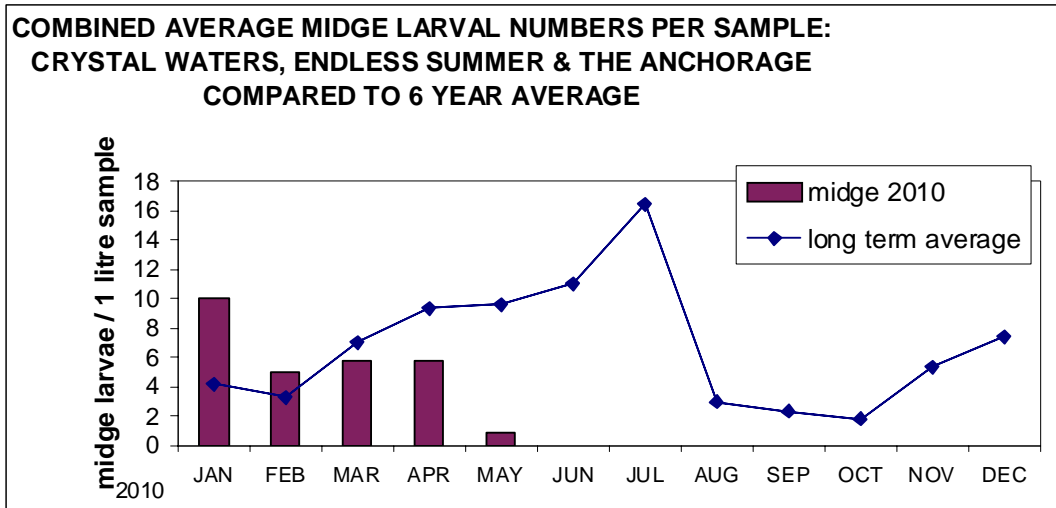
That Council receives and notes the Entomological Control Report for the period March to May 2010.

REPORT:

BITING MIDGE

Seasonal activity

Biting midge activity remained below the seasonal average over the report period 1 March to 31 May. There were eight enquiries related to biting midges over the report period. Canal breeding midge larval numbers at test sites declined sharply in May due to seasonal conditions and canal beach replenishment works being carried out.



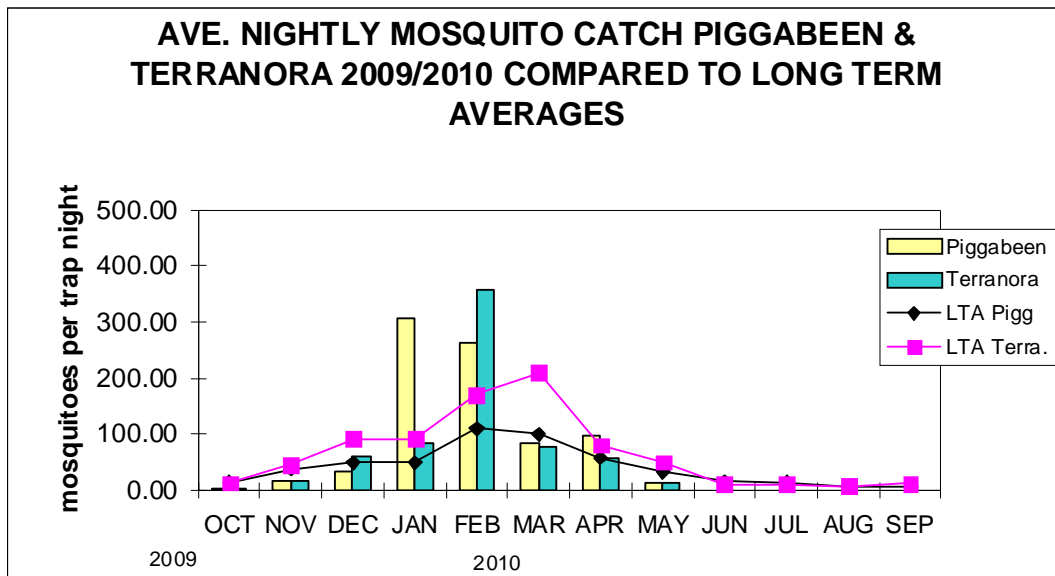
MOSQUITOES

Seasonal abundance

Mosquito activity declined sharply from the January/February seasonal peak. However, mosquitoes were still a problem at times around the Tweed Heads West and Cobaki areas. There were nine complaints related to mosquitoes over the report period.

Mosquito trap monitoring indicated a return to average mosquito numbers during the report period. The most frequently caught mosquitoes in carbon dioxide baited mosquito traps were the brackish water breeding species *Culex sitiens*, the saltmarsh mosquito *Aedes vigilax* and *Verrallina funerea*.

The following graph outlines monthly average mosquito catches in carbon dioxide baited traps at long term trapping sites this season.



Control

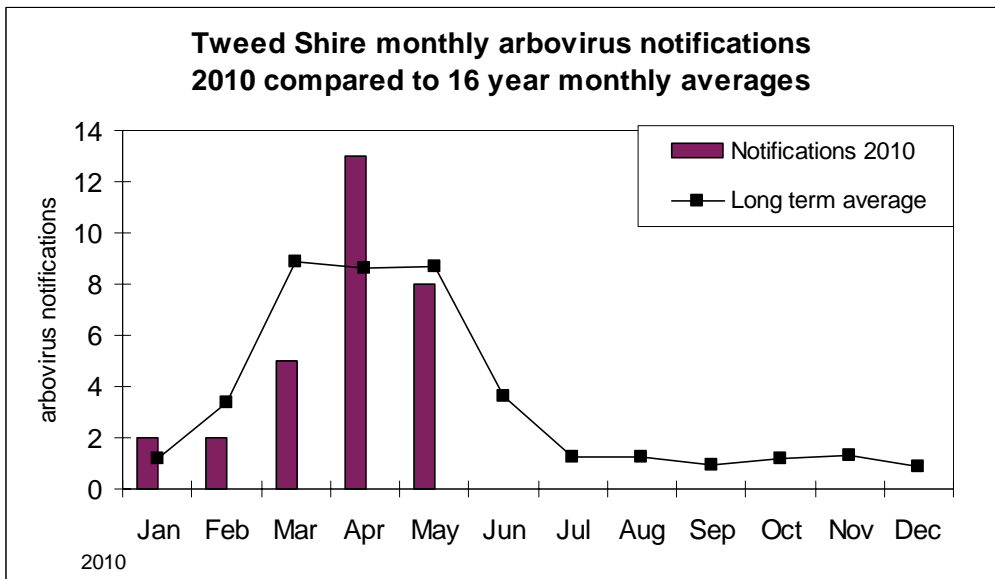
No aerial control was carried out over the report period. Ground based mosquito larval control in problem areas was carried out with sustained release biological larvicide.

Terranora Mangrove breeding mosquito research project

A research project funded by the Australian Mosquito and Arbovirus Research Committee, with subsequent additional funding from the NSW Recreational Fishing Trust has broadened the research scope to include potential fisheries enhancement of the 18 ha site. Monitoring of this site undertaken by Griffith University’s School of Environmental Science and Australian Rivers Institute, collaborating with Council’s Entomology Unit, has highlighted the very acidic and iron rich water chronically affecting the Mangrove backwaters this season. In their present state these acute acidic areas are not amenable to survival of fish and crustaceans; however, the areas are prime mosquito breeding habitat. This poorly flushed wetland is one of the Tweed’s most chronic and prolific mosquito breeding areas. The extended research will focus on potential habitat modifications to the wetland that may improve the site’s water quality and biodiversity as well as decrease mosquito breeding potential. The fisheries team has been able to successfully sample movement of fish and crustaceans across the site during recent spring tide periods.

Arbovirus

There were 26 arbovirus notifications for the Shire over the report period including 20 Ross River virus and six Barmah Forest virus cases. April’s higher than average total reflects the high mosquito activity just prior to the report period as there is considerable lag between infection, laboratory testing and notification.



OTHER PESTS

Miscellaneous

There were 79 miscellaneous enquiries/service requests over the quarter. The most common enquiries related to ants, wasps, and termites.

Rodents

Rodent baiting was carried out over the report period around coastal holiday parks, sewer treatment plants, adjacent to several drainage reserves and infested sections of Tweed River rock walls.

Pandanus plant hoppers

Continued monitoring of Pandanus trees for plant hopper related dieback has been carried out in coastal areas. Monitoring has shown a decline in the number of Pandanus trees succumbing to plant hopper related dieback. This is likely due to egg parasitic wasp activity and improved growing conditions following good rains.

Termites

Inspection of 253 in-ground termite bait stations was carried out around Council owned buildings. One bait station was found to have active termites.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

42 [EO-CM] 2010/2011 Fees and Charges - Stormwater Drainage Application Fees for Erosion and Sediment Control

ORIGIN:

Planning & Infrastructure

SUMMARY OF REPORT:

This report proposes amendment of 2010/11 Stormwater Drainage Application fees for Erosion and Sediment Control.

RECOMMENDATION:

That the amended Stormwater Drainage Application fees for Erosion and Sediment Control be placed on public exhibition for 28 days.

REPORT:

2010/11 Stormwater Drainage Application fees for erosion/sediment control require amendment to correct a miscalculation and to clarify the description for future updates as follows:

Item 131 – Stormwater Drainage Application – Erosion/Sediment Control

Title of Fee/Charge	Fee or Charge Levied 2010/2011 \$
Application for approval of erosion and sediment control plan (Minimum fee = 3 x amount per 1000m ² of lot area; Maximum fee = 150 x amount per 1000m ² of lot area)	\$20.67 per 1000m ² of lot area (Minimum \$62 ; Maximum \$3,100.50)

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

43 [EO-CM] Amendments to Section 94 Plan No. 15 - Community Facilities

ORIGIN:

Planning & Infrastructure

SUMMARY OF REPORT:

Amendments to Section 94 Plan No. 15 – Community Facilities are recommended for public exhibition. Version 6 proposes the following changes to the plan:

- Incorporates SGS Facilities Plan 2007 report findings;
- Extends area covered to whole of Shire (excluding Cobaki Lakes, Kings Forest and Casuarina);
- Updates the construction cost per square metre to \$3,453 per square metre;
- Revises works program resulting in a contribution rate of \$544 per person.

This results in the following amendment to contributions rates:

	Persons	Version 5		Version 6
		<i>Tweed Coast North</i>	<i>Tweed Coast South</i>	Shirewide
Per person	1	\$242	\$274	\$544
Detached dwelling/Lot/1 ET	2.4	\$581	\$658	\$1305.60
1 bedroom unit	1.3	\$315	\$356	\$707.20
2 bedroom unit	1.7	\$411	\$466	\$924.80
3 bedroom unit	2.1	\$508	\$575	\$1142.40
4+ bedroom unit	2.4	\$581	\$658	\$1305.60

The rate for tourist development that provides accommodation to be applied per bedroom as above.

RECOMMENDATION:

That:

1. **Council adopts Draft S94 Plan No 15 – Community Facilities Version 6 as a basis for exhibition and community discussion/consultation.**
2. **Draft plan Version 6 be exhibited as required by the Environmental Planning and Assessment Regulations.**

REPORT:

1. Background

S94 Plan No 15 Community Facilities has been in existence since October 1996 for the purpose of collecting S94 contributions for the provision of community facilities in Tweed Shire. The current version of the plan (Version 5) was adopted in December 2009.

Council at its meeting held 3 June 2008 resolved as follows:

"That Council:-

1. *Notes the SGS Economics & Planning Report as background for Future Community Facilities planning.*
2. *Endorses the principles outlined in the report entitled "Shire Wide Community Plan and Shire Wide Cultural and Community Facilities Plan" by SGS Economics & Planning (SGS Report) while recognising that there are budgetary constraints which will prevent Council from providing facilities at the level expressed, and in particular to support in principle, subject to available funds:*
 - (a) *Commencement of community facility building works when 60% occupancy of greenfield development has occurred;*
 - (b) *The provision of facilities for isolated areas with small populations;*
 - (c) *Flexible multi-purpose facilities and programs in co-location partnerships with private and public sector providers.*
3. *Reviews its community facilities and library requirements in light of the recommendations of the SGS Economics & Planning Report, taking into consideration budgetary constraints.*
4. *Identifies publicly owned and managed land in the Shire suitable for the provision of identified community facilities.*
5. *Subject to State Government approval, amends S94 Plan No 10 (Cobaki Lakes) and S94 Plan No. 19 (Casuarina Beach/Kings Forest) to retain the current community facility size and utilise the new rates contained within the SGS Report.*
6. *Recognises that S94 funding is no longer likely to be available for the desired Regional Performing Arts Centre and alternative funding sources need to be explored if this facility is to be provided."*

2. Amendment

This amendment updates S94 Plan No 15 in line with the above resolution and proposes the following changes to the plan:

- Incorporates SGS Facilities Plan 2007 report findings;
- Extends area covered to whole of Shire (excluding Cobaki Lakes, Kings Forest and Casuarina);
- Updates the construction cost per square metre to \$3,453 per square metre;
- Revises works program resulting in a contribution rate of \$544 per person.

Population:

Facilities: The “Shire Wide Community Plan and Shire Wide Cultural and Community Facilities Plan” by SGS Economics & Planning October 2007 (SGS Report) nominates more and larger facilities than the original S94 Plan provided for. This amendment does not propose to increase the overall provision of facilities’ floorspace above the historical rate of provision. The timeframe for provision of the facilities has been amended to align more with the timing outlined in the SGS Report, based on the expected order of development of release areas in the Shire.

Floorspace: The historical rate of provision of community facilities floorspace over the whole Shire has been estimated as 150m²/1,000 population, and this rate is used as the basis for future provision in this Plan.

3. Part 116D of the Environmental Planning and Assessment Act

Part 116D of the (as yet unproclaimed amendments to the) Environmental Planning and Assessment Act requires that Council take account of 5 key considerations for development contributions:

(a) *Can the public infrastructure that is proposed to be funded by a development contribution be provided within a reasonable time?*

Because the SGS Report nominates dates by which a certain facility should be provided, based on the expected order of development of release areas, this S94 plan has been amended to refer to the expected order of priority, rather than relying on lot threshold. This generally enables the facilities to be provided at an earlier date, provided that sufficient S94 funds have been collected to commence the works.

(b) *What will be the impact of the proposed development contribution on the affordability of the proposed development?*

Following recent State Government intervention into S94 contribution plans and the maximum contribution levy allowable, Council can now levy contributions of up to \$20,000. It is estimated that the maximum level of \$20,000 levy per lot would represent around 7.5% of the cost of a modest house, or around 5% including land. This is not considered excessive and it should be noted that actual contributions are likely to result in a lower amount in many cases.

- (c) ***Is the proposed development contribution based on a reasonable apportionment between existing demand and new demand for public infrastructure to be created by the proposed development to which the contribution relates?***

Apportionment would mean that the Plan would only provide a proportion of the cost of new facilities according to the ratio of the future population to the existing population, or approximately 27%. It is argued that apportionment is not necessary because the existing community facilities throughout the Shire can provide for the existing population, and the future facilities will provide for the future population at the same rate of provision in the new release areas.

- (d) ***Is the proposed development contribution based on a reasonable estimate of the cost of proposed public infrastructure?***

The contribution is based on an assessment of the current building cost of expanding Council's Murwillumbah Community Centre, at \$3,453 per m². This is almost twice the cost rate used in the previous Plan (in 2005), which is likely to have been an underestimate, and reflects general trends for cost increases for this kind of construction.

- (e) ***Are the estimates of demand for each item of public infrastructure to which the proposed development contribution relates reasonable?***

The SGS Report included a detailed demand study and found that these facilities were the absolute minimum required by this proposed development. As noted above, the rate of floorspace provision has not been increased above historic rates.

3. Calculation

Summary of works program:

Population Growth in Catchments 2010-31	Remainder Area persons/area after adjustments			
	Adjusted Persons	Floor Area requirements	Land Area (m ² at 50% site coverage)	Building cost (at 3,453/m ²)
Urban North total: 19,950 • exclude Cobaki Lakes (12,000)	7,950	1,192m ²	2,384	\$4,115,976
Coastal Towns total: 19,950 • Exclude CP 19 area (10,000)	9,950	1,492m ²	2,984	\$5,151,876
Rural West 2,940	2,940	441m ²	882	\$1,522,773
Shire expected growth population to 2031 is 42,840 Remainder Area is 20,840 persons	20,840	3,125m²	6,250	\$10,790,625

Applying the estimated Remainder Area population of 20,840 to the total works program to be funded by this plan of \$10,790,625 results in the following rates for Version 6:

	Persons	Version 5		Version 6
		Tweed Coast North	Tweed Coast South	Shirewide
Per person	1	\$242	\$274	\$544
Detached dwelling/Lot/1 ET	2.4	\$581	\$658	\$1,305.60
1 bedroom unit	1.3	\$315	\$356	\$707.20
2 bedroom unit	1.7	\$411	\$466	\$924.80
3 bedroom unit	2.1	\$508	\$575	\$1,142.40
4+ bedroom unit	2.4	\$581	\$658	\$1,305.60

The rate for tourist development that provides accommodation to be applied per bedroom as above.

The Draft Plan (copy attached) has been amended as outlined above and is recommended for exhibition.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The adoption of Draft *Section 94 Plan No 15 –Community Facilities* will enable Council to collect developer contributions for the provision of community facilities in Tweed Shire.

If the Draft Plan is not adopted, part of the cost of these works would require financing from the general fund and from existing ratepayers who are not contributing to the demand for these facilities in the designated area.

This amended plan will cause more sectors in Tweed Shire to exceed the government's \$20,000 contributions cap. Where this happens, contributions to all plans (including this plan CP 15) will be proportionally reduced so that the aggregate contribution is equal to \$20,000.

POLICY IMPLICATIONS:

Contributions are required so that Council is able to provide the community facilities identified as required as a result of development.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Draft Section 94 Plan No 15 - Community Facilities (ECM 18928722).

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44 [EO-CM] Darlington Drive, Banora Point - Application to Close Unnecessary Road Reserve - Lot 164 DP1057452

ORIGIN:

Design

FILE NO: GR3/12/7

SUMMARY OF REPORT:

At its meeting held 18 May 2010 Council resolved to defer this item. It is now brought forward for further consideration.

Council has received an application to close and purchase part of an unformed road reserve, which runs adjacent to Lot 164 in DP 1057452 at Banora Point. The road reserve is unformed Council public road which runs off Darlington Drive.

It is unlikely that the unformed section of the road reserve within Lot 164 in DP 1057452 will ever be utilised by Council. The road does not provide access to any other parcels of land adjacent to it and is physically separated from the adjoining parcel by a moat constructed around the Twin Towns Golf Course.

This application complies with Council Policy on Road Closure and Private purchase in that the road is demonstrably redundant in terms of access and is not otherwise ineligible.

An inspection of the site has been conducted and it was determined that no Council or other service infrastructure was apparent within or near this part of the road reserve that would have any detrimental impact.

RECOMMENDATION:

That:

- 1. Council approves the closure of an unformed road reserve, adjacent to Lot 164 in DP 1057452;**
- 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. The title of the closed road be consolidated with the adjacent land at the applicants cost;**
- 4. Easements be created over public authority reticulation services, if any; and**
- 5. All necessary documentation be executed under Common Seal of Council.**

REPORT:

Council has received an application to close and purchase part of an unformed road reserve, which runs adjacent to Lot 164 in DP 1057452 at Banora Point. The road reserve is unformed Council public road which runs off Darlington Drive.

It is unlikely that the unformed section of the road reserve adjacent to Lot 164 in DP 1057452 will ever be utilised by Council. The road does not provide access to any other parcels of land adjacent to it and is physically separated from the adjoining parcel by a moat constructed around the Twin Towns Golf Course.

The applicant owns land to the east of the road reserve and Council owns the parcel to the west, a public reserve, with no infrastructure within it, but is vegetated open space bordering the moat around the Twin Towns Country Club golf course.

The road runs off Darlington Drive and finishes within Lot 2 DP1040576 which belongs to the Twin Town Services Club. The Club's golf course has been constructed, together with a moat surrounding it, over part of the road reserve. Council has contacted the Club and advised of the encroachment and suggested that the Club consider joining with the applicant to close and purchase the section of road that is currently part of their golf course. To date no response has been received from them.

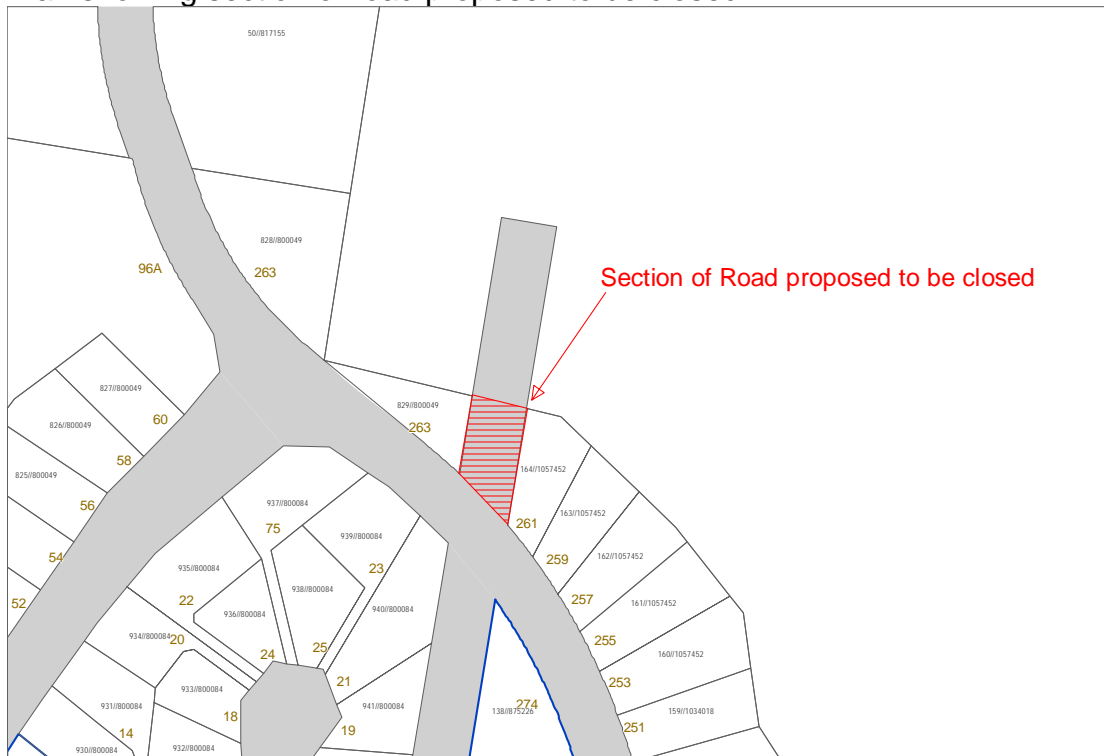
This application relates only to that part of the road reserve shown hatched in the plan in this report.

Council's Geographical Information System does not show any detrimental environmental impact within the area of road reserve proposed to be closed and purchased.

This application complies with Council's Policy on Road Closure and Private Purchase in that the road is demonstrably redundant in terms of access and is not otherwise ineligible.

An inspection of the site has been conducted and it was determined that no Council or other service infrastructure was apparent within or near this part of the road reserve that would have any detrimental impact.

Plan showing section of road proposed to be closed:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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45 [EO-CM] Berkleys Lane, Pottsville - Naming of Public Road

ORIGIN:

Design

FILE NO: GS5/1 Part 6

SUMMARY OF REPORT:

Council at its meeting of 20 April 2010 resolved to advertise its intention to name the road that runs off Coronation Avenue next to St Marks Anglican Church at Pottsville, as "***Berkleys Lane***" and allowed one month for objections to the proposal.

No objections were received.

It is recommended that the name "***Berkleys Lane***" be adopted for the naming purposes of the road that runs off Coronation Avenue next to St Marks Anglican Church at Pottsville.

RECOMMENDATION:

That:

1. Council adopts the name of "***Berkleys Lane***" for naming purposes of the road that runs off Coronation Avenue next to St Marks Anglican Church at Pottsville; and
2. The naming of the public road be gazetted under the provisions of the Roads (General) Regulation, 2000 and the Roads Act, 1993.

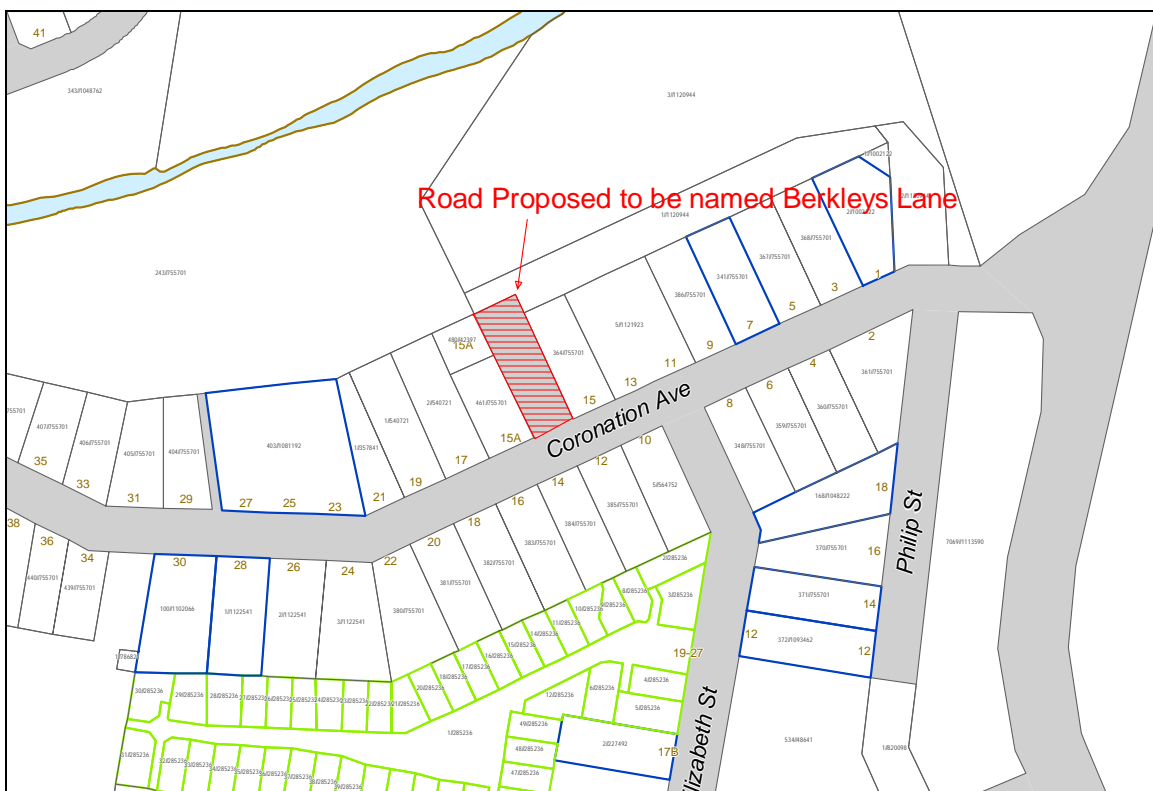
REPORT:

Council at its meeting of 20 April 2010 resolved to advertise its intention to name the road that runs off Coronation Avenue next to St Marks Anglican Church at Pottsville, as **“Berkleys Lane”** and allowed one month for objections to the proposal.

No objections were received.

It is recommended that the name **“Berkleys Lane”** be adopted for the naming purposes of the road that runs off Coronation Avenue next to St Marks Anglican Church at Pottsville.

The location plan is shown below for ease of reference.



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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46 [EO-CM] Lakeview Parade, Tweed Heads South - Application to Close and Purchase Part of Road Reserve

ORIGIN:

Design

FILE NO: GR3/12/7

SUMMARY OF REPORT:

Council has received an application to close and purchase part of the road reserve adjacent to 22 Lakeview Parade, Tweed Heads South to enable the construction of an elevated driveway access to the proposed dwelling.

The vacant lot adjacent to the area of road reserve sought to be closed is comprised in Lot 7 Section 18 in DP 28390, and is an extremely steep parcel of land that at point of access from the road is between 5m and 8m below the kerb of Lakeview Parade.

As the grade from the kerb to the site boundary is extremely steep a driveway with an angled alignment would require extensive cut and fill within the verge area as well as a vehicle turning area requiring further cut and fill. Due to the steep gradient this type of driveway construction would result in poor visibility making it an unsafe option. The preferable option available to the land owner in these circumstances is to construct an elevated driveway within the road to the proposed dwelling allowing a safer ingress/egress.

Councils Policy on Private Structures on Public Roads notes that Council will not enter into arrangements for leases within the road reserve to encompass existing or proposed structures. Council will however consider an application to close and purchase part of the public road having regard to the merits of each proposal, existing and future public utilities and roadwork's and public amenity and safety.

This application complies with Council's policy on "Road Closures & Private Purchase" in that there are topographical constraints that argue strongly for a more logical boundary definition for the purposes of private property access.

The road closure would not impact in any way on the properties either side of Lot 7, nor would it interfere with the pedestrian access currently available along the front boundary of the property.

The proposed area of closed road is not required for physical road construction or other services due to its steep topography.

An inspection of the site has been conducted and it was determined that no Council or other service infrastructure was apparent within or near this part of the road reserve that would have a detrimental impact.

RECOMMENDATION:

That:

- 1. Council approves the closure of part of the road reserve adjacent to Lot 7 Section 18 in DP 28390, Lakeview Parade, Tweed Heads South;**
- 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. The title of the closed road be consolidated with the adjacent land;**
- 4. Easements be created over public authority reticulation services, if any;**
- 5. The applicant is to ensure that any designs for the access driveway are to align with Council's design for the Lakeview Parade upgrade, design plan 'WK06055-04 named Plan of Works under Sheet 3 (CH240 - CH380)' a copy of which is to be provided to the applicant; and**
- 6. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

Council has received an application to close and purchase part of the road reserve adjacent to 22 Lakeview Parade, Tweed Heads South to enable the construction of an elevated driveway access to the proposed dwelling.

The vacant lot adjacent to the area of road reserve sought to be closed is comprised in Lot 7 Section 18 in DP 28390, and is an extremely steep parcel of land that at point of access from the road is between 5m and 8m below the kerb of Lakeview Parade.

As the grade from the kerb to the site boundary is extremely steep a driveway with an angled alignment would require extensive cut and fill within the verge area as well as a vehicle turning area requiring further cut and fill. Due to the steep gradient this type of driveway construction would result in poor visibility making it an unsafe option. The preferable option available to the land owner in these circumstances is to construct an elevated driveway within the road to the proposed dwelling allowing a safer ingress/egress.

Council's Policy on Private Structures on Public Roads notes that Council will not enter into arrangements for leases within the road reserve to encompass existing or proposed structures. Council will however consider an application to close and purchase part of the public road having regard to the merits of each proposal, existing and future public utilities and roadwork's and public amenity and safety.

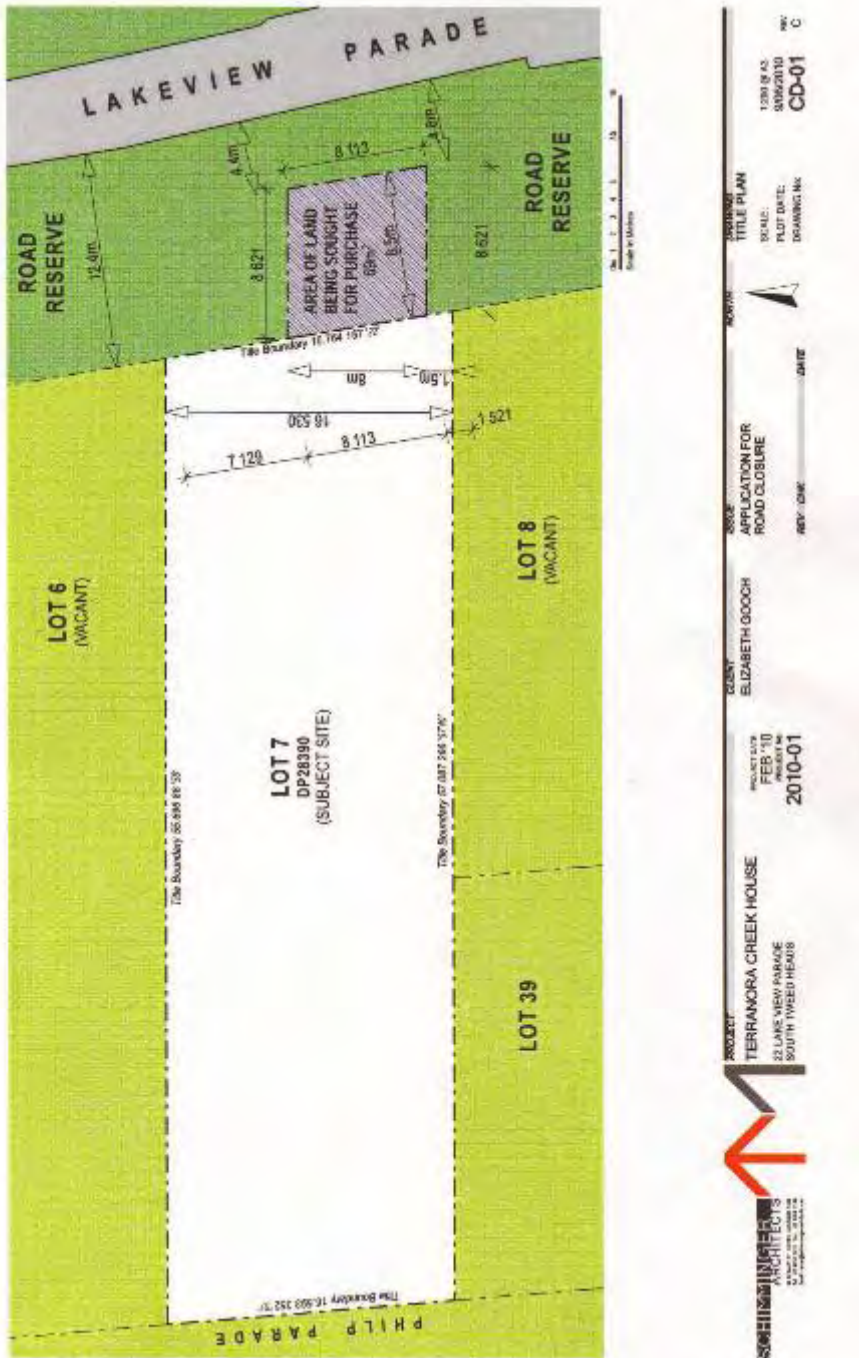
This application complies with Council's policy on "Road Closures & Private Purchase" in that there are topographical constraints that argue strongly for a more logical boundary definition for the purposes of private property access.

The road closure would not impact in any way on the properties either side of Lot 7, nor would it interfere with the pedestrian access currently available along the front boundary of the property.

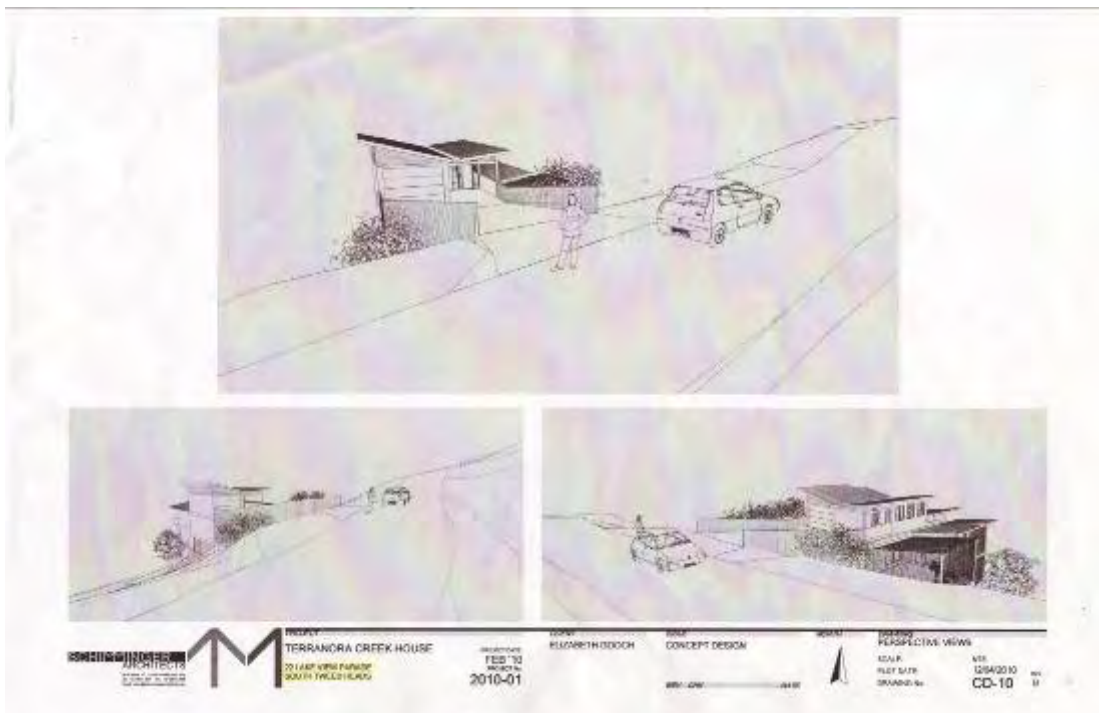
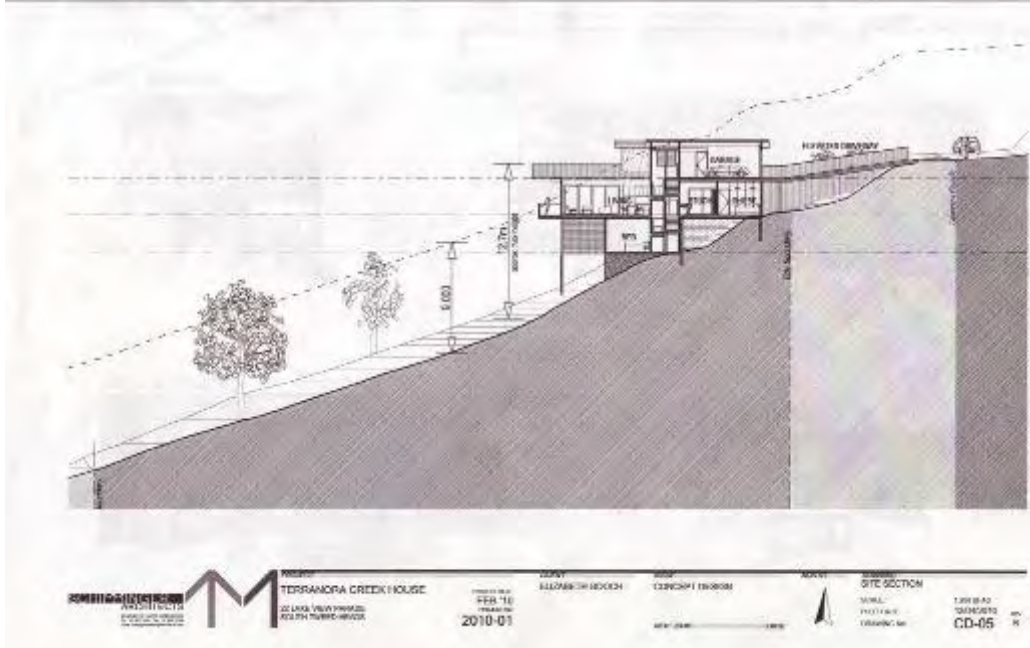
The proposed area of closed road is not required for physical road construction or other services due to its steep topography.

An inspection of the site has been conducted and it was determined that no Council or other service infrastructure was apparent within or near this part of the road reserve that would have a detrimental impact.

Below is a plan of the area proposed to be closed as recommended by Council Officers. The total area of road proposed to be closed measures 8.5m deep x 8m wide.



Plan of proposed structure



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.

47 [EO-CM] Land Acquisition - Machinery Drive, Tweed Heads South

ORIGIN:

Design

SUMMARY OF REPORT:

Council completed the physical widening of Machinery Drive at the corner of Minjungbal Drive, Tweed Heads South in 2004/2005 with the consent of the adjoining land owners at the time.

It was Council's original intention to purchase the land as road widening, which required the preparation of a plan of subdivision for road widening.

A plan of subdivision was completed and signed by the land owners and sent to Land and Property Management Authority Sydney for registration, accompanied by the title deeds of the affected land parcels.

As per Council's standard practice, when a landowner has signed the plan of subdivision for road widening and provided their title deeds to enable the plan to register, the compensation owed is paid at that time.

A requisition was received from Land & Property Management Authority noting that prior to registration of the plan the written consent of all registered lessees would be required. As the affected land parcels are located in the commercial precinct on the corner of Minjungbal Drive and Machinery Drive, there were several leases registered on the titles of the affected parcels. Council obtained the consent of the majority of lessees however this action was unable to be completed as two of the lessees were unhappy about the works being done and refused to sign consent forms.

Because Council was unable to obtain the signatures of all parties having an interest in the land, by virtue of the registered leases, it was decided to pursue an alternative acquisition process to enable the land affected by the works to become road.

A plan of acquisition for road purposes will create lots for those areas required for road purposes, but does not require the consent of the land owner to be registered. Such a plan is generally used when there is a concurrent action of land acquired for road purposes and road closed as compensation. When there are no road closures, as in the works at Machinery Drive, a plan of subdivision would be prepared and lodged.

The plan of subdivision was uplifted and a subsequent plan of acquisition was completed and registered as DP 1083091 in its place showing Lots 3 and 4 as the land to be acquired as public road.

It is now necessary to resolve to complete the acquisition procedure and to dedicate Lots 3 and 4 in DP 1083091 as public road.

The acquisition is to proceed under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 whereby an application is to be made to the Department of Local Government for approval to the acquisition.

RECOMMENDATION:

That:-

- 1. Council approves the acquisition of Lots 3 and 4 in DP 1083091 for public road purposes under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;**
- 2. Lots 3 and 4 in DP 1083091 be dedicated as road following gazettal of the acquisition; and**
- 3. All necessary documentation be executed under the Common Seal of Council.**

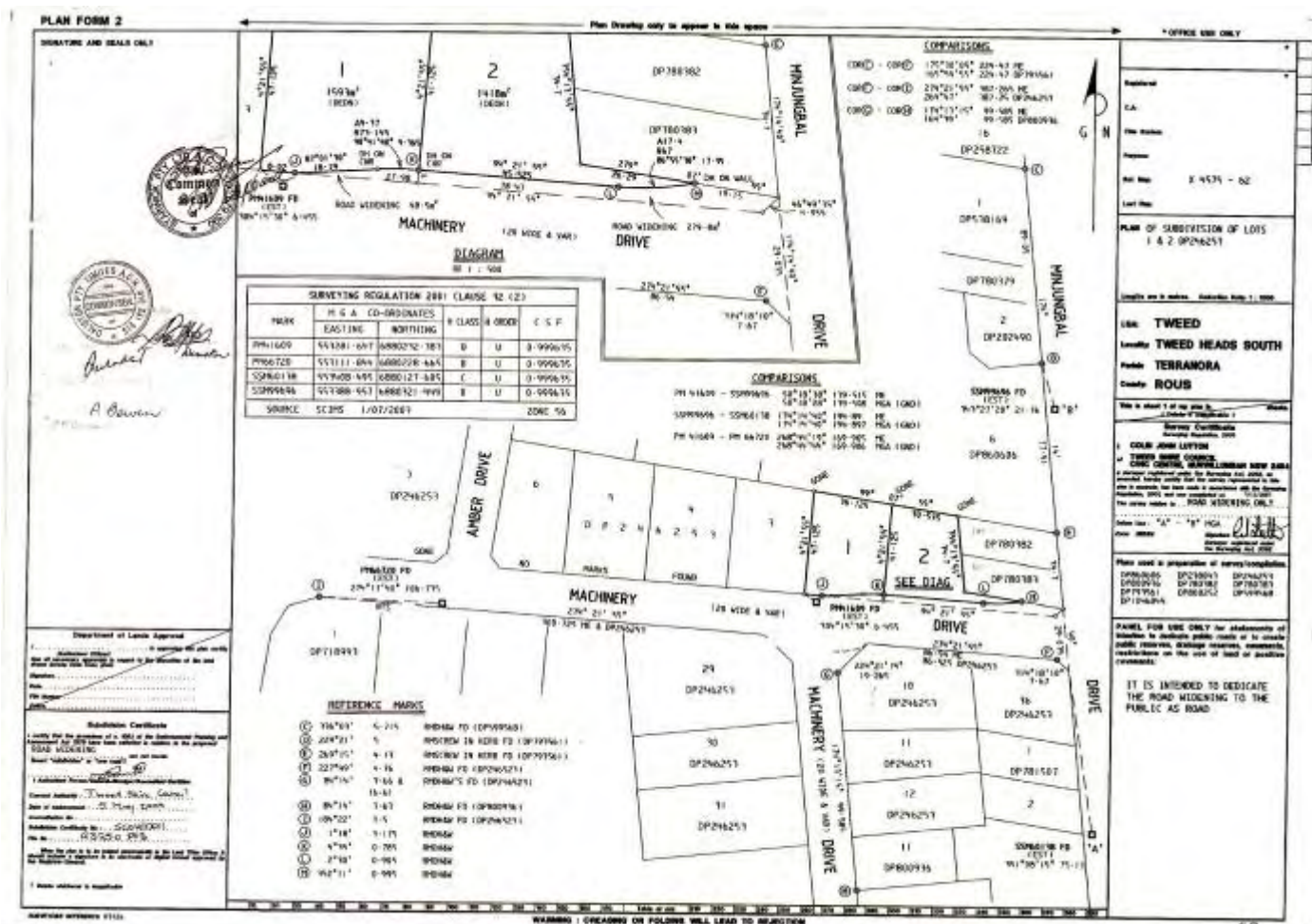
REPORT:

Council completed the widening of Machinery Drive at the corner of Minjungbal Drive, Tweed Heads South, which included the acquisition of land for road purposes, in 2004/2005 with the consent of the adjoining land owners at the time.

It was Council's original intention to acquire the required land as road widening, which required the preparation of a plan of subdivision for road widening.

Such a plan of subdivision was completed and signed by the land owners and sent to Land and Property Management Authority Sydney for registration, accompanied by the title deeds of the affected land parcels.

Below is a copy of the original plan of subdivision signed by the affected land owners:



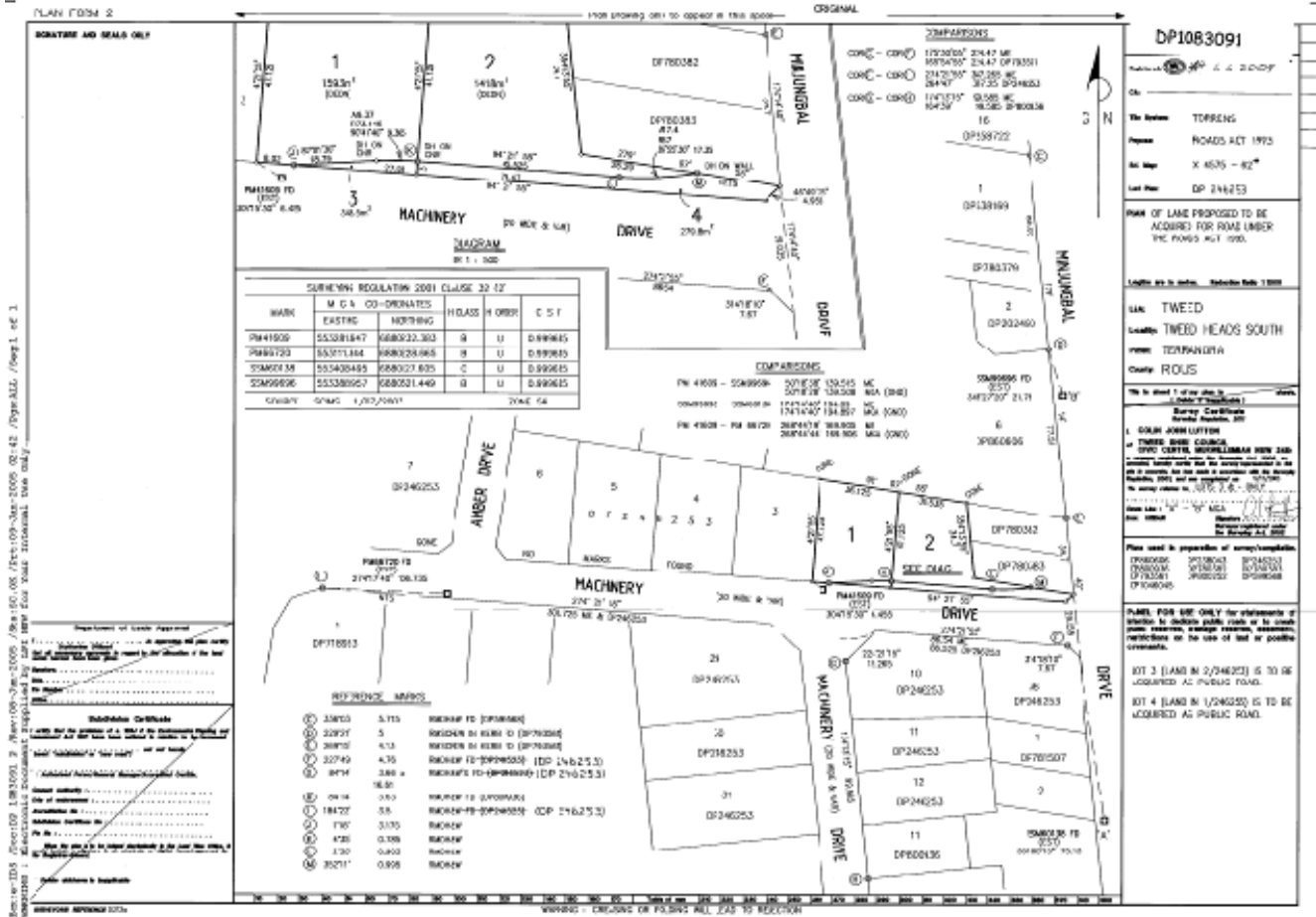
As per Council's standard practice, when a landowner has signed the plan of subdivision for road widening and provided their title deeds to enable the plan to register, the compensation owed is paid at that time.

A requisition was received from Land & Property Management Authority noting that prior to registration of the plan the written consent of all registered lessees would be required. As the affected land parcels are located in the commercial precinct on the corner of Minjungbal

Drive and Machinery Drive, there were several leases registered on the titles of the affected parcels. Council obtained the consent of the majority of lessees however this action was unable to be completed as two of the lessees were unhappy about the works being done and refused to sign consent forms.

The plan of subdivision was uplifted and a subsequent plan of acquisition was completed and registered as DP 1083091 in its place showing Lots 3 and 4 as the land to be acquired as public road.

Copy of DP 1083091 shown below:



It is now necessary to resolve to complete the acquisition procedure and to dedicate Lots 3 and 4 in DP 1083091 as public road.

The acquisition is to proceed under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 whereby an application is to be made to the Department of Local Government for approval to the acquisition.

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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48 [EO-CM] Land Acquisition of Easement for Drainage Variable Width - Banora Terrace, Bilambil Heights

ORIGIN:

Design

SUMMARY OF REPORT:

At Council's meeting held on 2 September 2008 Council resolved to approve the compulsory acquisition of the Easement for Drainage Variable Width within Lot 3 in DP 731857 and Lots 5 and 10 in DP 786246 for the purposes of the Local Government Act 1993. A copy of the previous report and resolution are an attachment to this report.

An application was subsequently made to the Division of Local Government and a request has come from the Division in relation to Council's resolution.

The assessing officer from the Division has advised Council that the resolution made by Council does not abide by the requirements of the Guidelines for the Compulsory Acquisition of Lands by Council which require at:

1. Part 4, clause 1:

"Applications must include "a copy of the relevant part of the minutes of the council meeting at which council approved -

(a) of the land being acquired by compulsory process; and

(b) of the making of the necessary application to the Minister and/or the Governor"
and at

2. Part 5, clause 3:

"If the Council decides to acquire the land by compulsory process, it should do so by resolution at a council meeting. The resolution should also authorise the making of the necessary applications to the Minister and/or the Governor"

Council's resolution of 2 September 2008 does not include a reference to the making of the necessary application seeking the Minister's approval only the Governor's. This application requires the approval of the Minister to the acquisition.

The wording in Part 4 and 5 of the guidelines is somewhat ambiguous and does not clarify in which instances the application should be made to the Minister and in which instances it should be made to the Governor. Therefore all future Council resolutions will require the wording to read *"... application to the Minister and/or Governor"*.

To enable Council's application to proceed, it is necessary to include in the resolution the making of the necessary application.

RECOMMENDATION:

That:

- 1. Council approves the acquisition of the Easement for Drainage Variable Width within Lot 3 in DP 731857 and Lots 5 and 10 in DP 786246 under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Local Government Act, 1993* and makes the necessary application to the Minister and/or Governor;**
- 2. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

At Council's meeting held on 2 September 2008 Council resolved to approve the compulsory acquisition of the Easement for Drainage Variable Width within Lot 3 in DP 731857 and Lots 5 and 10 in DP 786246 for the purposes of the Local Government Act 1993. A copy of the previous report and resolution are an attachment to this report.

An application was subsequently made to the Division of Local Government and a request has come from the Division in relation to Council's resolution.

The assessing officer from the Division has advised Council that the resolution made by Council does not abide by the requirements of the Guidelines for the Compulsory Acquisition of Lands by Council which require at:

1. **Part 4, clause 1:**

Applications must include *"a copy of the relevant part of the minutes of the council meeting at which council approved -*

(a) of the land being acquired by compulsory process; and

(b) of the making of the necessary application to the Minister and/or the Governor"
and at

2. **Part 5, clause 3:**

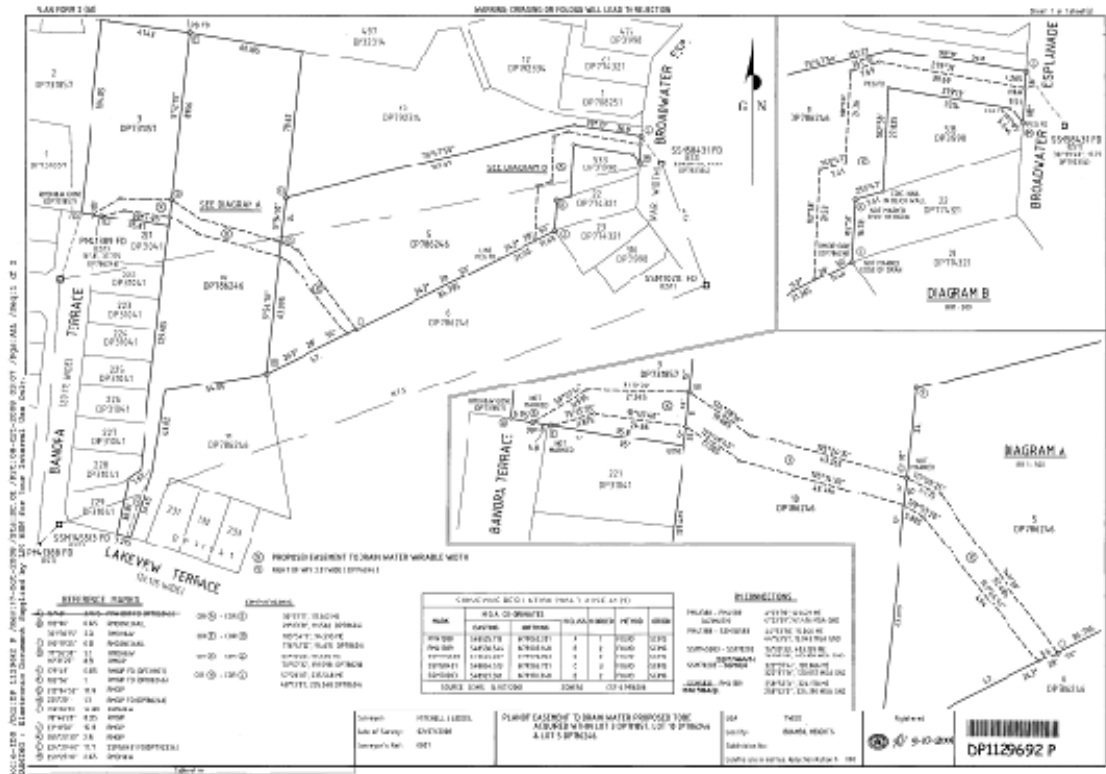
"If the Council decides to acquire the land by compulsory process, it should do so by resolution at a council meeting. The resolution should also authorise the making of the necessary applications to the Minister and/or the Governor"

Council's resolution of 2 September 2008 does not include a reference to the making of the necessary application seeking the Ministers approval only the Governors. This application requires the approval of the Minister to the acquisition.


The wording in Part 4 and 5 of the guidelines is somewhat ambiguous and does not clarify in which instances the application should be made to the Minister and in which instances it should be made to the Governor. Therefore all future Council resolutions will require the wording to read *"... application to the Minister and/or Governor"*.

To enable Council's application to proceed, it is necessary to include in the resolution the making of the necessary application.

A copy of the plan of Easement (DP1129692) is shown below:



Back: 108 / DocID: 1129692 P / Rev: 07-Oct-2008 / Sta: SC OK / Prt: 08-Oct-2008 03:57 / Pgs: ALL / Sct: 2 of 2
 WARNING: Electronic Document Supplied by LPI NRM For Your Internal Use Only. Printing will lead to rejection

DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 1 of 1 sheet(s)
SIGNATURES, SEALS and STATEMENTS of intention to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.	 DP1129692 S	
	Registered: <i>AV 3-10-2008</i> Title System: TORRENS Purpose: EASEMENT	
PLAN OF EASEMENT TO DRAIN WATER PROPOSED TO BE ACQUIRED WITHIN LOT 3 DP731857, LOT 10 DP786246 & LOT 5 DP786246.		
LGA: TWEED Locality: BILAMBIL HEIGHTS Parish: TERRANORA County: ROUS		
Surveying Regulation, 2006		
I, Mitchell J Liddell of Tweed Shire Council a surveyor registered under the <i>Surveying Act, 2002</i> , certify that the survey represented in this plan is accurate, has been made in accordance with the <i>Surveying Regulation, 2006</i> and was completed on: 02/07/2008 The survey relates to Proposed Easements Only..... (specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)		
Signature: <i>M Liddell</i> Dated: 24/07/08 <small>Surveyor registered under the Surveying Act, 2002</small>		
Datum Line PM41388 - PM41389 Type: Urban		
Plans used in the preparation of survey/compilation DP731857 DP786246 DP792334 DP285382 DP708251 DP31998 DP31041		
<small>(if insufficient space use Plan Form 6A annexure sheet)</small>		
SURVEYOR'S REFERENCE: 0807		

* OFFICE USE ONLY

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).

- Confidential Attachment 1** - Council Report from meeting held 2 September 2008 (ECM 1897884).
- Attachment 2** - Council Resolution from meeting held 2 September 2008 (ECM 1887736).

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49 [EO-CM] Naming of a Council Public Road - Kingscliff

ORIGIN:

Design

FILE NO: GS5/1 Pt6

SUMMARY OF REPORT:

Council recently advertised its intention to name the road which runs off Wommin Bay Road, Kingscliff and leads to the Cudgen Leagues Club seeking submissions for suitable names.

Two suitable submissions were received as follows:

- Corowa Road
- Bradshaw Place

The first submission was received from the Tweed Heads Historical Society Inc who advised that the Corowa family have a significant link as pioneers and prominent sportsmen locally, interstate and overseas.

The second submission was received from the Cudgen Leagues Club who advised that the Bradshaw's have been a prominent local family in the Chinderah area for many generations. The land upon which the Leagues Club is situated was donated to the club for the benefit of the community by the Bradshaw family.

It would appear fitting that the name Bradshaw Place be used as the link between the family and the immediate area of the road reserve is significant.

It is recommended that Council advertise its intention to name the road that runs off Wommin Bay Road to the Cudgen Leagues Club at Chinderah as "**Bradshaw Place**" allowing one month for submissions or objections to the proposal.

RECOMMENDATION:

That Council:

1. **Publicises its intention to name the road that runs off Wommin Bay Road to the Cudgen Leagues Club at Chinderah as "Bradshaw Place" allowing one month for submissions or objections to the proposal**
2. **Notifies the relevant authorities under the provisions of the Roads (General) Regulation 2008.**

REPORT:

Council recently advertised its intention to name the road which runs off Wommin Bay Road, Kingscliff and leads to the Cudgen Leagues Club seeking submissions for suitable names.

Two suitable submissions were received as follows:

- Corowa Road
- Bradshaw Place

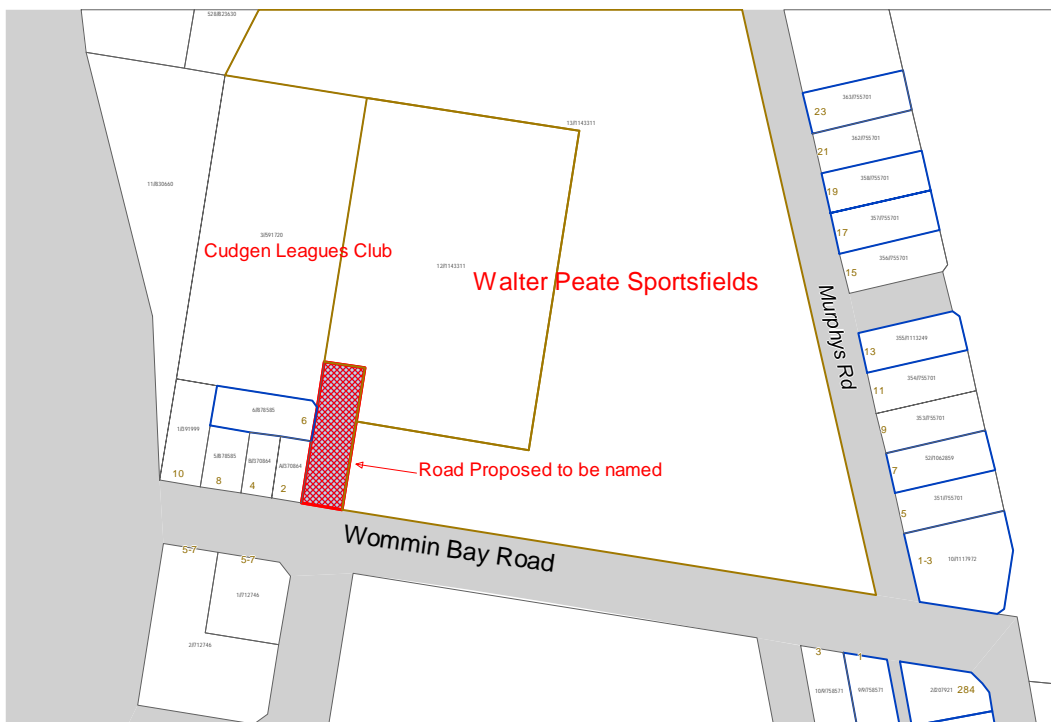
The first submission was received from the Tweed Heads Historical Society Inc who advised that the Corowa family have a significant link as pioneers and prominent sportsmen locally, interstate and overseas.

The second submission was received from the Cudgen Leagues Club who advised that the Bradshaw's have been a prominent local family in the Chinderah area for many generations. Funding for the establishment of the Leagues Club was donated by the Bradshaw family for the benefit of the community.

It would appear fitting that the name Bradshaw Place be used as the link between the family and the immediate area of the road reserve is significant.

It is recommended that Council advertise its intention to name the road that runs off Wommin Bay Road to the Cudgen Leagues Club at Chinderah as "**Bradshaw Place**" allowing one month for submissions or objections to the proposal.

Plan showing the roads proposed to be named:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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50 [EO-CM] Naming of Public Roads - Seaside City Development, South Kingscliff

ORIGIN:

Design

FILE NO: GS5/1 Pt 6

SUMMARY OF REPORT:

Council at its meeting of 18 May 2010 resolved to publicise its intention to name the roads within the Seaside City Development at South Kingscliff, as ***Oasis Way, Windsong Way, Sailfish Way, Nautilus Way, Indigo Lane, Castaway Lane and Edgewater Lane*** and allowed one month for objections to the proposal.

No objections were received.

It is recommended that the names ***Oasis Way, Windsong Way, Sailfish Way, Nautilus Way, Indigo Lane, Castaway Lane and Edgewater Lane*** be adopted for the naming purposes of the roads within the Seaside City Development at South Kingscliff.

RECOMMENDATION:

That:

1. Council adopts the names of ***Oasis Way, Windsong Way, Sailfish Way, Nautilus Way, Indigo Lane, Castaway Lane and Edgewater Lane*** for naming purposes of the roads within the Seaside City Development at South Kingscliff; and
2. The naming of the public roads be gazetted under the provisions of the Roads (General) Regulation, 2000 and the Roads Act, 1993.

REPORT:

Council at its meeting of 18 May 2010 resolved to publicise its intention to name the roads within the Seaside City Development at South Kingscliff, as ***Oasis Way, Windsong Way, Sailfish Way, Nautilus Way, Indigo Lane, Castaway Lane and Edgewater Lane*** and allowed one month for objections to the proposal.

No Objections were received.

It is recommended that the names ***Oasis Way, Windsong Way, Sailfish Way, Nautilus Way, Indigo Lane, Castaway Lane and Edgewater Lane*** be adopted for the naming purposes of the roads within the Seaside City Development at South Kingscliff.

The location plan is shown below for ease of reference:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

51 [EO-CM] Renaming of Public Roads, Seaside City Development, South Kingscliff

ORIGIN:

Design

FILE NO: GS5/1 Pt6

SUMMARY OF REPORT:

Council at its meeting of 18 May 2010 resolved to publicise its intention to rename Ocean Avenue to **Ocean Boulevard**, Lorna Street to **Cylinders Drive** and Carne Street to **Seaside Drive** and allowed one month for objections to the proposal.

Three individual objections were received.

The Geographical Names Board objected to the use of Ocean Boulevard as it duplicates a name of a road already in use within the Tweed Shire (Ocean Avenue, Drive and Street at Kingscliff and Chinderah).

Councils Policy on Street naming, which is derived from the Geographical Names Board guidelines on street naming provides that name duplication within a local government area should be avoided. Regardless of the fact that the applicant is only suggesting changing the suffix of this road name, The Geographical Names Board has advised that any change made to the road name of Ocean Avenue would involve a complete renaming. The applicant has since withdrawn this suggestion and has agreed to maintain the name of Ocean Avenue.

The other two objections were for the changing of Lorna Street to Cylinders Drive. Both parties suggested that the name Cylinders Drive did not fit in with the coastal theme of street names within the area and also that it was not necessary to rename the street on the basis that it would join up with an existing road.

The name Cylinders Drive is suggestive of a type of oceanic wave and thus does maintain the coastal theme of street names within the area. As noted in the previous report upon completion of the subdivision Lorna Street will connect with the existing Cylinders Drive and as such should have one continuous name. As the properties in Cylinders Drive have already been developed and allocated urban street numbers it would be inappropriate to change the existing formed road name to suit a road which has not yet been developed.

It would therefore be recommended that the name "**Cylinders Drive**" be adopted for the renaming purposes of Lorna Street and the name "**Seaside Drive**" be adopted for the renaming purposes of Carne Street at South Kingscliff.

RECOMMENDATION:

That:

- 1. Council adopts the name of “Cylinders Drive” for renaming purposes of Lorna Street at South Kingscliff,**
- 2. Council adopts the name of “Seaside Drive” for the renaming purposes of Carne Street at South Kingscliff and**
- 3. The renaming of the public roads be gazetted under the provisions of the Roads (General) Regulation, 2008 and the Roads Act, 1993.**

REPORT:

Council at its meeting of 18 May 2010 resolved to publicise its intention to rename Ocean Avenue to **Ocean Boulevard**, Lorna Street to **Cylinders Drive** and Carne Street to **Seaside Drive** and allowed one month for objections to the proposal.

Three individual objections were received.

The Geographical Names Board objected to the use of Ocean Boulevard as it duplicates a name of a road already in use within the Tweed Shire (Ocean Avenue, Drive and Street at Kingscliff and Chinderah).

Councils Policy on Street naming, which is derived from the Geographical Names Board guidelines on street naming provides that name duplication within a local government area should be avoided. Regardless of the fact that the applicant is only suggesting changing the suffix of this road name, The Geographical Names Board has advised that any change made to the road name of Ocean Avenue would involve a complete renaming. The applicant has since withdrawn this suggestion and has agreed to maintain the name of Ocean Avenue.

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The name Cylinders Drive is suggestive of a type of oceanic wave and thus does maintain the coastal theme of street names within the area. As noted in the previous report upon completion of the subdivision Lorna Street will connect with the existing Cylinders Drive and as such should have one continuous name. As the properties in Cylinders Drive have already been developed and allocated urban street numbers it would be inappropriate to change the existing formed road name to suit a road which has not yet been developed.

It would therefore be recommended that the name "**Cylinders Drive**" be adopted for the renaming purposes of Lorna Street, and the name "**Seaside Drive**" be adopted for the renaming purposes of Carne Street at South Kingscliff .

The location plan is shown below for ease of reference.



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

52 [EO-CM] Release of Existing Easement for Rising Main and Creation of Easement for Services within Lots 129 and 130 in DP 1039348 - Elrond Drive, Kingscliff

ORIGIN:

Design

SUMMARY OF REPORT:

In 2006 Council constructed a new sewer pump station at Elrond Drive to direct flow from an overloaded section of gravity main at Pearl Street.

This necessitated the upgrade of the sewer rising main from the Kingscliff Sewerage Treatment plant at Chinderah to Sewer Pump Station 4005 (within Lot 1 DP 833926) at Kingscliff Street to connect the Turnock Street Sewer Pump Station to the upgraded rising main.

At the same time Council laid a trunk water main from Chinderah water pump station to Kingscliff reservoir.

The alignment of the new sewer rising main and trunk water main was discussed with the owner of land through which these pipes were to be laid, Lots 129 and 130 in DP 1039348.

Both parcels are burdened by an Easement for Rising Main 4.875 metres wide and an Easement for Drainage 4 wide, for which Council has the benefit.

These pipes were laid primarily within the existing Easement for Drainage within Lots 129 and 130 at the request of the landowner so that the development potential of the land was improved by allowing the relinquishment of the Easement for Sewer Rising Main.

New Easements for Services are required for the corridor where the pipes are outside the Easement for Drainage.

At the time, an agreement was reached with the landowner whereby the costs of locating the pipes within the existing Easement for Drainage were met by them and the survey and legal costs arising from releasing the existing Easement for Sewer Rising Main and creating new easements for services to accommodate the new pipes would be shared equally between Council and the landowner.

RECOMMENDATION:

That:

- 1. Council approves the release of Easement for Rising Main 4.875 wide within Lots 129 and 130 in DP 1039348;**

2. **Council approves the creation of Easements for Services 5 wide and 5.8 wide within Lots 129 and 130 in DP; and**
3. **All necessary documentation be executed under the Common Seal of Council.**

REPORT:

In 2006 Council constructed a new sewer pump station at Elrond Drive to direct flow from an overloaded section of gravity main at Pearl Street.

This necessitated the upgrade of the sewer rising main from the Kingscliff Sewerage Treatment plant at Chinderah to Sewer Pump Station 4005 (within Lot 1 DP 833926) at Kingscliff Street to connect the Turnock Street Sewer Pump Station to the upgraded rising main.

At the same time Council laid a trunk water main from Chinderah water pump station to Kingscliff reservoir.

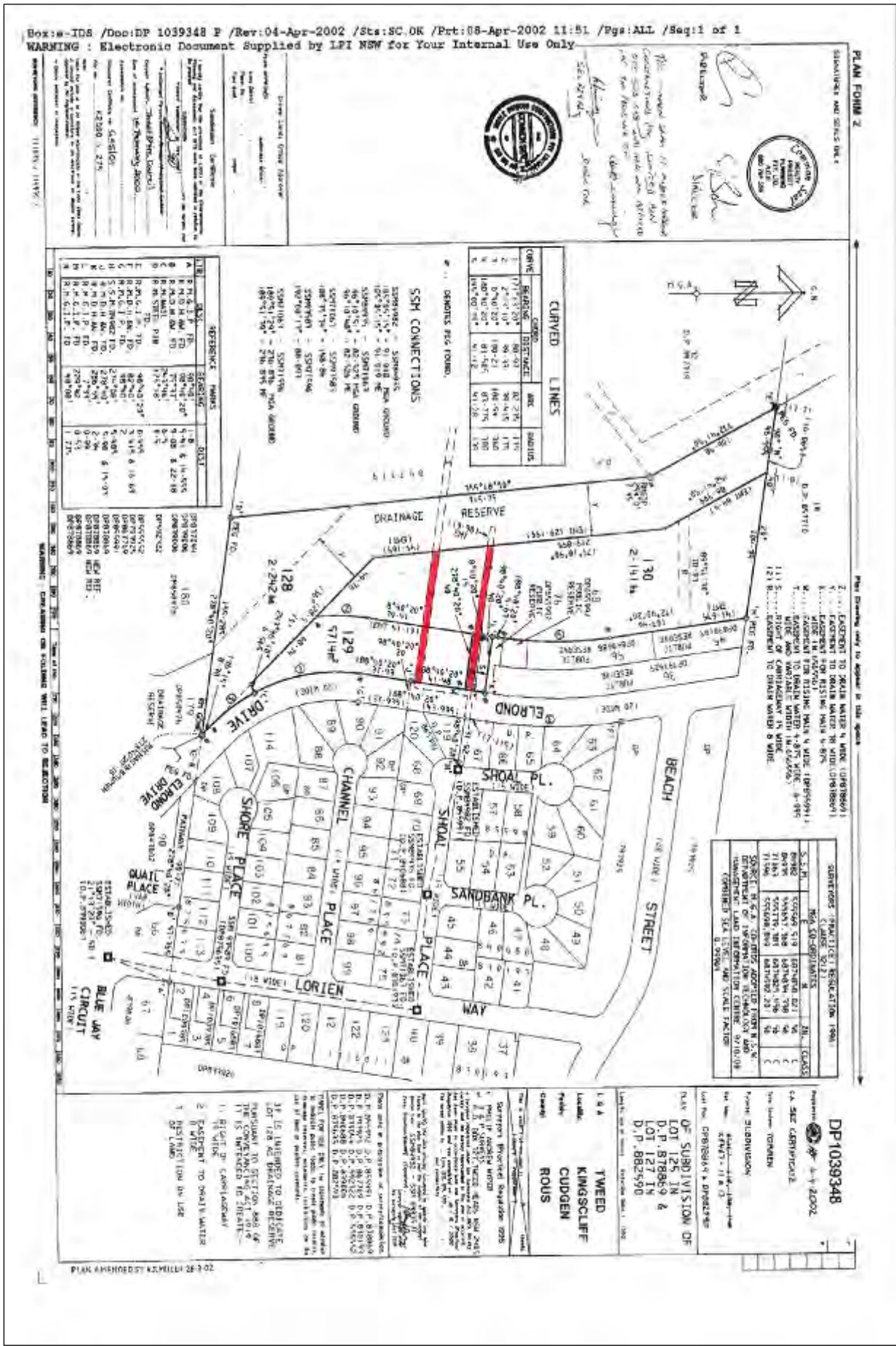
The alignment of the new sewer rising main and trunk water main was discussed with the owner of the land through which these pipes were to be laid, Lots 129 and 130 in DP 1039348.

Both parcels are burdened by an Easement for Rising Main 4.875 metres wide and an Easement for Drainage 4 wide. These easements are shown as "X" and "Z" on DP 1039348, shown highlighted below, where "Z", the northernmost corridor, is the Easement for Drainage, now containing the new sewer rising main and trunk water main and stormwater drainage pipeline.

These pipes were laid within the existing easement for drainage ("Z") at the request of the landowner so that the development potential of the land would improve. This would allow the relinquishment of the Easement for Sewer Rising Main ("X"), the southernmost easement.

At the time, an agreement was reached with the landowner company whereby the costs of locating the pipes within the existing Easement for Drainage were met by them and the survey and legal costs arising from releasing both of the easements and creating new easements for services to accommodate the new pipes would be shared equally between Council and the landowner. It is necessary to release the easement for drainage as it only allows Council to use it for the drainage of water and no other purpose, and to replace it with an easement for services.

Payment for the laying of the pipes in the preferred location has been made.



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.

53 [EO-CM] EC2010-053 Footpath, Median and Landscaping Works for Tweed Coast Road, Cabarita Beach/Bogangar

ORIGIN:

Contracts

FILE NO: GC12/3-2010053

SUMMARY OF REPORT:

Tenders were invited for Footpath, Median and Landscaping Works for Tweed Coast Road, Cabarita Beach/Bogangar (Tender EC2010-053). Eight tenders were received by the advertised closing date of 23 June 2010.

This project is identified within Council's 7 Year Plan and will provide a safe and inviting environment in which to do business and engage the local community. The coastal character of the town will be reinforced and enhanced.

Council noted a progress report regard this project at its meeting of 17 November 2009 where Council resolved (inter alia):

"That Council:

1.....

- 2. Officers commence detailed design of the Tweed Coast Road Cabarita Beach / Bogangar Streetscaping Project."*

The detailed design was commenced in accordance with Council's resolution, completed and tenders called.

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 Scape Shapes Landscaping Pty Ltd for Footpath, Median and Landscaping Works for Tweed Coast Road, Cabarita Beach/Bogangar.

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. Council awards the contract EC2010-053 Footpath, Median and Landscaping Works for Tweed Coast Road, Cabarita Beach/Bogangar to Scapes Shapes Landscaping Pty Ltd for the lump sum price of \$524,380.43 exclusive of GST.
2. The General Manager be given delegated authority to approve variations up to 20% above the initial contract price (20% up to a maximum of \$150,000, inclusive of GST). Any variations to be reported to Council on a quarterly basis.
3. Council votes additional funding of \$153,000 to be made available from the 2010/2011 Financial Assistance Grant.
4. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) 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:

Tender Background

Tenders were invited for Footpath, Median and Landscaping Works for Tweed Coast Road, Cabarita Beach/Bogangar (Tender EC2010-053). Eight tenders were received by the advertised closing date of 23 June 2010.

This project is identified within Council's 7 Year Plan and will provide a safe and inviting environment in which to do business and engage the local community. The coastal character of the town will be reinforced and enhanced.

Council noted a progress report regard this project at its meeting of 17 November 2009 where Council resolved (inter alia):

"That Council:

1.....

2. Officers commence detailed design of the Tweed Coast Road Cabarita Beach / Bogangar Streetscaping Project."

The detailed design was commenced in accordance with Council's resolution, completed and tenders called.

The work to be performed under Contract EC2010-053 will comprise of the provision of all materials, plant and labour and the performance of all operations of whatever kind necessary for the complete and proper construction of all footpath, median and landscaping works for Tweed Coast Road, Cabarita Beach/Bogangar as designed by Tweed Shire Council.

Evaluation Criteria

Tenders were evaluated based on the criteria listed in Clause 23 contained within the Conditions of Tendering. These criteria are listed below:

Criterion	Weighting %
Tender Price (Total Normalised Score)	35
Time Performance / Program Detail	20
Quality Assurance	15
Current Commitments	5
Contract Experience	15
OHS and Risk Management	10
Total	100

In summary, the evaluation was based on value for money, availability period, quality assurance, technical management, environmental management, financial resources; current commitments and previous performance.

Tenders Received

A total of 8 responses were recorded for EC2010-053 at the Tender Box opening on 23 June 2010 as follows:

Tenderer

Boyds Bay Landscaping Pty Ltd
Comfrey Constructions Pty Ltd
Dig It Landscapes Pty Ltd
ELH Road & Bridge Construction
Greenwood Landscape Management
Penfold Projects Pty Ltd
Relsof Pty Ltd
Scape Shapes Landscaping Pty Ltd

Tender Evaluation

The tender evaluation was based on the evaluation criteria.

The evaluation was conducted by Council's Tender Assessment Panel, consisting of Council's Traffic Engineer, Landscape Architect, Contract Engineer and Civil Engineering Designer.

- 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; and
- Score all responses against the specified price and non-price assessment criteria and agreed assessment criteria weightings.

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) 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.

Probity

It is considered 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

Expected Project Timeframe

The expected duration of the contract is 12 weeks as follows:

- Commence construction August 2010
- Complete construction November 2010

Early commencement of these works is highly recommended to enable works to be completed by the busy Christmas break.

Tender Recommendation

Based on the results of the tender evaluation, it is recommended that the tender by Scape Shapes Landscaping Pty Ltd be accepted for Contract EC2010-053 - Footpath, Median and Landscaping Works for Tweed Coast Road, Cabarita Beach/Bogangar.

Details of Scape Shape Landscaping Pty Ltd relative competitiveness is shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

Scape Shape Landscaping Pty Ltd has completed a number of projects successfully including Ambrose Brown Park Upgrade, Mt Warren Boulevard Streetscape (Logan City) and boardwalk cycleway for Moreton Bay Regional Council. Logan City was contacted and advised that Scape Shape Landscaping Pty Ltd's performance on the Mt Warren Boulevard Streetscape and other recent projects exceeded the minimum standards specified. Recent work performed for Tweed Shire Council (Ambrose Brown Park) was also completed to a high standard.

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.

In addition to the tendered lump sum, a further amount of \$25,000 is required for street-art which will form part of the project. The street-art is not included in the tendered sum and is currently subject to a separate tender. The street-art tender is aimed at using local artists' talents.

Funding of \$422,000 is available within the current 2010/2011 Council budget for these works. Additional funds of \$153,000 will be required to complete the works to cover the

tendered works, street artwork and contingencies. It is considered that trimming back the scope of works, in lieu of the provision of additional funding, will provide an incomplete streetscape as the project already provides a minimal treatment expected by the community. The scope of the originally proposed works has already been significantly reduced by the deletion of streetscaping works from the entire western side of Tweed Coast Road to minimise the expected costs. This reduction in scope was reported to Council at its meeting of 17 November 2009. Additional funding of \$153,000 can be made available from the 2010/2011 Financial Assistance Grant.

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:

1. **Confidential Attachment A** - Tender Evaluation, Pricing Report (ECM 18974822).
 2. **Confidential Attachment B** - Tender Evaluation Spreadsheet (ECM 18890903)
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54 [EO-CM] EQ2010-064 Architectural Consultancy Panel of Providers

ORIGIN:

Contracts

FILE NO: EQ2010-064

SUMMARY OF REPORT:

This report outlines the tender for EQ2010-064 Architectural Consultancy Panel of Providers.

The report provides a recommendation on the formation of a Panel of Providers. 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 a number of companies to the Panel of Providers for Architectural Services which will remain in place for a period of 2 years.

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 following companies be included on a Architectural Consultancy Panel of Providers arrangement to carry out various Architectural assignments:**
 - **Aspect Architecture**
 - **Bark Architects**
 - **Bud Brannigan Architect**
 - **Crisilis Architecture**
 - **David Boram & Associates Pty Ltd**
 - **Gordon Gould Ibson Architects**
 - **Greenway Hirst Page Pty Ltd**
 - **Lightwave**
 - **Mode Design**

- Opus International
- Paul Anthony Jones Architects
- Thomson Adsett

2. Tenders be called from members of the Architectural Consultancy Panel of Providers for each parcel of work as required and in accordance with Councils Procurement Policy and Procedures.
3. The Architectural Consultancy Panel of Providers be engaged for a 2 year period (with an option to extend the period for a further 2 years), from the date of acceptance.
4. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

REPORT:

Background

The work to be performed under subsequent contracts will comprise of the provision of all materials, plant and labour and the performance of all operations of whatever kind necessary for the complete and proper service of Architectural Consultancy work as required.

Tenders Received

A total of 31 responses were received for tender EQ2010-064.

Selection Criteria

The Tender Evaluation Plan was approved on 24 May 2010. The following selection criteria and weightings were determined at that stage.

Item	Criterion	Weighting %
	Tendered Rates	25
	Capability	20
	Quality, OHS & Environment Management	10
	Consultancy Experience	25
	Key Personnel Experience	15
	Work History & Referee Notes	5
	Total	100

Tender Evaluation

The tender evaluation was conducted by Council's Tender Assessment Panel, consisting of Councils Manager Recreation Services, Community Development Officer, Contract Engineer and Project Coordinator. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

Based on the assessment criteria, it is recommended that 12 tenderers be nominated for inclusion into a Panel of Providers for Architectural Services.

Details of the tenderers relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

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** - EQ2010-064 Architectural Consultancy Panel of Providers (ECM 18976848).
 2. **Confidential Attachment B** - EQ2010-064 Tender Evaluation Spreadsheet (ECM 18975840).
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55 [EO-CM] Flooding Notations for Lizzio Subdivision - Condong

ORIGIN:

Planning & Infrastructure

FILE NO: GT1/DCP/A3

SUMMARY OF REPORT:

Council has previously resolved to apply specific flooding notations on Section 149 Certificates and 88B Restrictions on Use for allotments within the Lizzio Subdivision, Condong. Recent flood studies and associated amendments to Development Control Plan Section A3 - Development of Flood Liable Land have meant that these flooding notations require updating, so that landholders are not unnecessarily constrained.

RECOMMENDATION:

That:

- 1. Council approves the amendment to the notations placed on Section 149 Certificates over Lots 1 to 13 in DP 876097 and Lots 13 to 20 in DP 878567 to read as follows:**

- (1) Council has resolved that before any further Development Consents or Construction Certificates are approved or issued in respect of this lot that there be a pre-condition that Council be provided with a geotechnical report to certify that conditions 5, 20 and 21 in respect of Development Consent 95/73 have been complied with and that any building is designed and when constructed will remain at a level that complies with the design flood level and minimum habitable floor level as determined by the latest version of Development Control Plan Section A3 - Development of Flood Liable Land.**

The relevant conditions are: -

- 5. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual.**
- 20. The earthworks shall be carried out in accordance with AS 3798-1990, "Guidelines on earthworks for commercial and residential development". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as nominated in Table 5.1 - Guidelines for Minimum Relative Compaction.**

- 21. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 2 standard in accordance with Appendix 6, AS 3798”.**
- 2. Council approves the variation of Restriction on Use secondly created in DP 876097 over Lots 1 to 12 in DP 876097 and the Restriction on Use secondly created in DP 878567 over Lots 13 to 20 to read as follows:**

“No building shall be approved on a lot unless a geotechnical report is provided to Council certifying that any building is designed and when constructed will remain at a level that complies with the design flood level and minimum habitable floor level as determined by the latest version of Development Control Plan Section A3 - Development of Flood Liable Land”.
- 3. Council executes all necessary documentation under the Common Seal of Council.**

REPORT:

With regard to issues relating to the settlement of land in Carmen Place and Maria Court Condong, within a development referred to as the "Lizzio Subdivision", Council resolved at its meeting of 20 March 2002 that:

- "1. Council forthwith issues notices under Section 124 of the Environmental Planning and Assessment Act to M W Allen & Associates, the Applicant in respect of Development Consent No 95/73 and dated 1 October 1996, and to the owner of the property as at 1 October 1996 for breach of the following numbered conditions of the Consent, namely Conditions 5, 20 21 and 26, these conditions being:
 5. The subdivision is to be carried out in accordance with Development Control Plan No 16 – Subdivisions Manual.
 20. The earthworks shall be carried out in accordance with AS 3798-1990, "Guidelines on earthworks for commercial and residential development". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as nominated in Table 5.1 – Guidelines for Minimum Relative Compaction.
 21. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 2 standard in accordance with Appendix 6, AS 3798.
 26. All residential lots are to be filled to a minimum of the design flood level of RL 5.0m AHD, with habitable floor levels 300mm above this, ie RL 5.3m AHD. A batter may extend into the allotments but only to a distance of 4m.
2. Before Council approves or issues any further Development Consents or Construction Certificates in respect of any lot in the subdivision that there be a pre-condition that Council be provided with a geotechnical report to certify that conditions of consent 7, 20 and 21 have been complied with and that any building is and will remain above the 1:100 year flood level.
3. Council notes on any further applications for S149 Certificates the pre-conditions set out in 2 above.
4. The attached draft letter (Attachment 10) be sent to property owners except as detailed in Item 5.
5. The attached draft letter (Attachment 11) be forwarded to owners where Council has carried out a check survey of the floor slab.
6. The attached draft letter (Attachment 12) be forwarded to local accredited certifiers under the BSAP Accreditation Scheme and a advertisement advising of this information be placed in the Tweed Link."

In accordance with part 3 of that resolution, the following notation has been placed on s149 certificates for all properties within the Lizzio Subdivision to the present date:

"(1) This lot is located in an area that could be subjected to inundation in major floods.

In this area Council has adopted a design flood level of RL 5.0m AHD and requires new residential dwellings to be constructed with a minimum floor level of RL 5.3m AHD.

Council has resolved that before any further Development Consents or Construction Certificates are approved or issued in respect of this lot that there be a pre-condition that Council be provided with a geotechnical report to certify that conditions 5, 20, 21 and 26 in respect of Development Consent 95/73 have been complied with and that any building is and will remain above the 1:100 year flood level.

The relevant conditions are: -

- 5. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual.*
- 20. The earthworks shall be carried out in accordance with AS 3798-1990, "Guidelines on earthworks for commercial and residential development". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as nominated in Table 5.1 - Guidelines for Minimum Relative Compaction.*
- 21. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 2 standard in accordance with Appendix 6, AS 3798.*
- 26. All residential lots are to be filled to a minimum of the design flood level of RL 5.0m AHD, with habitable floor levels 300mm above this, ie. RL 5.3m AHD. A batter may extend into the allotments but only to a distance of 4m."*

At its meeting of 18 May 2010, Council adopted Version 1.3 of Development Control Plan Section A3 - Development of Flood Liable Land, which incorporated new design flood level information from the 2009 update of the Tweed Valley Flood Study. Mapping shows that the 100 year ARI flood level applicable to the Lizzio Subdivision is RL 4.2m AHD. In the absence of the previous Council resolution, this would be applied as the design flood level for residential properties within the subdivision. Application of a standard 500mm freeboard provides a minimum habitable floor level requirement of RL 4.7m AHD.

This significant reduction in flood planning levels for Lizzio subdivision can be attributed to far more sophisticated flood modelling, more detailed ground level data from airborne laser scanning, and proper consideration of flood gradient through Condong.

Based on this latest flooding data, it is recommended that the flooding notation on section 149 certificates applicable to allotments within the Lizzio subdivision be amended to read as follows:

- "(1) Council has resolved that before any further Development Consents or Construction Certificates are approved or issued in respect of this lot that there be a pre-condition that Council be provided with a geotechnical report to certify that conditions 5, 20 and 21 in respect of Development Consent 95/73 have been complied with and that any building is designed and when constructed will remain at a level that complies with the design flood level and minimum habitable floor level as determined by the latest version of Development Control Plan Section A3 - Development of Flood Liable Land.*

The relevant conditions are: -

- 5. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual.*
- 20. The earthworks shall be carried out in accordance with AS 3798-1990,*

"Guidelines on earthworks for commercial and residential development". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as nominated in Table 5.1 - Guidelines for Minimum Relative Compaction.

21. *The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 2 standard in accordance with Appendix 6, AS 3798."*

On registration of the parent subdivision plans, the following Restriction on Use of Land was created for each residential land parcel:

"No building shall be erected on a lot having a floor level of less than 300mm above the design flood level of RL 5.0m AHD."

As a consequence of the change to adopted floor levels, landowners may be unnecessarily constrained by the 88B restriction currently over the land. Council is empowered to vary release and or modify the relevant Restriction on Use registered over each residential parcel and is able to resolve to vary the Restriction on Use to read:

"No building shall be approved on a lot unless a geotechnical report is provided to Council certifying that any building is designed and when constructed will remain at a level that complies with the design flood level and minimum habitable floor level as determined by the latest version of Development Control Plan Section A3 - Development of Flood Liable Land".

This ensures that the new Restriction on Use shall reflect the amended notations on s149 certificates over the affected parcels.

While Council is unable to direct all affected landowners to amend the Restriction on Use on all affected land titles, Council is able to seek that the Restriction be varied, by the registration of a Variation of Restriction LPI form over the title, as a condition of consent when assessing Development Applications for dwellings on the affected parcels.

It is therefore recommended that Council resolves to agree to vary the Restriction on Use, secondly referred to in both DP 876097 and DP 878567 over Lots 1 to 12 in DP 876097 and Lots 13 to 20 in DP 878567 within the Lizzio Subdivision to reflect new flood planning levels (design flood levels and minimum habitable floor levels) in accordance with those adopted in DCP Section A3.

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.

56 [EO-CM] Infrastructure Program 2010/2011

ORIGIN:

Works

SUMMARY OF REPORT:

Submitted for Council's consideration is the proposed Infrastructure Program for 2010/2011. The total Program is for \$56m and represents a range of improvements to existing assets and some new assets.

Generally the road and bridge construction programs are based on the previously approved 5 year forward program.

The water supply and sewerage construction program contains infrastructure projects commencing in the 2011 financial year.

RECOMMENDATION:

That Council approves the Infrastructure Program for 2010/2011 as detailed in the report.

REPORT:

Infrastructure Program - Key Issues

The proposed 2010/2011 Infrastructure Program of \$56m represents a range of improvements to existing assets and some new assets.

The major capital works items include:-

Item	Proposed 2010/2011 Expenditure \$M	Comments
Replace timber bridges	\$1.4m	Snake Creek Bridge on Kyogle Road including approaches
Piggabeen Bypass	\$0.32m	Final Asphalt Surfacing
Urban street upgrading	\$1.81m	Includes commencement of urban reconstruction of bypassed section of Piggabeen Road
Rural road upgrading	\$1.32m	
Kyogle Road realignment and widening at Terragon	\$0.5m	Completion of current project
Sealing of School Bus Routes	\$0.53m	
Kennedy Drive	\$0.91m	Commencement of pavement rehabilitation (subject to solution to powerline relocation and other TRCP priorities)
Stage 2 of Banora Terrace drainage improvement	\$0.4m	
Sports fields capital works	\$1.46m	
Park furniture renewals	\$0.82m	
Tyalgum Water Treatment Plant Upgrade	\$0.96m	
Banora Point Waste Water Treatment Plant Upgrade	\$25m	

Project delivery is managed by a combination of in house and external resources.

Most larger jobs are being delivered by a contract process and the design of major works is generally carried out by specialist consultants.

Roads

Council maintains 1 227km of local roads which are made up of:-

470km	Urban Sealed
587km	Rural Sealed
170km	Rural Unsealed

In addition there are 150km of Regional Roads to maintain.

Council has had a Pavement Management System (PMS) for its sealed roads since the late 1980s which is used to assist in the determination of the five year forward program. The PMS is predicated on visual inspections of the pavement. Other factors used in determining relative priority are:-

- Traffic volumes
- Drainage problems
- Bus routes
- Safety

A brief summary of the various programs follows:-

Rehabilitation Program - AC Resurfacing

Asphalt surfaced roads require regular resurfacing or rejuvenation. This ongoing program provides for approximately 40% of the cyclical program.

School Bus Route Sealing - (04/05 RateRise) Program

This program provides basic sealing of existing gravel roads to improve travel conditions on school bus routes. 2010/2011 is the final year for this program as the associated rate rise lapses.

Asphalt Resheeting (04/05 Rate Rise)

Asphalt surfaced roads require regular resurfacing or rejuvenation. This program provides approximately 60% of the required funding. 2010/2011 is the final year for this program as the associated rate rise lapses.

7 Year Plan Items

The 7 Year Plan for roads infrastructure is targeted at increasing asset life through improved and increased maintenance.

Gravel Re-sheeting: Gravel roads require regular re-sheeting with gravel to replace wear and erosion. The 7 Year Plan provides the majority of the funding required for this cyclical program.

Sealed Roads Resurfacing: Spray sealed roads require regular resealing to maintain the waterproof seal and traction. The 7 Year Plan provides about 30% of the required funding for this cyclical program.

Sealed Roads Rehabilitation: The 7 Year Plan provides funding for heavy patching and rehabilitation of deteriorated sealed roads.

Kerb and gutter Rehabilitation: The 7 Year Plan provides funding for replacement of deteriorated sections of kerb and guttering.

Urban Street Reconstruction

This program provides for upgrading of old sealed urban roads. Projects usually include: kerb & guttering; drainage improvement; widening; and pavement & surfacing renewal.

Rural Road Reconstruction

This program provides for rehabilitation and upgrading of old, sealed rural roads. Projects usually include pavement strengthening and resurfacing, and minor re-alignment.

Roads to Recovery Program

The Roads to Recovery funding is used for three purposes:

- To accelerate the Sealing School Bus Routes Program;
- To accelerate the Rural Road Reconstruction Program; and
- To provide supplementary or co-funding for Regional Road projects.

Black Spot Program

This program is dependent on grant funding. Projects are assessed for priority on a state-wide basis.

Federal Assistance Grants Program

This program is used for:

- Advanced survey, design and land acquisition for future projects;
- Funding of major road upgrades; and
- Co-funding of Regional Roads and Blackspot projects.

Repair Program

This program provides 50% grant funding for Regional Roads rehabilitation or upgrading projects.

TRCP Program

This is Council's road development program funded by developer contributions.

Bridges

Bridge Construction

Council has had a timber bridge replacement program for approximately 20 years and this has significantly reduced the number of timber bridges in the shire to 41 out of a total of 240. In 2006/2007 the NSW Government announced the Timber Bridges Partnership Program that will provide co-funding for the replacement of timber bridges on Regional Roads. Council has been fortunate in having 3 bridges on Kyogle Road included on the Program. The most recent project completion was O'Briens Bridge.

Drainage

Drainage Asset Management (04/05 Rate Rise)

This program provides for minor upgrades and rehabilitation of the stormwater drainage network.

2010/2011 is the final year for this program as the associated rate rise lapses.

Drainage Construction

This program provides for major drainage upgrade projects.

Stormwater Drainage Rehabilitation (7 Year Plan)

This program provides for:

- Rehabilitation of existing infrastructure; and
- Major upgrading of stormwater drainage.

2010/2011 INFRASTRUCTURE PROGRAM**ROADS**

Rehabilitation Program - AC Resurfacing	263 700
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School Bus Route Sealing - (04/05 RateRise) Program	534 756
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Everinghams Road	263 000
Nobbys Creek Road	71 756
Urliup Road (Mbah end)	200 000

Total	534 756
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Asphalt Resheeting (04/05 Rate Rise)	367 644
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7 Year Plan Items	1 647 200
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*Gravel Resheeting of Unsealed Roads	398 000
*Sealed road resurfacing	490 300
*Sealed road rehabilitation	688 900
*Kerb & gutter rehabilitation	70 000

Total	1 647 200
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Streetscaping (7 Year Plan)	422 000
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Cabarita Streetscaping	422 000
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Total	422 000
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Urban Street Reconstruction	1 814 898
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Barellan Drive - AC Overlay	50 000
Broadwater Esp - K&G + Pavement- completion	150 000
River Street - K&G + Pavement	640 000
Coral Street (Bilambil Heights)	60 000
Piggabeen Road - K&G + Pavement	914 898

Total	1 814 898
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Rural Road Reconstruction	1 323 000
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Tyalgum Road - Pavement rehab	649 000
Nobbys Creek Rd - Pavement rehab	446 000

Council Meeting held Tuesday 20 July 2010

Gravel Resheeting - unsealed road resheeting	228 000
Total	1 323 000

Roads to Recovery Program	1 223 354
Kyogle Rd - approaches to Snake Creek Bridge	600 000
Ourimbah Road - K&G + Pavement Rehab	300 000
Piggabeen Road - K&G + Pavement	323 354
Total	1 223 354

Black Spot Program	80 000
Tyalgum Road - kerb advisory signs etc - delineation	80 000
Total	80 000

Federal Assistance Grants Program	2 193 162
Kennedy Drive	910 000
Contribution To Regional "Repair" Program (50%)	350 000
Contribution To "Blackspot" Program (50%)	100 000
Piggabeen Road Bypass - Lay final AC surface	320 000
Carool Road - Pavement Rehab	112 000
Advanced Survey & Land Acquisition	401 162
Total	2 193 162

Repair Program	502 000
Kyogle Rd - Clarrie Hall Dam to Palmers Rd Completion	502 000
Total	502 000

Private Works	20 000
Road closures for events	20 000
Total	20 000

Minor Traffic Facilities	60 000
Uki Village threshold treatment	20 000
Various	40 000
Total	60 000

BRIDGES

Bridge Construction	992 500
Charltons Bridge - Commencement	192 500
Snake Creek Bridge	800 000
Twin bridge - Completion	0
Total	992 500

DRAINAGE

Drainage Asset Management (04/05 Rate Rise)	115 398
Total	115 398

Drainage Construction	940 000
Tamarind Street Cabarita	25 000
McKissock Drive Kingscliff	20 000
Banora Terrace Stage 2	400 000
Banner Lane Murwillumbah	20 000
Buenavista Drive	300 000
Young Street	160 000
Winders Place - Lake Kimberley revetment	15 000
Total Drainage Construction	940 000

Stormwater Drainage Rehabilitation (7 Year Plan)	1 250 000
Drainage rehabilitation - various locations	450 000
West Kingscliff	800 000
Total Drainage Rehabilitation	1 250 000

FOOTPATHS

Pedestrian Facilities (04/05 Rate Rise)	54,896
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Footpaths Rehabilitation (7 Year Plan)	266,000
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Footpath Construction Program	119 013
Monarch Dr - Lorien Way to Kingfisher Circuit	27 163
Elrond Dr - Monarch Dr to Turnock St	21 187
Fraser Dr - old Water Sports Club to Acia St & existing path	17 395
Kyogle Rd Uki - Hardings DWY west towards fields	19 490
Chinderah Bay Dr - Jenners cnr towards Hotel	14 105
Cabarita Rd Oleander Ave to Poinciana Ave	19 673
Total	119 013

CYCLEWAYS

Cycleway Program	92 200
Keith Compton Drive	92 200
Total	92 200

RECREATION SERVICES

Public Toilets Capital Works	170 000
Budd Park, Murwillumbah Refurbish	75 000
Old Fingal Boat Harbour	75 000
Toilet Block Rationalisation – Stage 1	20 000
Total	170 000

Sportsfield Capital Works Program	1 460 000
Knox Park Netball Clubhouse Refurbish	80 000
Walter Peate - relocate and replace amenities Stage 1 - Building Preliminaries & design	20 000
Casuarina Hockey Canteen and club facilities	50 000
Shire wide Irrigation Management System	100 000
Jim Devine Building full refurbishment – Stage 1 Design and Preliminaries	30 000
St Josephs Playing Fields - amenities block	100 000
Black Rocks Stage 1 - Shelter Sheds	30 000
Barry Sheppard sportsfield lights, amenities – Stage 1	30 000
Les Burger - expansion to amenities building and first stage of construction of additional playing field	100 000
Depot Rd Sportsfields development – Stage 1 Site infrastructure and field lights plus building design	600 000
Arkininstall Park Regional Sports Centre Preliminary infrastructure and designs	300 000
Barry Smith Hockey Field Stage 1 – Design and Procurement	20 000
Total	1 460 000

Park Furniture	825 000
Hastings Point - replacement of picnic shelters, BBQ, bins and bollarding	250 000
Pioneer Park - replacement of shelters	40 000
Fingal Foreshore beach front - replacement of picnic shelters, BBQ, bins and bollarding	40 000
Old Fingal Boat Harbour – Park Redesign including replacement of picnic shelters, BBQ, bins and bollarding	450 000
South Kingscliff - replacement of picnic shelters, BBQ, bins and bollarding	45 000
Total	825 000

Playgrounds	95 000
Sutter Park South Tweed	40 000
Turnock Park, Chinderah	40 000
Alan McIntosh Park, Cudgen	15 000
Total	95 000

Water Supply & Sewerage

The water supply and sewerage construction program below contains infrastructure projects commencing in the 2011 financial year.”

WATER 2011 CAPITAL PROGRAM		
Tyalgum WTP Upgrade	Construction	960 000
WPS 8 Hillcrest Res (generator)	Construction	60 000
WPS 9 North Tumbulgum	Flow Metering	10 000
WPS 10 Eviron Road, Nunderi	Flow Metering	10 000
WPS 11 Bilambil Village	Telemetry Upgrade	25 000
WPS 12 Terranora Cnr Bilambil Road	Telemetry Upgrade	25 000
WPS 23 Hillcrest Booster	Construction	230 000
WPS 27 Glenys Booster	General	110 000
Banora Point Reservoir	Rehabilitation	50 000
Burns Hill Reservoir	Civil Upgrade	75 000
Hospital Hill 2 Reservoir	Rehabilitation	490 000
Kennedy Drive East Bypass To Boyds Bay Brdge 450mm	Trunk Main Upgrade	1 000 000
Kyogle Rd Tree St Nth to cane drain (St 2) 250mm x 700m	Trunk Main Upgrade	230 000
North Arm Road Duplication 300mm x 1950m St 1	Trunk Main New	900 000
North Arm Road Duplication 300mm x 1950m St 2	Trunk Main New	700 000
River St Prospero to Stafford 100mm, 300mm	Mains Replacement	50 000
Dorothy Street 100mm x 280m	Mains Replacement	50 000
Charles & Stanley Sts Adelaide to Alva Twd Hds 100mm x 470m	Mains Replacement	94 000
Minjungbal Dr - Kirk to Mach Dr 150mm x 230m	Mains New	140 000
Greville St Murwillumbah 100m x 100m	Mains New	40 000
WPS8 to Glenys St Res 100mm x 240m	Mains New	120 000
Kennedy Drive 150mm x 1180m northern side, 200mm x 1600m southern side	Mains New	100 000
Basalt Lane 240m x 150mm	Mains Upgrade	120 000
Piggabeen Rd West from Anconia 165m x 150mm	Mains Upgrade	90 000
Thomson St 250mm x 145m + 20mm x 450m	Mains Upgrade	241 000
Angela St 150mm x 150m	Mains Upgrade	53 000
Pearl St 150mm x 280m	Mains Upgrade	103 000
Beryl St 150mm x 455m	Mains Upgrade	176 000
Florence St 150mm x 370mm	Mains Upgrade	144 000
Total:		6 396 000

SEWER 2011 CAPITAL PROGRAM		
SPS 1003 Charles Lane	Mechanical Upgrade	20 000
SPS 1003 Charles Lane	Electrical Upgrade	5 000
SPS 1015 Tweed Valley Way	Electrical Upgrade	35 000
SPS 1016 Tweed Valley Way	Electrical Upgrade	22 000
SPS 1018 Colonial Drive, Condong	Electrical Upgrade	8 500
SPS 1019 Mcleod Street, Condong	Electrical Upgrade	10 000
SPS 2036 Fern Street	Electrical Upgrade	50 000
SPS 2038 Peninsula Drive	Electrical Upgrade	170 000
SPS 2049 Meridian Way Syphon Ps	Civil Upgrade	140 000
SPS 3010 Cox Drive (Small)	Electrical Upgrade	20 000
SPS 3015 Bosun Boulevard	SPS Upgrade	235 000
	Collector Access	
SPS 3028 Enterprise Ave	Chamber Upgrade	80 000
SRM 1005 Tweed Valley Way Buchanan St	SRM Replacement	40 000
SRM 1023 North Arm Road 250mm x 1200m	SRM New	341 000
SRM 2052 Kennedy Dr 450mm x 1050m	SRM New	100 000
Gravity Sewer Relining	Annual Program	500 000
Trunk to SPS 3001 P'Hwy	Gravity Sewer Upgrade	60 000
	Gravity Sewer	
South Murwillumbah EG/12 to EG/10	Replacement	45 000
	Gravity Sewer	
M/H A/1A reconstruction Mbah	Replacement	50 000
	Gravity Sewer	
Manhole Telemetry Sites	Replacement	50 000
	Gravity Sewer	
Sewer diversion 131 Byangum Rd	Replacement	15 000
Banora Point WWTP Biosolids Mgt	Biosolids Management	1 300 000
Banora Point WWTP Eff Quality Upgr	Construction	25 000 000
Banora Point WWTP Outfall Upgrade to 125000EP	SRM New	200 000
Tumbulgum WWTP	EAT Aerators	60 000
Tyalgum WWTP	Effluent Reuse	20 000
Burringbar WWTP	Construction	1 450 000
Burringbar Reticulation	Construction	2 520 000
Tumbulgum VIC Telemetry	Service Lines	15 000
Les Burger Field	Effluent Reuse	300 000
	Total	32 861 500

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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57 [EO-CM] Road Capacity Limits on Cobaki Lakes Part 3A Development Proposal

ORIGIN:

Director Engineering and Operations

SUMMARY OF REPORT:

The NSW Government has announced developer contributions will be capped at \$20,000 per lot with no indexation.

Cobaki Lakes has one arterial road access via a 2 lane bridge over the Tugun Bypass to Boyd Street, Tugun. Through the use of developer contributions, Council had planned to duplicate the bridge over Tugun Bypass to 4 lanes and later upgrade the bridge to a full interchange. It was also planned to extend Cobaki Parkway to the south and build a bridge over Cobaki Creek to connect Cobaki Lakes to Piggabeen Road and the rest of the Tweed.

Due to loss of developer contributions because of the NSW Government's \$20,000 cap, Council will be unable to fund these planned works. Without these additional road connections the road capacity to access Cobaki Lakes is constrained and will reduce the number of housing lots that can be developed at Cobaki Lakes from 5,300 back to 3,007.

RECOMMENDATION:

That Council advise the NSW Department of Planning, that:

- 1 Due to the NSW Government's decision to hard cap developer contributions at an unindexed amount of \$20,000 per housing lot, Council will now be unable to fund planned roadworks required to provide the additional traffic capacity to service the Cobaki Lakes Development. These works include duplication of the bridge over Tugun Bypass to 4 lanes (with later upgrade to a full interchange) and extension of Cobaki Parkway to the south with a bridge over Cobaki Creek connecting to Piggabeen Road.**
- 2. The existing 2 lane bridge over Tugun Bypass is the only arterial road link to Cobaki Lakes and will only support development of 3,007 housing lots at Cobaki Lakes, not the 5,300 planned lots that could have been serviced by the proposed roadworks.**
- 3. Approvals for development at Cobaki Lakes to be issued by the Department should not exceed 3,007 residential lots or equivalent.**

REPORT:

1. Background

The NSW Government has announced Developer Contributions will be capped at \$20,000 per lot with no indexation.

At its meeting held 15 June 2010 Council resolved:

“that Council:

1. Seeks a meeting with the Premier and Minister for Planning to obtain a reversal of the NSW Government's Decision to hard cap Developer Contributions at an unindexed amount of \$20,000 per housing lot.
2. Rejects the option of raising annual rates to bridge the shortfall in developer contributions to provide infrastructure to service urban release areas.
3. Advises the NSW Department of Planning that it can no longer guarantee the funding of infrastructure required for current Part 3A Development Proposals (including Cobaki Lakes, Kings Forest, The Rise, Bilambil Village) and that concept plans and project plans for these developments should only be approved within population limits that can be serviced by infrastructure that Council can fund within the \$20,000 contribution cap.
4. Negotiates with the NSW Government to transfer the responsibility for construction and funding of arterial roads required to service urban growth areas to the NSW Roads and Traffic Authority (RTA). (See Note below).

Note: This would require NSW State Government commitment to funding over \$300M for these projects. This would involve transferring responsibility to the RTA for Cobaki Parkway, Boyd Street Interchange, Cobaki Creek Bridge, Scenic Drive Deviation, McAllisters Road Extension, Kirkwood Road from Minjungbal Drive to Fraser Drive including highway overbridge and service roads/bridges across Terranora Creek connecting to Kennedy Drive, Kennedy Drive upgrade, Tweed Coast Road duplication and many other smaller projects. There is a precedent for this action as the RTA has generously funded arterial roads needed for urban growth in the Sydney and Central Coast areas.”

In regard to Item 3 above a preliminary analysis has been done on the capacity of road infrastructure to service Cobaki Lakes.

2. Amount Of Development At Cobaki Lakes That Can Be Serviced By Tweed Shire Road Network

Cobaki Lakes is accessed by a two lane bridge across the Tugun Bypass to Boyd Street Tugun. Council contributed \$6.45M to the Qld Department of Main Roads for construction of this bridge from developer contributions which included a \$2.8M advance payment from the developer of Cobaki Lakes, Leda Manorstead.

This 2 lane bridge provides a capacity at *Level of Service C* of 20,300 vehicles per day. This is sufficient road capacity to service 3,007 housing lots at Cobaki Lakes.

It had been proposed to increase the road capacity to service Cobaki Lakes by the addition of:

- Upgrade of the bridge over Tugun Bypass to 4 lanes with later upgrade to a full interchange
- Connect Cobaki Lakes to Tweed Shire by extending Cobaki Parkway to the south, including a bridge over Cobaki Creek and connection to Piggabeen Road.

3. Impact of the NSW Government's \$20,000 Developer Contributions Cap

The Cobaki Lakes Concept Plan proposes around 5,300 new housing allotments at Cobaki Lakes.

It had been planned in the TRCP to use future developer contributions to substantially increase the arterial road connections and traffic capacity to service the Cobaki Lakes Development. The impact of the NSW Government's decision to hard cap Developer Contributions at an unindexed amount of \$20,000 per housing lot means that Council will now be unable to deliver these roads upgrades to service Cobaki Lakes.

This will mean that development of Cobaki Lakes is capped at 3,007 lots, the road capacity available over the 2 lane Tugun Bypass overbridge. The Cobaki Lakes Development is being processed as a Part 3A application by the NSW Department of Planning, Council has no determining role, but is expected to provide, operate and maintain the infrastructure to service the development. The Department needs to be advised that there is now a limit on the roads systems capacity to service beyond 3,007 lots.

It may be possible for the proponent of Cobaki Lakes to fund the necessary additional road works themselves. These road works would benefit other developers, particularly in the Bilambil Heights area and The "Rise". The Cobaki Lakes proponent could negotiate with these other beneficiaries to share costs on an agreed apportioned basis. This would be a difficult process to manage and would end up with developers paying more, and having far less certainty than they would have if the NSW Government had not capped Section 94 Developer contributions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Loss of developer funds to construct essential infrastructure which would have enabled land to be developed for residential use.

POLICY IMPLICATIONS:

The NSW Governments developer contributions cap will substantially reduce the number of housing lots that can be developed at Cobaki Lakes as Council will have insufficient developer contribution funds to provide required road capacity to the development. Housing land availability will be reduced and will cause the cost of housing land to substantially rise.

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 Roads Contribution Plan - Major Road Projects and Urban Release Areas (ECM 19117812).
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58 [EO-CM] Road Capacity Limits on Kings Forest Part 3A Development Proposal

ORIGIN:

Director Engineering & Operations

SUMMARY OF REPORT:

The NSW Government has announced developer contributions will be capped at \$20,000 per lot with no indexation.

Kings Forest has one arterial road access, via a proposed intersection on the Tweed Coast Road near Depot road. Through the use of developer contributions, Council had planned to duplicate the Tweed Coast Road to 4 lanes from Chinderah Interchange to Casuarina to accommodate the traffic accessing Kings Forest and other developments in the West Kingscliff and Tweed Coast localities.

Due to loss of developer contributions, because of the NSW Government's \$20,000 cap, Council will now be unable to duplicate the Tweed Coast Road. Without this additional road duplication, the road capacity to access Kings Forest is constrained and the number of housing lots that can be developed at Kings Forest will be reduced from 4,500 back to 1,267.

RECOMMENDATION:

That Council advise the NSW Department of Planning, that:

- 1. Due to the NSW Government's decision to hard cap developer contributions at an unindexed amount of \$20,000 per housing lot, Council will now be unable to fund planned roadworks required to provide additional traffic capacity to service the Kings Forest development. These works consist of duplication of the Tweed Coast Road to 4 lanes from the Chinderah Interchange to Casuarina.**
- 2. The 2 lane Tweed Coast Road is the only arterial road link to Kings Forest and will only support development of 1,267 housing lots at Kings Forest, not the 4,500 planned lots that could have been serviced by a duplicated Tweed Coast Road.**
- 3. Approvals for development at Kings Forest to be issued by the Department should not exceed 1,267 residential lots or equivalent.**

REPORT:

1. Background

The NSW Government has announced Developer Contributions will be capped at \$20,000 per lot with no indexation.

At its meeting held 15 June 2010 Council resolved:

“that Council:

1. *Seeks a meeting with the Premier and Minister for Planning to obtain a reversal of the NSW Government's Decision to hard cap Developer Contributions at an unindexed amount of \$20,000 per housing lot.*
2. *Rejects the option of raising annual rates to bridge the shortfall in developer contributions to provide infrastructure to service urban release areas.*
3. *Advises the NSW Department of Planning that it can no longer guarantee the funding of infrastructure required for current Part 3A Development Proposals (including Cobaki Lakes, Kings Forest, The Rise, Bilambil Village) and that concept plans and project plans for these developments should only be approved within population limits that can be serviced by infrastructure that Council can fund within the \$20,000 contribution cap.*
4. *Negotiates with the NSW Government to transfer the responsibility for construction and funding of arterial roads required to service urban growth areas to the NSW Roads and Traffic Authority (RTA). (See Note below).*

Note: This would require NSW State Government commitment to funding over \$300M for these projects. This would involve transferring responsibility to the RTA for Cobaki Parkway, Boyd Street Interchange, Cobaki Creek Bridge, Scenic Drive Deviation, McAllisters Road Extension, Kirkwood Road from Minjungbal Drive to Fraser Drive including highway overbridge and service roads/bridges across Terranora Creek connecting to Kennedy Drive, Kennedy Drive upgrade, Tweed Coast Road duplication and many other smaller projects. There is a precedent for this action as the RTA has generously funded arterial roads needed for urban growth in the Sydney and Central Coast areas.”

In regard to Item 3 above a preliminary analysis has been done on the capacity of road infrastructure to service Kings Forest.

2. Amount Of Development At Kings Forest That Can Be Serviced By Tweed Shire Road Network

Kings Forest is accessed by a proposed intersection onto the Tweed Coast Road near the current Depot Road intersection. The road network capacity to service Kings Forest is limited by the available capacity on the Tweed Coast Road.

The Tweed Coast Road is a two lane rural road extending south from the Pacific Highway interchange at Chinderah to Cudgen, Depot Road, Casuarina and Cabarita Beach/Bogangar. The section from Chinderah to Casuarina (previously named “Old

Bogangar Road”) was funded by Section 94 contributions as required by the Tweed Road Contributions Plan (TRCP).

It had been planned to upgrade this section of road from 2 to 4 lanes to increase its capacity to service urban release areas at Kings Forest, West Kingscliff and further development at Casuarina.

The barrel (excluding intersection constraints) capacity of the 2 lane Tweed Coast Road at *Level of Service C* is 20,300 vehicles per day. By 2015 the volume of traffic on the Tweed Coast Road is expected to be 11,750 vehicles per day from sources other than Kings Forest, leaving a residual capacity for Kings Forest of 8,550 vehicles per day. This is sufficient capacity to only service 1,267 lots at Kings Forest.

3. Impact of the NSW Government’s \$20,000 Developer Contributions Cap

The Kings Forest Concept Plan proposes around 4,500 new housing allotments at Kings Forest.

It had been planned in the TRCP to use future developer contributions to substantially increase the arterial road traffic capacity to service the Kings Forest Development. The impact of the NSW Government’s decision to hard cap Developer Contributions at an unindexed amount of \$20,000 per housing lot means that Council will now be unable to deliver this road upgrade to service Kings Forest.

This will mean that development of Kings Forest is capped at 1,267 lots.

It may be possible for the proponent of Kings Forest to fund the necessary additional road works themselves. These road works would benefit other developers, particularly in the Kingscliff, West Kingscliff and Tweed Coast localities. The Cobaki Lakes proponent could negotiate with these other beneficiaries to share costs on an agreed apportioned basis. This would be a difficult process to manage and would end up with developers paying more and having far less certainty than they would have if the NSW Government had not capped Section 94 Developer Contributions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Loss of developer funds to construct essential infrastructure which would have enabled land to be developed for residential use.

POLICY IMPLICATIONS:

The NSW Governments developer contributions cap will drastically reduce the number of housing lots that can be developed at Kings Forest as Council will have insufficient developer contribution funds to provide required road capacity to the development. Housing land availability will be reduced and will cause the cost of housing land to substantially rise.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Tweed Roads Contribution Plan - Major Road Projects and Urban Release Areas (ECM 19117812).
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59 [EO-CM] Road Capacity Limits on the "Rise" Development Bilambil Heights, Part 3A Development Proposal

ORIGIN:

Director Engineering & Operations

SUMMARY OF REPORT:

The NSW Government has announced developer contributions will be capped at \$20,000 per lot with no indexation.

The "Rise" Concept Part 3A Plan has recently been approved by the NSW Government for ultimate development of 1,604 residential lots. The approval initially limits development to 526 housing lots due to insufficient traffic capacity on Kennedy Drive. The approval advises that further development to the ultimate 1,604 lots is reliant on connection to the Cobaki Parkway (which requires Council to extend Cobaki Parkway to the south, build a new bridge over Cobaki Creek and connect to Piggabeen Road) and construction of the Boyd Street interchange with the Tugun Bypass.

Due to loss of developer contributions because of the NSW Government's \$20,000 cap, Council will be unable to fund these planned works. Without these additional road connections the road capacity to access the "Rise" will be constrained indefinitely and the number of housing lots that can be developed at the "Rise" Lakes will not be able to be increased from 526 to 1604 lots.

RECOMMENDATION:

That Council advise the NSW Department of Planning, that:

- 1. Due to the NSW Government's decision to hard cap developer contributions at an unindexed amount of \$20,000 per housing lot, Council will now be unable to fund planned roadworks required to provide the additional traffic capacity to service the ultimate proposed development at the "Rise", Bilambil Heights. These works included duplication of the bridge over Tugun Bypass to 4 lanes (with later upgrade to a full interchange) and extension of Cobaki Parkway to the south with a bridge over Cobaki Creek connecting to Piggabeen Road.**
- 2. The existing network connecting the "Rise" to Scenic Drive and Piggabeen Road is constrained by the capacity of Kennedy Drive and will only support development of 526 housing lots at the "Rise". The increase to 1604 lots cannot be serviced in the future as Council will now be unable to proceed with necessary connecting roadworks.**
- 3. Approvals for development at the "Rise" Bilambil Heights to be issued by the Department should not exceed 526 residential lots or equivalent.**

REPORT:

1. Background

The NSW Government has announced Developer Contributions will be capped at \$20,000 per lot with no indexation.

At its meeting held 15 June 2010 Council resolved:

“that Council:

1. Seeks a meeting with the Premier and Minister for Planning to obtain a reversal of the NSW Government's Decision to hard cap Developer Contributions at an unindexed amount of \$20,000 per housing lot.
2. Rejects the option of raising annual rates to bridge the shortfall in developer contributions to provide infrastructure to service urban release areas.
3. Advises the NSW Department of Planning that it can no longer guarantee the funding of infrastructure required for current Part 3A Development Proposals (including Cobaki Lakes, Kings Forest, The Rise, Bilambil Village) and that concept plans and project plans for these developments should only be approved within population limits that can be serviced by infrastructure that Council can fund within the \$20,000 contribution cap.
4. Negotiates with the NSW Government to transfer the responsibility for construction and funding of arterial roads required to service urban growth areas to the NSW Roads and Traffic Authority (RTA). (See Note below).

Note: This would require NSW State Government commitment to funding over \$300M for these projects. This would involve transferring responsibility to the RTA for Cobaki Parkway, Boyd Street Interchange, Cobaki Creek Bridge, Scenic Drive Deviation, McAllisters Road Extension, Kirkwood Road from Minjungbal Drive to Fraser Drive including highway overbridge and service roads/bridges across Terranora Creek connecting to Kennedy Drive, Kennedy Drive upgrade, Tweed Coast Road duplication and many other smaller projects. There is a precedent for this action as the RTA has generously funded arterial roads needed for urban growth in the Sydney and Central Coast areas.”

In regard to Item 3 above a preliminary analysis has been done on the capacity of road infrastructure to service the "Rise" at Bilambil Heights.

2. Amount Of Development at the "Rise" Bilambil Heights that Can Be Serviced By Tweed Shire Road Network

The proposed "Rise" development at Bilambil Heights contains a planned "spine" road that connects the development to Cobaki Creek Road in the north and Marana Street in the south. The Cobaki Creek outlet connects to Kennedy Drive via Piggabeen Road. The Marana Street outlet connects to Kennedy Drive via Scenic Drive. About 68% of traffic to/from the "Rise" is expected to reach/originate from Kennedy Drive, the remainder is expected to circulate locally and a minor portion exit/enter to/from the south through Bilambil Village. The capacity of Kennedy Drive is severely constrained and a 3,221 trip capacity that

has been allocated to the "Rise" will see its capacity exhausted (except for a small allowance for infill development in the catchment west of Kennedy Drive).

To divert traffic from Kennedy Drive (to provide capacity for ultimate development of the "Rise"), it had been planned to provide an alternative arterial road access for the "Rise" by connecting it to Cobaki Lakes and thence to Boyd Street in Tugun. This would require the following roadworks:

By Leda works that are part of the Cobaki Lakes development:

- Construct Cobaki Parkway from the Boyd Street overpass over the Tugun Bypass to the southern Cobaki Lakes Roundabout
- Dedicate the Cobaki Parkway road reserve from the southern roundabout to Cobaki Creek

By Council

- Construct Cobaki Parkway from the southern Cobaki roundabout to Piggabeen Road
- Construct the bridge across Cobaki Creek
- Upgrade of the bridge over Tugun Bypass to 4 lanes with later upgrade to a full interchange

3. Impact of the NSW Government's \$20,000 Developer Contributions Cap

The Concept Plan approved by the NSW Government approves an ultimate 1,604 lots at the "Rise". It had been planned in the TRCP to use future developer contributions to substantially increase the arterial road connections and traffic capacity to service the "Rise" development. The impact of the NSW Government's decision to hard cap Developer Contributions at an unindexed amount of \$20,000 per housing lot means that Council will now be unable to deliver these roads upgrades to service the "Rise".

This will mean that development of the "Rise" is capped at 526 lots, the road capacity available on Kennedy drive. The "Rise" development has been processed as a Part 3A application by the NSW Department of Planning, Council has no determining role, but is expected to provide, operate and maintain the infrastructure to service the development. The Department needs to be advised that there is now a permanent limit on the roads systems capacity to service beyond 526.

It may be possible for the proponent of the "Rise" to fund the necessary additional road works themselves. These road works would benefit other developers, particularly in the rest of the Bilambil Heights area and Cobaki Lakes. The "Rise" proponent could negotiate with these other beneficiaries to share costs on an agreed apportioned basis. This would be a difficult process to manage and would end up with developers paying more, and having far less certainty than they would have if the NSW Government had not capped Section 94 Developer contributions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Loss of developer funds to construct essential infrastructure which would have enabled land to be developed for residential use.

POLICY IMPLICATIONS:

The NSW Governments developer contributions cap will substantially reduce the number of housing lots that can be developed at the "Rise" as Council will have insufficient developer contribution funds to provide required road capacity to the development. Housing land availability will be reduced and will cause the cost of housing land to substantially rise.

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.

60 [EO-CM] Kirkwood Road Project - July 2010 Update

ORIGIN:

Director Engineering & Operations

SUMMARY OF REPORT:

Concept design, environmental assessment and preparation of the planning application are well advanced for the Kirkwood Road Project elements south of Terranora Creek estimated to cost \$32.4M and if planning approval is issued late 2010 then contracts for design and construction of Interim Early Works estimated to cost \$10.9M could be let in the first half of 2011. Council has sufficient funds allocated in the developer funded Tweed Road Contribution Plan (TRCP) for its \$6.8M share of these early works. Construction of the remainder of the works south of Terranora Creek to connect the Interim Early Kirkwood Road Works to Fraser Drive would require a further \$21.5M. Funding an aggregate amount of around \$15M is the limit of what could be expected to be yielded from the TRCP in the foreseeable future.

If works are to start in the near term it is necessary to obtain Roads and Traffic Authority of NSW agreement for the Temporary South Bound Off Ramp from the Pacific Highway to Kirkwood Road.

A disappointing meeting was held with the Roads and Traffic Authority of NSW 29 June 2010 in an attempt to resolve this matter. The Roads and Traffic Authority of NSW would not agree to the Temporary Southbound Off Ramp unless Council could guarantee further funding for the service road and bridge from Kirkwood Road to Kennedy Drive, estimated to cost \$28.6M, Council's share \$14.3M. The Roads and Traffic Authority of NSW would not commit their own funds for their corresponding half share but indicated consideration could be given after 2014.

RECOMMENDATION:

That:

- 1. Work continues to complete concept design, environmental assessment and preparation of the planning application for the Kirkwood Road Project elements south of Terranora Creek estimated to cost \$32.4M.**
- 2. Council continues to seek Roads and Traffic Authority of NSW agreement to construction of a temporary south bound off ramp at Kirkwood Road.**
- 3. Council defers planned works on Kennedy Drive and Leisure Drive involving widening sections to 4 lanes until there is more certainty on the future of the Kirkwood Road Project.**

4. **Council seeks funding from the NSW and Federal Governments of \$21.5M for construction of the remainder of the works south of Terranora Creek to connect the Interim Early Kirkwood Road Works to Fraser Drive.**

REPORT:**1. Master Plan Background**

Council endorsed the conclusions and recommendations of The Lower Tweed and Pacific Highway Road Network Master Plan (The Master Plan), prepared jointly by Council and the Roads and Traffic Authority of NSW (RTA), at its meeting held 5 September 2006. The Master Plan covers the Pacific Highway and its interaction with Council's arterial road network between Barneys Point Bridge and the Queensland border. Major elements included in the 2006 Master Plan are:

Master Planning Element	Estimated Cost (\$,000,000)	Funding Responsibility	Time Frame
Banora Point Upgrade	190	RTA	2010 - 15
Kirkwood Road Extension (including modifications to Fraser Drive)	10 - 15	TSC	2015 - 20
Terranora Creek western service road	15 - 20	Joint RTA/TSC	2015 - 20
Kirkwood Road south facing ramps	10 - 15	Joint RTA/TSC	2015 - 20
Terranora Creek eastern service road	15 - 20	Joint RTA/TSC	2025 - 30
Kennedy Drive to Tugun Bypass service roads	N/A	QDMR/Federal Government	under construction
Tweed Heads Bypass, widening to six-lanes	30 - 45	RTA	2025 - 30

The Tugun Bypass is now complete. The Banora Point Upgrade has received planning approval, construction has commenced and is scheduled to be completed late 2012.

The Kirkwood Road Project section of the Master Plan is shown on the following Figure.



2. Kirkwood Road Project (KRP)

2.1 Overview

The 2006 Master Plan identified 3 major Kirkwood Road Project elements for construction in the 2015 - 20 period, being:

Kirkwood Road Project Stage 1

Project Element	Cost Range (\$M)	Funding Responsibility	TSC Funding Responsibility (\$M) Assuming 50% Split on Joint Funded Elements
Kirkwood Road Extension	10 - 15	TSC	10 - 15
Terranora Creek eastern service road	15 - 20	Joint RTA/TSC	7.5 - 10
Kirkwood Road south facing ramps	10 - 15	Joint RTA/TSC	7.5 - 10
Total Project	40 - 55		25 - 35

The above funding split is based on jointly funded projects being on a 50% shared basis. This % split has been used for Council planning purposes. A 50% split has been agreed for current consultancies for the Kirkwood Road Project, however the RTA and Council have not formally agreed to this % split for the whole of the Master Plan jointly funded elements or

for the Kirkwood Road Project. This is a matter that is still to be finalised by negotiation and agreement.

Stage 2 of the Kirkwood Road Project for construction in 2015-30 is to include construction of the Western Service Road (including Western Service Bridge over Terranora Creek) and is to be in association with the upgrade of the Pacific Highway from 4 to 6 lanes.

In the Section 94 Tweed Roads Contribution Plan (TRCP) Works Program, the estimated cost of Stage 1 is:

Project Element	Estimated Cost (\$M)	Assumed Funding Responsibility	TSC Funding Responsibility (\$M)	RTA Funding Responsibility
Kirkwood Road Extension	8.181	TSC	8.181	0
Terranora Creek eastern service road	12.95	Joint RTA/TSC 50% Each	6.475	6.475
Kirkwood Road south facing ramps	1.77	Joint RTA/TSC 50% Each	0.885	0.885
Total Project	22.9		15.541	7.36

These estimates are now a number of years old and out of date.

2.2 Interim Early Works for Stage 1 Kirkwood Road Project with Temporary South Bound Off Ramp, BPUA Proposal March 2010

The Banora Point Upgrade (Sexton's Hill) has prompted calls from businesses in the Tweed Heads South area to bring forward the Kirkwood Road Project. The Kirkwood Road Project is seen as a means of mitigating the adverse traffic impacts on Tweed Heads South during construction of the Banora Point Upgrade and as a means of ensuring the northern interchange of the Banora Point Upgrade functions adequately after completion of the upgrade.

In response to these concerns, and in association with the RTA, on 19 March 2010 the Banora Point Upgrade Alliance (BPUA) forwarded to Council, schematic drawings for an interim early works staging of the Kirkwood Road Project. It includes extending Kirkwood Road from Falcon Way to the Pacific Highway with a south bound on ramp connecting to the Highway and a temporary south bound off ramp from the Highway to Kirkwood Road. This connection would permit the arrangement to function as a partial interchange prior to the construction of the expensive Terranora Creek Eastern Service bridge connecting to Kennedy Drive and the highway overbridge and road to the west connecting with Fraser Drive. These interim early works are parts of the agreed Master Plan, except for the temporary south bound off ramp.

The temporary south bound off ramp was one half of the proposed north facing ramps arrangement promoted by Council since 1990, but opposed by the RTA and eventually replaced by the Master Plan arrangements in 2006. Given this history of opposition it was somewhat of a surprise when the temporary south bound off ramp was included in the interim works arrangement prepared by BPUA. Early indications from the RTA were that whilst they did not like the temporary south bound off ramp they may be able to tolerate it if they could be assured it was temporary and Council would remain committed, when

required by impacts on highway performance, to its removal and replacement with the service road and bridge connection to Kennedy Drive.

Two of BPUA's plans are shown below. The first is a schematic layout of the temporary south bound off ramp and the permanent south bound on ramp. The second plan shows these works superimposed on Council's plans for the permanent Kirkwood Road works. These plans have been used as a guide for Council's concept design development, however in the concept design process, these ramps have been designed to follow as closely as possible the alignment and levels of the permanent works. This will maximise the ability reuse the temporary works when the final configuration is constructed.



AT 10 1022 DRAWING
100326-BPA-KIRKWOOD-RD-INT

RAHORA POINT UPGRADE
TEMPORARY SOUTHBOUND RAMP LAYOUT

NOT FOR CONSTRUCTION
INFORMATION DOCUMENT
100326-BPA-KIRKWOOD-RD-INT





Given the RTA's involvement with BPUA in preparing the interim proposal containing the temporary south bound off ramp and initial positive indications that the south bound temporary off ramp would be tolerated by the RTA, two additional staged proposals of the Stage 1 Project have been prepared for consideration:

(a) Interim Early Works Project

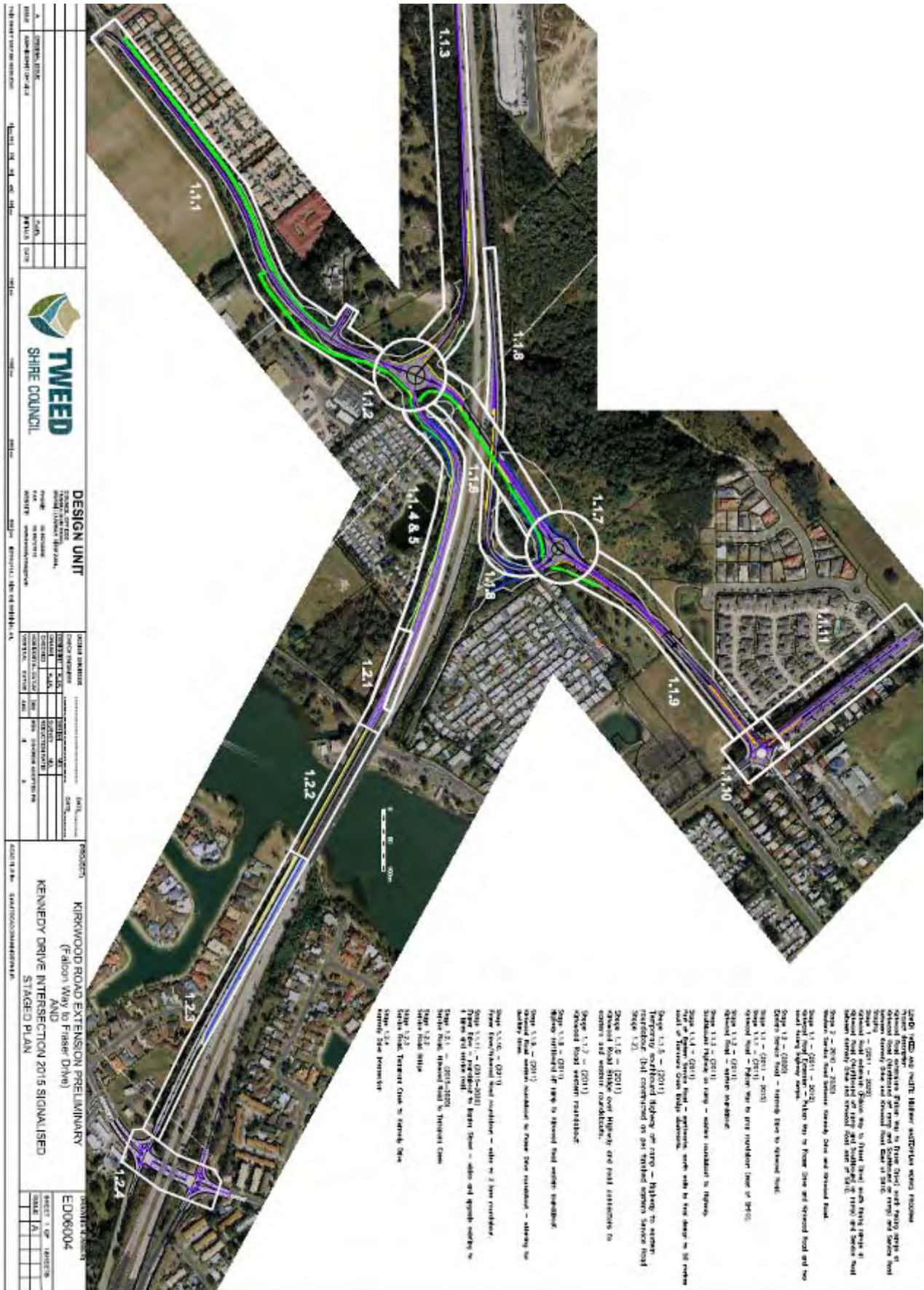
Consisting of

- Kirkwood Road extension, Falcon Way to Pacific Highway
- South Bound on ramp from Kirkwood Road onto highway
- Temporary South bound off ramp from highway to Kirkwood Road

(b) Full Kirkwood Road Project with Temporary Southbound Off Ramp

Consisting of

- Kirkwood Road from Falcon Way to Fraser Drive, including bridge over highway
- South Bound on ramp from Kirkwood Road onto highway
- Temporary South bound off ramp from highway to Kirkwood Road
- North Bound off ramp from highway to Kirkwood Road



		DESIGN UNIT DESIGN UNIT PROJECT MANAGER DESIGNER CHECKER APPROVER	
PROJECT NUMBER PROJECT NAME PROJECT LOCATION PROJECT START DATE PROJECT END DATE	CLIENT PROJECT MANAGER DESIGNER CHECKER APPROVER	PROJECT NUMBER PROJECT NAME PROJECT LOCATION PROJECT START DATE PROJECT END DATE	CLIENT PROJECT MANAGER DESIGNER CHECKER APPROVER
PROJECT NUMBER: EDD06004 PROJECT NAME: KIRKWOOD ROAD EXTENSION PRELIMINARY AND KENNEDY DRIVE INTERSECTION 2015 SIGNALISED STAGED PLAN PROJECT LOCATION: (Falcon Way to Fraser Drive) PROJECT START DATE: 1/1/2010 PROJECT END DATE: 31/12/2010		CLIENT: SHIRE OF TWEED PROJECT MANAGER: [Name] DESIGNER: [Name] CHECKER: [Name] APPROVER: [Name]	

1.1.1 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.2 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.3 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.4 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.5 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.6 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.7 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.8 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.9 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.1.10 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.2.1 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.2.2 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.2.3 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.2.4 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.
 1.2.5 - 2011 - 2012: Signalised intersection at the intersection of Kennedy Drive and Peliminary.

Concept design for the Kirkwood Rd Project is now sufficiently advanced for realistic schedules of quantities and cost estimates to be compiled. An experienced Highway Engineer has been engaged to prepare these quantity schedules and estimates. These estimates have broken the project into a number of portions. This will enable negotiations to progress with the RTA to reach agreement on proportional cost sharing of each portion.

2.3 Summary of Sub Staging and Estimated Costs for Stage 1 Works

The sub stages proposed for Stage 1 Works and current estimated costs are:

Estimated Costs Kirkwood Road Project Stage 1		Updated Cost Estimates for Sub Stages (May 2010)			
Work Portion		(a) Interim Early Works	(b) Full Kirkwood Road Project with Temporary Southbound Off Ramp	(c) Full Kirkwood Road Project with Service Road/Bridge to Kennedy Drive	(d) Full Kirkwood Road Project with Service Road/Bridge to Kennedy Drive plus Fraser Drive
1.1.1	Kirkwood Rd. Falcon Way to Eastern roundabout	3,297,140	3,297,140	3,297,140	3,297,140
1.1.2	Kirkwood Rd. Eastern roundabout.	1,410,196	1,410,196	1,410,196	1,410,196
1.1.3	Southbound on ramp. Eastern roundabout to highway	2,408,815	2,408,815	2,408,815	2,408,815
1.1.4	Part Eastern service road. Temporary southbound off ramp to Eastern roundabout	3,151,674	3,151,674	3,151,674	3,151,674
1.1.5	Temporary Southbound off ramp	641,281	641,281	641,281	641,281
1.1.6	Kirkwood Rd and bridge over highway from Eastern to Western roundabouts		13,952,704	13,952,704	13,952,704
1.1.7	Kirkwood Rd. Western roundabout.		875,437	875,437	875,437
1.1.8	Northbound off ramp. Highway to Kirkwood Rd Western roundabout.		3,372,517	3,372,517	3,372,517
1.1.9	Kirkwood Rd. Western roundabout to Fraser Drive.		2,700,889	2,700,889	2,700,889
1.1.10	Fraser Dr/Kirkwood Rd roundabout		638,722	638,722	638,722
1.1.11	Fraser Dr 4 Lanes				2,155,565
1.2.1	Service Rd, Kirkwood to Terranora Ck			2,298,960	2,298,960
1.2.2	Service Rd Bridge			19,897,200	19,897,200
1.2.3	Service Rd, Terranora Ck to Kennedy Dr			3,263,760	3,263,760
1.2.4	Kennedy Dr Intersection			3,199,800	3,199,800
	Totals	10,909,106	32,449,375	61,109,095	63,264,660

Note: An amount of \$1.725M has been allowed for acquisition of land on the western side of the highway. This land is within the footprints of work Portions 1.1.6 and 1.1.7 and is the principal source of fill for the entire project. For the purpose of this estimate the cost of the acquisition has been divided into 3 equal parts and included in early work Portions 1.1.1, 1.1.3 and 1.1.4.

2.4 Kirkwood Road Project - Design Development

2.41 Pre Master Plan Concept Design

Parsons Brinkerhoff

Parsons Brinkerhoff completed preliminary concept plans in 2005 for the Kirkwood Road Project, as it was defined at that time. This was before adoption of the 2006 Master Plan and was based on a north facing highway on/off ramp concept that had been the Council adopted position for some years. The project then consisted of an extension of Kirkwood Road from Falcon Way to Fraser Drive (including bridge over highway) and construction of a northbound on ramp and a southbound off ramp. The Parsons Brinkerhoff consultancy included:

- Scope
- Concept design
- Environmental assessment

2.42 Post 2006 Master Plan Concept Design

LEGS Consultancy

With adoption of the 2006 Master Plan, the Kirkwood Road project was scheduled for completion in the 2015 - 20 period. Design development was complicated by the Master Plan as the Kirkwood Road highway overbridge and on/off ramps now had to be compatible with the future highway being widened to 6 lanes. This meant that the alignment of the widened 6 lane highway (including the widened highway bridge crossings over Terranora Creek) needed to be determined first so that the Kirkwood Road elements and Terranora Creek service roads could be located to avoid conflict with the widened highway footprint.

Preliminary design development for the new concept was commenced in 2009 and LEGS were engaged for the initial consultancy which included:

- Concept alignment design of the widened 6 lane highway (including Terranora Creek Bridges) from North of Machinery Drive to Kennedy Drive
- Obtain RTA sign off on footprint of 6 lane highway
- Following fixing of highway alignment, determine footprint to be allocated for service roads and bridges and Kirkwood Road Overbridge
- Revised concept designs for Kirkwood Road including highway overbridge
- Concept designs for Eastern Service Road
- Concept designs for northbound off ramp to Kirkwood Rd and southbound on ramp from Kirkwood Road
- Concept designs for Terranora Creek Eastern Service Road Bridge and Kirkwood Road Overpass Bridge
- Schedule of quantities

The RTA has now agreed to the widened highway alignment designed by LEGS and the footprint allocation for Kirkwood Road overbridge and the service roads.

The agreed configuration of the bridges across Terranora Creek is as shown in the diagram below:



It is proposed that the existing 2x2 lane highway bridges (the twin box beam structure in the above diagram) will be physically spliced to form the southbound 3 lanes of the widened highway. A new 3 lane northbound highway bridge will be constructed west of the existing highway bridges. The eastern service road bridge will be immediately east of the existing highway bridges and the western service road bridge will be immediately west of the new northbound highway bridge. One result of this configuration has been agreement to construct the eastern service road and bridge first (instead of the western service road) as the eastern alignment will not conflict with provision of the new northbound highway bridge.

As an late variation to their consultancy LEGS have also been instructed to include concept designs for the temporary south bound off ramp referred to in section 2.2 of this report.

The original LEGS consultancy will be completed by August 2010, The later contract variation to prepare concept design for stormwater drainage and stormwater treatment is expected in September.

Council Design Unit

Council's Design Unit work in progress includes:

- Compiling Concept Designs from the various consultant sources into amalgamated project concept plan
- Preparation of staging plans
- Amend 2005 Parsons Brinkerhoff concept design of Kirkwood Road from Falcon Way to Eastern Roundabout
- Additional environmental assessment, managing environmental assessment consultancies, compiling Part V Planning Application
- Managing update of cultural heritage assessment

Other Council Units

- Preparation of bill of quantities and cost estimates for each works portion,
- Preparation of Tender specifications for Design and Construction Contract
- Preparation of Tender Documents

Other External Consultancies

The 2005 Parsons Brinkerhoff Consultancy included environmental assessment for the project as it was configured at that time. The project has now changed and many of the previous assessments that are still applicable to the current project require updating. Further consultancies being undertaken include:

Acoustic assessment

To assist in the preparation of the Environmental assessment of the KRP , a consultant has been engaged to assess the impact of noise from the KRP and recommend amelioration measures. This consultancy is scheduled to conclude in August 2010.

Traffic Capacity analysis

The 2006 Master Plan traffic analysis was based on a link capacity network model and did not include the detailed analysis of link intersections with the proposed new intersections or with existing intersections.

In February 2010 Council engaged Parsons Brinkerhoff to undertake an intersection traffic analysis for the proposed Kirkwood Road and Pacific Highway service roads interchanges at Kirkwood Road and Kennedy Drive. A draft report has been received indicating that all intersections can operate at satisfactory levels of service up to 2030. The existing dog and bone intersection below the freeway at Kennedy Drive will require substantial upgrades to allow it to perform satisfactorily with the addition of the traffic from the service road linking Kirkwood Road and Kennedy Drive. The most substantive of these improvements is reconfiguration to provide more slip lanes.

Fauna Assessment

To assist in the preparation of the Environmental assessment of the KRP, a consultant has been engaged to assess the impact on fauna from the KRP and recommend amelioration measures. This consultancy is scheduled to conclude in August 2010.

Part V Planning Application

It is planned to complete and lodge the Part V Planning assessment September 2010.

2.5 Negotiations with the RTA 29 June 2010 - Temporary South Bound Off Ramp and Cost Sharing

2.5.1 Approval of the Temporary South Bound Off Ramp?

Following the issue of Kirkwood Road Project - Interim Early Works plans by the Banora Point Upgrade Alliance incorporating the temporary south bound off ramp, verbal discussions took place with the RTA on the sensitive temporary off ramp issue. This was later followed up (7 May 2010) with a formal request for RTA approval (of the temporary off ramp). RTA agreement to this request is essential for the Kirkwood Road project to advance in the near term. Alternative staging options that achieve the same interchange functionality would require construction of the service road and Terranora Ck Bridge from Kirkwood Road to Kennedy Drive, at a further cost of \$28.6M and would require substantially more time for finishing concept designs, planning assessment and approval.

A disappointing meeting was held between the RTA Pacific Highway Manager Bob Higgins and Council representatives on 29 June to address this matter. A formal letter detailing their position has been promised, however it was verbally advised that the RTA will only approve a temporary south bound off ramp if:

- It can be demonstrated, prior to a final approval being given, that the weaving traffic movements created by the temporary off ramp will not adversely affect the level of service on the highway
- Council can demonstrate, that if unacceptable weaving movements do affect the highway (as time goes on and traffic volumes increase after the temporary off ramp is constructed), it can remedy the problem by constructing the service road and Terranora Ck Bridge from Kirkwood Road to Kennedy Drive.

This conditional approval will require:

1. Council to demonstrate that the weaving movements on the Pacific Highway will be acceptable when the temporary south bound off ramp is put in use (say 2011/12) and determining how many years life this arrangement will have until expected increased traffic volumes render the arrangement unacceptable for levels of service on the highway.
2. Council to demonstrate that when levels of service are unacceptable on the highway (arising from the use of the temporary south bound off ramp), it can decommission the temporary ramp and deliver the permanent arrangement (envisaged by the Lower

Tweed and Pacific Highway Road Network Master Plan) being the service road and Terranora Creek Bridge from Kirkwood Road to Kennedy Drive.

In regard to 1. above:

- The brief of Parsons Brinkerhoff has now been extended to determine the impacts of the temporary ramp on the highway levels of service and determine the acceptable life of this arrangement. This further report is likely to be available in 2 weeks.

In regard to 2. above, this seems to require Council to have approved designs, environmental assessment, planning approval and funding in place for the service road and bridge at a date say 18 months (to allow for construction) prior to the future date that predicted levels of service on the highway will become unacceptable. At this time:

- The LEGS consultancy has produced concept designs for the service road between Kirkwood Road and Kennedy Drive.
- Further work will be required to firm up the concept designs for the bridge on the service road over Terranora Creek
- The Parsons Brinkerhoff Consultancy has determined the required configuration of the dog and bone intersection on Kennedy Drive below the Highway which will accommodate the service road (to Kirkwood Road) intersection
- The planning application and environmental assessment now being prepared has not included the Kirkwood Road to Kennedy Drive section, but if required this can be commenced.
- The cost of the additional works to construct the service road, Terranora Creek bridge and Kennedy Drive intersection is currently estimated at \$28.6M. These would be shared cost works under the Master Plan, however the RTA has indicated they would not be able to contribute their portion until after 2014. The TRCP will not have sufficient yield to fund Council's portion by that date, and this will deteriorate further as the NSW Government's \$20,000 cap on S94 contributions takes effect.

2.5.2 Cost Apportionment with RTA

The 2006 Master Plan provided for Tweed Shire Council (TSC) funding of the east/west Kirkwood Road works and joint TSC/RTA funding of other sections (on/off ramps, service roads and bridges). What percentage this proportional split is on jointly funded works has not been negotiated or agreed at this time.

For the purpose of exploring funding options, a 50% split of jointly funded works is assumed in this report. A 100% RTA contribution for the temporary works required for the southbound off ramp has also been assumed as this is a means of the RTA easing the traffic problems to be caused at the southern end of Minjungbal Drive during and after construction of the Banora Point Upgrade.

For exploring the cost apportionment, four staging options are now considered. They are:

- Option 1. Interim Early Works with Temporary South Bound Off Ramp
- Option 2. Full Kirkwood Road Project with Temporary Southbound Off Ramp
- Option 4. Option 1 with addition of Service Road/Bridge to Kennedy Drive
- Option 4. Full Kirkwood Road Project with Service Road/Bridge to Kennedy Drive

The cost apportionments for the RTA and Tweed Shire Council are shown in the following tables. The first column indicates the Work Portions detailed in Section 2.3 of this report.

Part	Option 1. Interim Early Works with Temporary South Bound Off Ramp (\$M)			Option 2. Full Kirkwood Road Project with Temporary Southbound Off Ramp (\$M)		
	Project	RTA	TSC	Project	RTA	TSC
1.1.1	3,297,140	0	3,297,140	3,297,140	0	3,297,140
1.1.2	1,410,196	705,098	705,098	1,410,196	705,098	705,098
1.1.3	2,408,815	1,204,407	1,204,407	2,408,815	1,204,407	1,204,407
1.1.4	3,151,674	1,575,837	1,575,837	3,151,674	1,575,837	1,575,837
1.1.5	641,281	641,281	0	641,281	641,281	0
1.1.6				13,952,704	0	13,952,704
1.1.7				875,437	437,718	437,718
1.1.8				3,372,517	1,686,259	1,686,259
1.1.9				2,700,889		2,700,889
1.1.10				638,722		638,722
Total	10,909,106	4,126,623	6,782,483	32,449,375	6,250,600	26,168,775

Part	Option 3. Option 1 + Service Road/Bridge to Kennedy Drive			3. Full Kirkwood Road Project with Service Road/Bridge to Kennedy Drive		
	Project	RTA	TSC	Project	RTA	TSC
1.1.1	3,297,140	0	3,297,140	3,297,140	0	3,297,140
1.1.2	1,410,196	705,098	705,098	1,410,196	705,098	705,098
1.1.3	2,408,815	1,204,407	1,204,407	2,408,815	1,204,408	1,204,408
1.1.4	3,151,674	1,575,837	1,575,837	3,151,674	1,575,837	1,575,837
1.1.5	641,281	641,281		641,281	641,281	0
1.1.6				13,952,704	0	13,952,704
1.1.7				875,437	0	875,437
1.1.8				3,372,517	1,686,259	1,686,259
1.1.9				2,700,889	0	2,700,889
1.1.10				638,722	0	638,722
1.1.11					0	0
1.2.1	2,298,960	1,149,480	1,149,480	2,298,960	1,149,480	1,149,480
1.2.2	19,897,200	9,948,600	9,948,600	19,897,200	9,948,600	9,948,600
1.2.3	3,263,760	1,631,880	1,631,880	3,263,760	1,631,880	1,631,880
1.2.4	3,199,800	1,599,900	1,599,900	3,199,800	1,599,900	1,599,900
Total	39,568,826	18,456,484	21,112,343	61,109,095	20,142,742	40,966,353

It had been hoped that the RTA may contribute more than 50% of the shared items and that they might consider part sharing the cost of the Kirkwood Road highway overpass. These options were explored at the meeting held 29 June 2010, but there was a negative response from the RTA on both issues.

2.5.3 Funding Available to Council

Under the current 5 Year TRCP Works Program approved by Council, \$8.181M is to be allocated in 2012/13. This Program is dependent on a predicted flow of contributions based on estimations of the pace of development in Tweed Shire in coming years. However it is likely sufficient funds would be available for Council's share of Option 1, being \$6,782,483.

Given the RTA's attitude to the Temporary Southbound Off Ramp, if Council was successful in obtaining agreement to proceed with Option 1, then Council would be obliged to be ready

to fund its share of Option 3 (an additional \$14,329,860) when required (by deteriorating levels of service on the highway). This would likely rule out Council's ability to also fund its further share (\$21,540,269) of Option 3, the Kirkwood Road highway overpass, northbound off ramp and connection to Fraser Drive (unless funds came from so far unidentified sources).

Further funds could be made available from the TRCP for the Kirkwood Road Project if other currently programmed works were indefinitely deferred. These works could include:

- Widening of Kennedy Drive to 4 lanes, Rose Street to Cobaki Creek Bridge, \$3,221,944.
- Widening remaining section of Leisure Drive to 4 lanes \$3,600,000.

Even if these works were deferred, on current indications the likely yield of the TRCP would not exceed \$15M. This amount whilst sufficient for Option 1, would still be over \$6M short of the funds Council would need for its obligations under Option 3.

There may be alternative funding available from the NSW and Federal Governments. An additional \$21.5M would enable Council to complete the east/west link and join Kirkwood Road to Fraser Drive. This connection would relieve traffic pressure from Flame Tree Park, Fraser Drive and Area E on Leisure/Darlington Drive, Dry Dock Road and the Northern Interchange of the Banora Point upgrade.

3. Procurement of the Project

At this stage it is anticipated the most efficient means of project procurement in terms of both cost and timing, would be a design and construct contract.

If concept designs and planning approvals can be completed by late 2010, it may be possible to call tenders closing February 2011 for the interim early works part of the project. Indicative completion could be mid 2012.

The alternative method of procurement with separate detailed design followed by a construction contract would consume much of 2011 with the design process and delay early completion.

As the project would be jointly funded by the RTA and Council, a formal agreement on funding and management processes would be required.

4 . Possible Outcomes

If the traffic study currently being undertaken by Parsons Brinkerhoff shows there will be an acceptable level of service for a number of years on the Pacific Highway with construction of the Kirkwood Road Temporary South Bound Off Ramp, then the RTA may agree to the Temporary South Bound Off Ramp, and the Interim Early Works part of the project may be able to be funded and construction completed by 2012.

Council will then be obliged to commit to funding half of \$28.6m, being \$14.3m, for construction of the Kirkwood Road to Kennedy Drive service road, Terranora Creek bridge and Kennedy Drive intersection. If this obligation arises in say 2015 when the RTA indicated it may be able to fund its share, Council's TRCP is likely to be at least \$6M short of its share, even if currently planned 4 laneing works on Kennedy Drive and Leisure Drive are indefinitely deferred. Council would be reliant on some other source of funding (possibly state of federal grants) to meet its obligations.

An additional \$21.5M would be needed for Council to complete the east/west link and join Kirkwood Road to Fraser Drive.

5. Conclusion

Concept design, environmental assessment and preparation of the planning application are well advanced for the Kirkwood Road Project elements south of Terranora Creek estimated to cost \$32.4M and if planning approval is issued late 2010 then contracts for design and construction of Interim Early Works estimated to cost \$10.9M could be let in the first half of 2011. Council has sufficient funds allocated in the TRCP for its \$6.8M share of these early works. Construction of the remainder of the works south of Terranora Creek to connect the Interim Early Kirkwood Road Works to Fraser Drive would require a further \$21.5M. Funding an aggregate amount of around \$15M is the limit of what could be expected to be yielded from the TRCP in the foreseeable future.

If works are to start in the near term it is necessary to obtain RTA agreement for the Temporary South Bound Off Ramp from the Pacific Highway to Kirkwood Road. This agreement is not yet forthcoming, and is likely to require Council's commitment to funding its share (an additional \$14.3M) of constructing the service road and bridge over Terranora Creek from Kirkwood Road to Kennedy Drive.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Resource and financial implications analysed in body of report.

POLICY IMPLICATIONS:

Significant impacts on Lower Tweed road network planning and funding policies.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

61 [TCS-CM] Draft Access to Information Policy Version 1.4

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The Government Information (Public Access) Act 2009 (GIPAA) became effective as of 1 July 2010 and a number of changes are required by Council to accord with this new legislation.

These changes included the creation of a new page on Council's website to guide members of the public through the access to information process.

The Draft Access to Information Policy Version 1.4 is a direct result of the implementation of the Government Information (Public Access) Act 2009 and it is proposed to replace the Access to Information Policy Version 1.3 (based on Section 12 of the Local Government Act, which has been repealed by GIPAA).

RECOMMENDATION:

That in accordance with Section 160 of the Local Government Act, the Draft Access to Information Policy Version 1.4 be advertised for 28 days with a 42 day submission period.

REPORT:

The GIPA Act creates new rights to information that are designed to meet community's expectations of more open and transparent government. It encourages the routine and proactive release of government information, including information held by providers of goods and services contracted by government agencies.

Members of the public seeking access to information should initially search Council's website – <http://www.tweed.nsw.gov.au/GIPAA>.

The Draft Access to Information Policy Version 1.4 is a direct result of the implementation of the Government Information (Public Access) Act 2009 and it is proposed to replace the Access to Information Policy Version 1.3 (based on Section 12 of the Local Government Act, which has been repealed by GIPAA).



Policy

Access to Information

Version 1.4

Adopted by Council at its meeting on xx

Minute No: xx

Division: Technology and Corporate Services
Section: Corporate Compliance
File Reference: N/A
Historical Reference: V1.3 adopted by Council 13 November 2007

Access to Information held by Tweed Shire Council

Objective

The objective of this policy is to describe Council's principles regarding public access to information and to facilitate the processing of requests for such access. This policy is to be read in conjunction with the Access to Information Guidelines.

Principles

Tweed Shire Council is committed to the following principles regarding public access to its information:

- Open and transparent government
- Consideration of the overriding public interest in relation to access requests
- Proactive disclosure and dissemination of information
- Respect for the privacy of individuals

Implementation

Council publishes specific open access information on its website, free of charge unless to do so would impose unreasonable additional costs to Council. Council will facilitate public access through this and other appropriate mediums. Also Council publishes for inspection information listed under Schedule 5 of the Government Information (Public Access) Act held by it, unless there is an overriding public interest not to do so.

Council makes as much other information as possible publicly available in an appropriate manner, including on the internet. Such information is also available free of charges or at the lowest reasonable cost.

Council will endeavour to release other information in response to an informal request. The 'Access to Information Guidelines' associated with this policy identifies types of information that are available for public access and any restrictions that may apply.

Depending upon the nature of the request and the form of access requested charges for photocopying may be applied in accordance with Council's Schedule of Fees and Charges and relevant legislation.

Council will assess requests for access to information with reference to:

- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Privacy Act 2002
- State Records Act 1998
- Local Government Act 1993
- Environmental Planning and Assessment (EPA) Act 1979
- Companion Animals Act 1998

and any other relevant legislation and guidelines as applicable.

Broad requests for access to a large number of unspecified information which, if processed, would divert substantial Council resources from dealing with other requests, or from performing other Council functions, may be refused on the grounds that such a diversion of resources is contrary to the public interest. Council will endeavour to assist in defining the request to a more manageable one.

Some information may require a formal access application in accordance with the Government Information (Public Access) Act. Council will assess all requests for access to information in a timely manner and in accordance with the 'Access to Information Guidelines' and relevant legislation.

Where information is released to an applicant under a formal access application and Council considers that it will be of interest to other members of the public, Council will provide details of the information in a disclosure log for inspection by the public.

Council's 'Access to Information Guidelines' are available to members of the public.



Policy

Access to Information

Version 1.3

Adopted by Council at its meeting on 13 November 2007

Minute No: O290 and 179

Division: Technology and Corporate Services
Section: Corporate Compliance
File Reference: 13 November 2007
Historical Reference: 1.2 Adopted 25 July 2006,
Reviewed 21 July 2009

ACCESS TO INFORMATION

Objectives

The prime objective of this policy is to provide direction to Council Officers and the public on the role of Council in managing and providing information to the public.

Privacy and access to Council information can be a complex issue due to the amount of legislation which has an impact upon Council.

Principles

This Policy advocates that Section 12 of the Local Government Act 1993 is to be used in preference to the Freedom of Information Act in the first instance of a request for access to Council information or a document. There is a right of access under the Local Government Act 1993, to documents held by Council unless disclosure is on balance contrary to the Public Interest.

Council will consider all applications for information in accordance with Section 12 of the Local Government Act on its merits, but it may refuse or delay providing information where very large requests that may involve substantial and unreasonable diversion of council resources from meeting other requests by members of the public or the conduct of other council functions.

Charges will apply in accordance with Council's Fees and Charges for photocopying of any documents given access.

In accordance with this Policy submission letters including the identifying particulars of the authors, to Council of matters of policy or proposals (e.g. development applications, LEP changes and draft management plan) are deemed to be for the purpose of public process and are therefore available for inspection. Council will give consideration to the "Public Interest " and requests for confidentiality by submitters in determining access to submission letters

All invitation for public submissions will include a statement that their submissions including identifying particulars will be made public. The provisions of the Freedom of Information Act may result in confidential submissions being released to an applicant.

Freedom of Information

There are additional rights of access to documents held by Council under the NSW Freedom of Information Act 1989. Any application will be processed in accordance with the Act's requirements and a determination made to release the documents, or refuse access, on the basis of the exemption provisions in the Act.

Freedom of Information Act applications forms are available from the Council internet website under Application Forms or by direct request from Council.

Tweed Shire Council is seeking commitment from all stakeholders to this policy.

Sourcing of Policy

The Access to Information Policy is: -

- listed on the Council Intranet and Internet under Council Policies.

Legislation

The Local Government Act 1993 contains provisions that confers rights of access on members of the public to information and documents.

Section 9 - Access to Business Papers of Open Council
Section 11- public access to correspondence and reports;
Section 12 – what information is publicly available.

Other forms of legislation or documents which have an impact upon access to documents include:-

Privacy Code of Practice for Local Government- public registers
Privacy and Personal Information Protection Act 1998 – PIPPA
Freedom of Information Act (FOI Act)
Commonwealth Copyright Act 1968 – governing the copying of information
Environmental Planning and Assessment Act and Regulation

Responsibility of Policy

The General Manager is required to delegate to a Council Officer the responsibilities of the role of the Public Officer – Section 342.

Section 343 lists the functions of the Public Officer , which includes the responsibility of assisting people to gain access to public documents of the Council.

Access Strategy

The Local Government Act provides the following framework regarding the maintenance of information and conferring rights of access on members of the public to that information .

The appropriate sections of the Act are as follows:-

Sections 9 & 11(1) - access to business papers, correspondence and reports which are considered in open session of council.

Making an Application – Section 12

To request access to information under this section, applicants are requested to complete the Access to Information Request Form available from Council's Internet Website under Application Forms.

Section 12(1) – Council's Access to Information Procedures lists documents that are available for inspection and how they can be accessed.

Section 12(1A) - provides for access to development applications and associated documents – does not include internal layout of residential parts of proposed buildings (floor plans), or development application plans and specifications that contain commercial information

The Access to Information Policy principles provides the direction for dealing with information on objections for development applications.

Section 12(2) - Council is not entitled to charge for the inspection, only for photocopying fees, as contained in the Annual Fees and Charges.

Section 12(6) - Council may withhold certain information contained in a document, if the disclosure is contrary to the public interest. eg.

- o *legal advice;*
- o *complainant details; and*
- o *personal (individual staff) matter.*

Section 12(7) - Personnel information – name or address, personal hardship of a ratepayer, trade secrets and disclosure would constitute an offence against an act.

Access to Information Procedures

Council's Access to Information Procedures describes in detail how the public may access Council documents and what information is either publicly or not publicly available.

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.

62 [TCS-CM] Making of the Rate 2010/2011

ORIGIN:

Revenue

SUMMARY OF REPORT:

Council, at its meeting of 15 June 2010, resolved to adopt the 2010/2011 Management Plan and 2010/2011 Budget which includes an increase in general rates for 2010/2011 of 8.5% above that for 2009/2010. In accordance with the provisions of the Local Government Act 1993 a rate or charge is made by resolution of Council, and each rate or charge is to be made for a specified year, being the year in which the rate or charge is made or the next year. Accordingly, a rate or charge must be made before 1 August in the year for which the rate or charge is made or before such later date in that year as the Minister may, if the Minister is of the opinion that there are special circumstances, allow.

The basis of this report is the formal Making of the Rate and Charges for 2010/2011.

RECOMMENDATION:

That:

- 1. Council makes the 2010/2011 rates and charges in accordance with the provisions of sections 405, 406, 493, 494, 495, 496, 501, 502, 508, 541 and 553 of the Local Government Act 1993:**
 - (a) Ordinary Rates (section 494)**
 - (i) Residential Rate**

A Residential Rate of .3693 cents in the dollar on the rateable land value of all applicable rateable land in the Tweed Shire Council area classified Residential with a minimum rate of eight hundred and ten dollars and sixty cents (\$810.60) in respect of any separate parcel of rateable land.
 - (ii) Farmland Rate**

A Farmland Rate of .2394 cents in the dollar on the rateable land value of all applicable rateable land in the Tweed Shire Council area classified Farmland with a minimum rate of eight hundred and ten dollars and sixty cents (\$810.60) in respect of any separate parcel of rateable land.
 - (iii) Business Rate**

A Business Rate of .4054 cents in the dollar on the rateable land value of all applicable rateable land in the Tweed Shire Council area classified Business with a minimum rate of eight hundred and sixty six dollars and twenty five cents (\$866.25) in respect of any separate parcel of rateable land.

(b) Annual Charges (Section 495, 496, 501, 502 and 553)

(i) Sewerage Annual Charge

A sewerage annual charge on the rateable land value of all applicable rateable land in the Tweed Shire Council area with an annual charge of five hundred and sixty eight dollars (\$568.00) in respect of any separate parcel of rateable land.

(ii) Water Annual Charge

Residential assessments – a service charge of \$106.00

Business assessments – a service charge based on meter size, being \$106.00, times the Flow Capacity Factor (as detailed in Table 1) and given the Multiplier Consumption Factor was reached (as detailed in Table 2)

A volumetric charge of \$1.65 per kilolitre for all consumption to 350KL.

A volumetric charge of \$2.50 per kilolitre for all consumption after 350KL.

Vacant assessments rated to water – a service charge of \$106.00

Properties will be levied the water service charge in accordance with the Local Government Act including the description of what land may be subject to the water service charge.

Table 1. Flow Capacity Factors

Diameter of Service mm	Cross sectional area	Flow Capacity Factor
20	314	1.00
25	491	1.56
32	804	2.56
40	1,256	4.00
50	1,963	6.25
80	5,024	16.00
100	7,850	25.00
150	17,663	56.25
200	31,400	100.00
250	49,063	156.25
300	70,650	225.00

Table 2. Consumption Factors

Consumption Scale		Consumption Factors										
KL from	KL to	Meter size (mm)										
		20	25	32	40	50	80	100	150	200	250	300
0	290	1.000	0.640	0.391	0.250	0.160	0.063	0.040	0.018	0.010	0.006	0.004
291	454	1.000	1.000	0.610	0.391	0.250	0.980	0.063	0.028	0.016	0.010	0.007
455	743	1.000	1.000	1.000	0.640	0.410	0.160	0.102	0.046	0.026	0.016	0.011
744	1,160	1.000	1.000	1.000	1.000	0.640	0.250	0.160	0.071	0.040	0.026	0.018
1,161	1,814	1.000	1.000	1.000	1.000	1.000	0.391	0.250	0.111	0.063	0.040	0.028
1,815	4,640	1.000	1.000	1.000	1.000	1.000	1.000	0.640	0.284	0.160	0.102	0.071
4,641	7,250	1.000	1.000	1.000	1.000	1.000	1.000	1.000	0.444	0.250	0.160	0.111

7,251	16,314	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	0.563	0.360	0.250
16,315	29,000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1000	0.640	0.444
29,001	45,314	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1000	1.000	0.694
Over 45,314		1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000

(iii) Tweed Heads Streetscaping Special Rate

A Tweed Heads Streetscaping Special Rate of .01 cents in the dollar on the rateable land value of applicable land in the Tweed Shire Council area. The following is a description of the applicable land:

- LOT 7 DP 167898
- LOT A DP 398092
- LOT 2 DP 525905
- LOT 8 SEC 2 DP 759009
- LOTS 2-6 DP 224382
- LOT 3 DP 110355
- LOT 1 DP 306057
- LOT A DP 313926
- LOT 1 SP 5287
- LOT 2 SP 5287
- LOT 3 SP 5287
- LOT 4 SP 528
- LOT 5 SP 528
- LOT 6 SP 5287
- LOT 2 DP 229412
- LOT 5 DP 549037
- LOT 6 DP 549037
- LOT 1 SP 10552
- LOT 2 SP 10552
- LOT 3 SP 10552
- LOT 4 SP 10552
- LOT 1 DP 534136
- LOT 2 DP 101111
- LOTS 3-4 DP 420750
- LOTS 1-2 DP 420749
- COR LOTS 32/35 DP 237678 SPL COR 73.15 X 50.8
- LOT 64 DP 237806 16.99X29.26/36.58 SPL COR
- LOT 2 DP 549328 14.5/12.14X36.58/36.65
- LOT 1 DP 549328
- LOT 61 DP 237806 12.19X36.58
- LOT 60 DP 237806 12.19X36.58
- LOTS 58/59 DP 237806
- LOT 57 DP 237806 12.19X36.58
- LOT 56 DP 237806
- LOT 55 DP 237806 12.19X36.58
- LOT 54 DP 237806
- LOT 53 DP 237806
- LOT 52 DP 237806
- LOT 1 SP 14263
- LOT 2 SP 14263
- LOT 3 SP 14263
- LOT 4 SP 14263
- LOT 5 SP 14263
- LOT 1 DP 525413

LOT 1 DP 553728
LOT 1 DP 777183 SUBJ TO E'MENTS
LOT 9 DP 964880 LOT 1 DP 303503
LOT A DP 332137 49.911 X 50.292
LOT B DP 332137 LOT 1 DP 962785 LOT 1 DP 962784 LOT 2
SEC 1DP 758279 DP 758279
LOT 100 DP 775892
LOT 3 DP 329933
LOT 1 DP 17554
LOT 2 DP 17554
LOT 3 DP 17554
LOT 4 DP 17554
LOT 5 DP 17554
LOT 6 DP 17554
LOT 7 DP 17554 29'9/30'XIRR90'10/93'9
COR LOTS 2 & 3 DP 519757
LOT 1 DP 222704
LOT 1 DP 609342
LOTS A & B DP 373378
LOTS 1-2 SEC 4 DP 4570
LOT 30 SEC 4 DP 4043 LOT 1 DP 329246 LOT 2 DP329247 LOT
3 DP 329248 LOT 4 DP 329249
LOT 6 SEC 4 DP 4570 LOT A DP 341926 & LOT 28 SEC 4 DP
4043
LOT 10 SEC 4 DP 4570
LOT 11 SEC 4 DP 4570 15.16/15.09 X 35.08/34.62
LOTS 15 SEC 4 DP 4570 LOT 16 SEC 4 DP 4043
LOT 1 SP 14262
LOT 2 SP 14262
LOT 3 SP 14262
LOT 4 SP 14262
LOT 5 SP 14262
LOT 6 SP 14262
LOT 7 SP 14262
LOT 8 SP 14262
LOT 9 SP 14262
LOT 10 SP 14262
LOT 1 SP 32143
LOT 2 SP 32143
LOT 3 SP 32143
LOT 4 SP 32143
LOT 1 SEC 5 DP 759009 LOT 23 DP 776673
LOT 672 DP 755740 LOT 3 DP 520173 LOT 1 DP 245697 LOTS
2-3 DP 561138 LOT 1 DP 820693
LOT 19 SEC 4 DP 4043 LOTS 12/14 SEC 4 DP 4570
LOT 1 DP 866236
LOT 1 DP 1007168
LOT 2 DP 1007168
LOT 1 SP 57664
LOT 2 SP 57664
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LOT 12 SP 57664
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LOT 14 SP 57664
LOT 15 SP 57664
LOT 16 SP 57664
LOT 17 SP 57664
LOT 18 SP 57664
LOT 100 DP 1021860
LOT 1 SP 70355
LOT 2 SP 70355
LOT 6 DP 1096714
LOT 3 DP 1086912

(iv) Koala Beach Special Rate

A Koala Beach Special Rate of .056 cents in the dollar on the rateable land value of applicable land in the Tweed Shire Council area. The following is a description of the applicable land:

LOT 1 DP 86409
LOT 2 DP 864093
LOT 3 DP 864093
LOT 4 DP 864093
LOT 5 DP 864093
LOT 6 DP 864093
LOT 7 DP 864093
LOT 8 DP 864093
LOT 9 DP 864093
LOT 10 DP 864093
LOT 11 DP 864093
LOT 12 DP 864093
LOT 13 DP 864093
LOT 16 DP 864093
LOT 17 DP 864093
LOT 18 DP 864093
LOT 19 DP 864093
LOT 20 DP 864093
LOT 21 DP 864093
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LOT 919 DP 1077493
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LOT 737 DP 1078611
LOT 1 SP 78678
LOT 2 SP 78678

- (v) **Burringbar-Mooball Sewerage Annual Charge**
A Burringbar-Mooball Sewerage Annual Charge for all rateable land which will be serviced by the Burringbar/Mooball Sewerage Scheme of the Tweed. An annual sewerage charge of three hundred and fifty dollars (\$350.00) in respect of any separate parcel of rateable land within the Burringbar-Mooball area. The following is a description of the applicable land:

PT LOT 1 SEC 1 DP 3090
LOT 6 DP 5114
LOT 5 DP 5114
LOTS 3 & 4 DP 5114 LOT 1 DP 126083 LOT 11 DP 1093305
LOT 3 SEC 1 DP 3090
LOT 2 DP 360551
LOT 1 DP 388082
LOT 3 DP 574439
LOT 1 DP 503384
LOT 7 SEC 1 DP 3090
LOT 8 SEC 1 DP 3090
LOT 10-10A SEC 1 DP 6696
LOT 1 DP 771720
LOT 1A SEC 2 DP 6696
LOTS 2-2A SEC 2 DP 6696
LOTS 3-3A SEC 2 DP 6696
LOTS 4-4A SEC 2 DP 6696
LOT 5 SEC 2 DP 6696
LOT 12 DP 571794
LOT 10 SEC 2 DP 3090
LOT A DP 380818
LOT B DP 380818 16.76 X 50.29
LOT 1 DP 377857
LOT 2 DP 377857 20.12 X 50.29
LOT 3 DP 377857 20.12 X 50.29
LOTS 4/5 DP 379207
LOT 6 DP 261790
LOT 7 DP 261790
LOT 8 DP 261790 23.14 X 73.56

LOT 9 DP 261790
LOT 10 DP 261790
LOT 14 DP 261790
LOT 16 DP 261790
LOT 17 DP 261790 18.6 X 39.5
LOT 18 DP 261790
LOT 19 DP 261790
LOT 20 DP 261790
LOT 4 SEC 2 DP 2853
LOT 2 DP 261790
LOT 3 DP 261790
LOT 5 DP 261790
LOT 7 DP 617837
LOT 6 DP 617837
LOT 1 DP 517616
LOT 5 DP 563017
LOT 2 DP 701606
LOT 1 DP 701606
LOT 3 DP 542839
LOT 1 DP 801130
LOTS A-D DP 6624
LOT E DP 6624
LOT I DP 6624
LOTS J & K DP 6624
LOT B DP 408782
LOT A DP 403665
LOT 1 DP 383810
LOTS 1-3 DP 124446
LOT 1 DP 124445
LOT 2 DP 124445
LOT 1 DP 124444
LOT 2 DP 124444
LOT 16 SEC 1 DP 2853
LOT 17 SEC 1 DP 2853
LOT 11 DP 866170
LOT 4 DP 607681
LOT 3 DP 607681
LOT 1 DP 972819
LOT 6 DP 381443
LOT 1 DP 378287
LOT 1 DP 379905
LOT 1 DP 231691
LOT 2 DP 231691
LOT 2 DP 5726
LOT 3 DP 5726
LOT 14 DP 631001
LOT 15 DP 631001
LOTS 6/7 DP 5726
LOTS 8/9 DP 5726
LOTS 10-11 DP 5726
LOTS 12-13 DP 5726
LOTS 14-15 DP 5726
LOT 1 DP 124443 LOT 4 DP 877090
LOT 5 DP 877090
LOT 1 SEC 3 DP 2853
LOTS 24/26 DP 597517

LOT 27 DP 597517
LOT 8 SEC 3 DP 2853
LOT 1 DP 332658
LOT A DP 363236
LOT B DP 363236
LOT 10 SEC 1 DP 17414
LOT 9 SEC 1 DP 17414
LOT 8 SEC 1 DP 17414
LOT 7 SEC 1 DP 17414
LOT 6 SEC 1 DP 17414
LOT 5 SEC 1 DP 17414
LOT 4 SEC 1 DP 17414
LOT 3 SEC 1 DP 17414
LOTS 1-2 DP 316479
LOT 1 DP 329318 LOT 1 DP 393596 LOT 1 DP 123205
LOT 3 DP 329318
LOT 4 SEC 2 DP 17414
LOT C DP 370478
LOTS D/E DP 370478
LOT A DP 420797 & LOT F DP 370478
LOTS A-B DP 403876 LOT 2 DP 316482 LOT 3 DP
659959
LOT 1 DP 129581
LOT 1 DP 369445
LOT B DP 365259
LOT A DP 354678
LOTS 1-2 DP 26048
PH MOOBALL LOT 3 DP 26048
LOT 1 DP 231846 SUBJ TO R O W
LOT 2 DP 534493
LOT 3 DP 621019
LOT 2 SEC 3 DP 3090
LOT 3 SEC 3 DP 3090
LOT 4 SEC 3 DP 3090
LOT 5 SEC 3 DP 3090
LOTS 6/7 SEC 3 DP 3090
LOT 1 DP 134112 & LOT 1 DP 444022
LOT 23 DP 658471 & LOT 1 DP 441094
LOT 2 DP 603957
LOT 1 DP 603957
COR LOT 21 DP 5726
COR LOT 1 SEC 4 DP 3090
LOT 2 SEC 4 DP 3090
LOT 3 SEC 4 DP 3090
LOT 4 SEC 4 DP 3090
LOT 6 SEC 4 DP 3090
LOT 7 SEC 4 DP 3090
LOT 15 SEC 1 DP 2853
LOT 1 DP 705526
LOT 16 DP 712033
LOT 9 SEC 3 DP 2853
LOT 1 DP 780313
LOT 1 DP 812763
LOT D DP 366531
LOT 14 DP 716554
LOT 15 DP 716554

LOT 1 DP 1026551 SRA LEASE 209214 EP45014
LOT 12 DP 866170
LOT 1 DP 107628
LOTS 8/9 DP 383174
LOT 1 DP 805475
LOT 2 DP 812763
LOT 14 SEC 1 DP 2853
LOT 1 DP 828287
LOT 1 DP 835350
LOT 2 DP 835350
LOT 3 DP 828280
LOT 3 DP 124444
LOT 9 SEC 1 DP 2853
LOT 25 DP 871153
LOT 2 DP 872622
LOT 1 DP 124646
LOTS A & B DP 366531
LOT C DP 366351
LOT 101 DP 1074149
LOTS 102 & 103 DP 1074149
LOT 5 DP 1104494
LOT 6 DP 1104494
LOT 20 DP 1107578
LOT 21 DP 1107578

- (vi) **Dobbys Crescent Sewerage Annual Charge**
A Dobbys Crescent Sewerage Annual Charge for all rateable land which will be serviced by the Dobbys Crescent Sewerage Scheme of the Tweed. An annual sewerage charge of four hundred and fifty dollars (\$450.00) in respect of any separate parcel of rateable land within the Dobbys Crescent area. The following is a description of the applicable land:

LOT 2 SEC 1 DP 30148
LOT 3 SEC 1 DP 30148
LOT 4 SEC 1 DP 30148
LOT 1 DP 781535
LOT 2 DP 781535
LOT 7 SEC 1 DP 30148
LOT 28 DP 212092
LOT 24 DP 212092
LOT 18 DP 212092
LOT 17 DP 212092
LOT 15 DP 212092
LOT 14 DP 212092
LOT 13 DP 212092
LOT 12 DP 212092
LOT 11 DP 212092
LOT 10 SEC 2 DP 30148
LOT 9 SEC 2 DP 30148
LOT 8 SEC 2 DP 30148
LOT 4 SEC 2 DP 30148
LOT 3 SEC 2 DP 30148 21.34X40.23
LOT 1 SEC 2 DP 30148 LOT 1 DP
781539
LOT 5 DP 588767

LOT 3 DP 587870
LOT 1 DP 781536
LOT 2 DP 609870
LOT 1 DP 609870
LOT 3 DP 211196
LOT 19 DP 212092
LOT 20 DP 212092
LOT 21 DP 212092
LOT 23 DP 212092
LOT 25 DP 212092
LOT 6 SEC 2 DP 30148
LOT 7 SEC 2 DP 30148
LOT 32 DP 1013881
LOT 1 DP 1069663

- (vii) **Domestic Waste Management Annual Charge**
A Domestic Waste Management Annual Charge for all land within the declared domestic waste scavenging area, maps of which are available from Council's Waste Management Unit. An annual charge of forty seven dollars and thirty five cents (\$47.35) in respect of any applicable land within the declared domestic waste scavenging area.

- (viii) **Domestic Waste Service Annual Charge**
A Domestic Waste Service Annual Charge for all land within the declared domestic waste scavenging area for the removal of the approved contents of the standard 140 litre mobile waste bin each week, maps of which are available from Council's Waste Management Unit. An annual charge of ninety nine dollars and twenty cents (\$99.20) in respect of any applicable serviced land within the declared domestic waste scavenging area.

An alternate 80 litre mobile bin will be available to residents who have low waste generation. An annual charge of ninety two dollars and ninety six cents (\$92.96) in respect of any applicable serviced land within the declared domestic waste scavenging area.

An Alternate 240 litre mobile bin will be available to residents who have high waste generation. An annual charge of one hundred and seventy four dollars and ninety cents (\$174.90) in respect of any applicable serviced land within the declared domestic waste scavenging area.

- (ix) **Landfill Management Charge**
A Landfill Management Annual Charge for all rateable land within the boundary of the Tweed Shire. An annual charge of twenty five dollars (\$25.00) in respect of all rateable land within the boundary of the Tweed Shire.

- (x) **Green Organics Collection Charge**
An additional annual charge of fifty dollars (\$50.00) is applicable to all landowners who have requested a fortnightly green organics collection service.

(xi) Waste Minimisation and Recycling Annual Charge
A Waste Minimisation and Recycling Annual Charge for all land within the declared domestic waste scavenging area, maps of which are available from Council's Waste Management Unit. An annual charge of sixty dollars and thirty cents (\$60.30) in respect of any applicable land within the declared domestic waste scavenging area.

2. In accordance with section 566(3) of the Local Government Act 1993 that the maximum rate of interest payable on overdue rates and charges be 9% per annum.

REPORT:

Council adopted the 2010/2011 Management Plan at its meeting of 15 June 2010. The Plan outlined Council's proposed rate structure including a General Fund notional rate increase of 8.5%. Council is now required to make the rate for 2010/2011.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The current numbers of rateable properties as at 1 July 2010 for ordinary rates are:

Residential	35,698
Business	1,792
Farmland	1,533
Total	39,023

The impact on the minimum rates is as follows:

	Residential		Farmland		Business	
	09/10	10/11	09/10	10/11	09/10	10/11
Ordinary Rate	\$747.10	\$810.60	\$747.10	\$810.60	\$798.40	\$866.25
Sewerage Charge	\$527.00	\$568.00	\$527.00	\$568.00	\$527.00	\$568.00
Water Access Charge	\$102.00	\$106.00	\$102.00	\$106.00	\$102.00	\$106.00
Garbage Service Charge	\$192.80	\$206.85	\$192.80	\$206.85	*	*
Landfill Management Charge	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00
Total	\$1,593.90	\$1,716.45	\$1,593.90	\$1,716.45	*	*

Total increase from 2009-2010 (minimum ordinary rates)	\$63.50	\$63.50	\$67.85
Total percentage minimum increase	8.5%	8.5%	8.5%
Total increase from 2009-2010 (all rates)	\$122.55	\$122.55	*
Total percentage increase (all rates)	7.74%	7.74%	*

* Garbage Service Charges on business properties are dependant upon usage and types of bins requested with appropriate charging, therefore total applicable rates on business properties will vary in accordance with their service levels.

The rates in the dollar presented in this report, differs slightly to the advertised amounts in the 2010/2011 Draft Revenue Policy and Statement. The reasons for this variation are changes in property status, the revaluation process, supplementary valuation additions and non-availability of catch-up from previous years which have been included in the total property valuations effective 1 July 2010.

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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63 [TCS-CM] Tweed Futures 2004/2024 Strategic Plan

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

At the Council Meeting of 20 April 2010 the following was resolved in determining this matter:

“RESOLVED that this item be deferred to allow a workshop to be scheduled.”

In accordance with this decision a workshop was conducted on 8 June 2010 to discuss the status of Tweed Futures 2004/2024 and the preparation of the new ten year Community Strategic Plan. As a result of this workshop this report is resubmitted to Council for consideration.

The Tweed Futures 2004/2024 Strategic Plan that was adopted in September 2004 stated:

“Tweed 2004/2024 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 legislation 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 2004/2024 Priorities Action Plan has been undertaken.

An outcome of this review is that the outstanding and ongoing priorities of the Tweed Futures 2004/2024 Strategic Plan will form the basis of the Community Strategic Plan currently being developed.

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 the:

- 1. 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 2011/2021 Community Strategic Plan.**
- 2. Tweed Futures 2004/2024 Strategic Plan document be finalised effective from the date of this Council meeting.**

REPORT:

At the Council Meeting of 20 April 2010 the following was resolved in determining this matter:

“RESOLVED that this item be deferred to allow a workshop to be scheduled.”

In accordance with this decision a workshop was conducted on 8 June 2010 to discuss the status of Tweed Futures 2004/2024 and the preparation of the new ten year Community Strategic Plan. As a result of this workshop this report is resubmitted to Council for consideration.

The Tweed Futures 2004/2024 Strategic Plan that was adopted in September 2004 stated:

“Tweed 2004/2024 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 2004/2024 Priorities Action Plan has been undertaken.

An outcome of this review is that the outstanding and ongoing priorities of the Tweed Futures 2004/2024 Strategic Plan will form the basis of the 2011/2021 Community Strategic Plan currently being developed. 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, which is still relevant for the outstanding action items. 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

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, following extensive community consultation.

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 valuable 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:

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 Futures Action Plan Review (ECM 14883166)
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64 [TCS-CM] Monthly Investment Report for Period Ending 30 June 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

Council had \$143,803,205.37 invested as at 30 June 2010 and the accrued net return on these funds was \$565,735.49 or 4.72% annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 30 June 2010 totalling \$143,803,205.37 be received and noted.

REPORT:

Report for Period Ending 30 June 2010

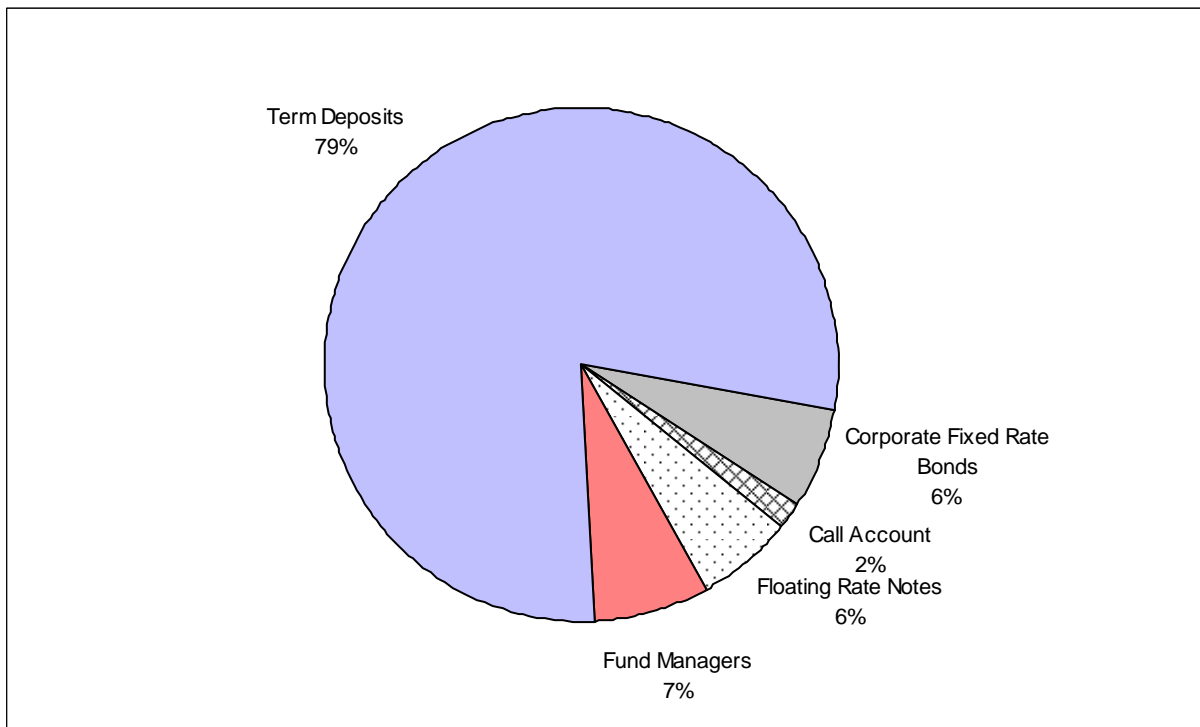
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

1. Restricted Funds as at 1 July 2009

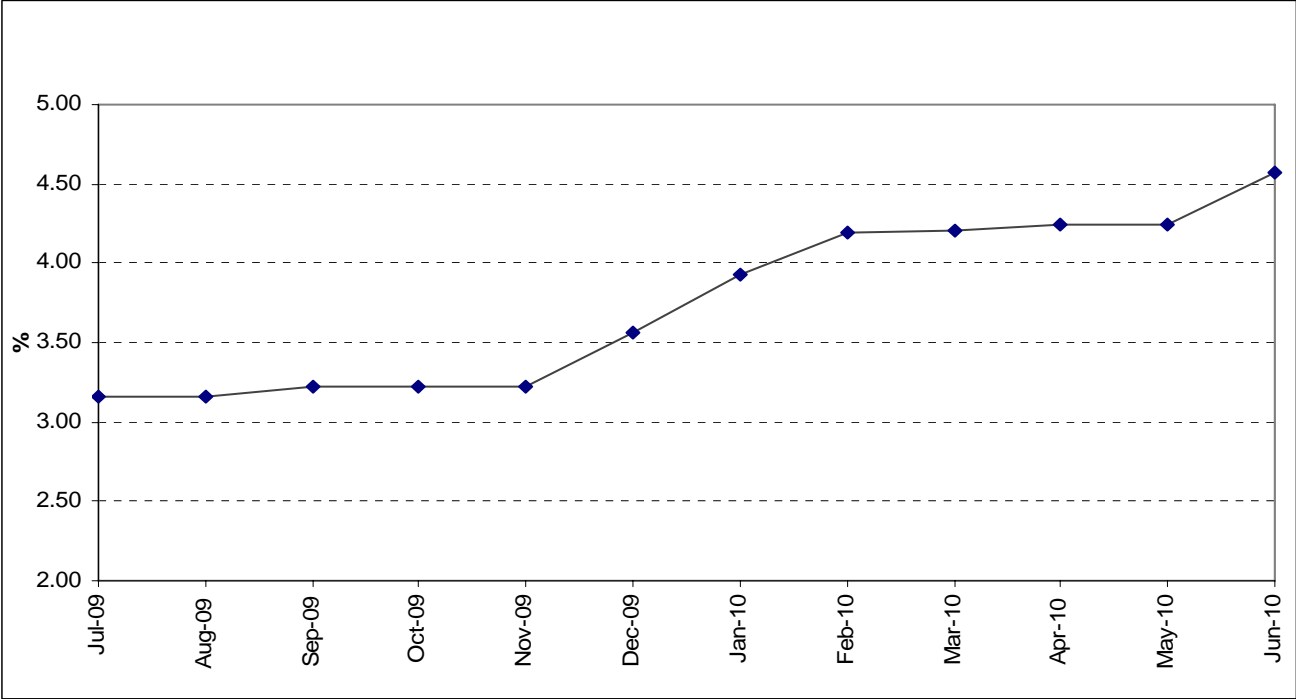
Description	(\$'000)			Total
	General Fund	Water Fund	Sewer Fund	
Externally Restricted	15,427	13,980	14,908	44,315
Crown Caravan Parks	10,145			10,145
Developer Contributions	29,762	19,327		49,089
Domestic Waste Management	8,035			8,035
Grants	3,794			3,794
Internally Restricted	13,816			13,816
Employee 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

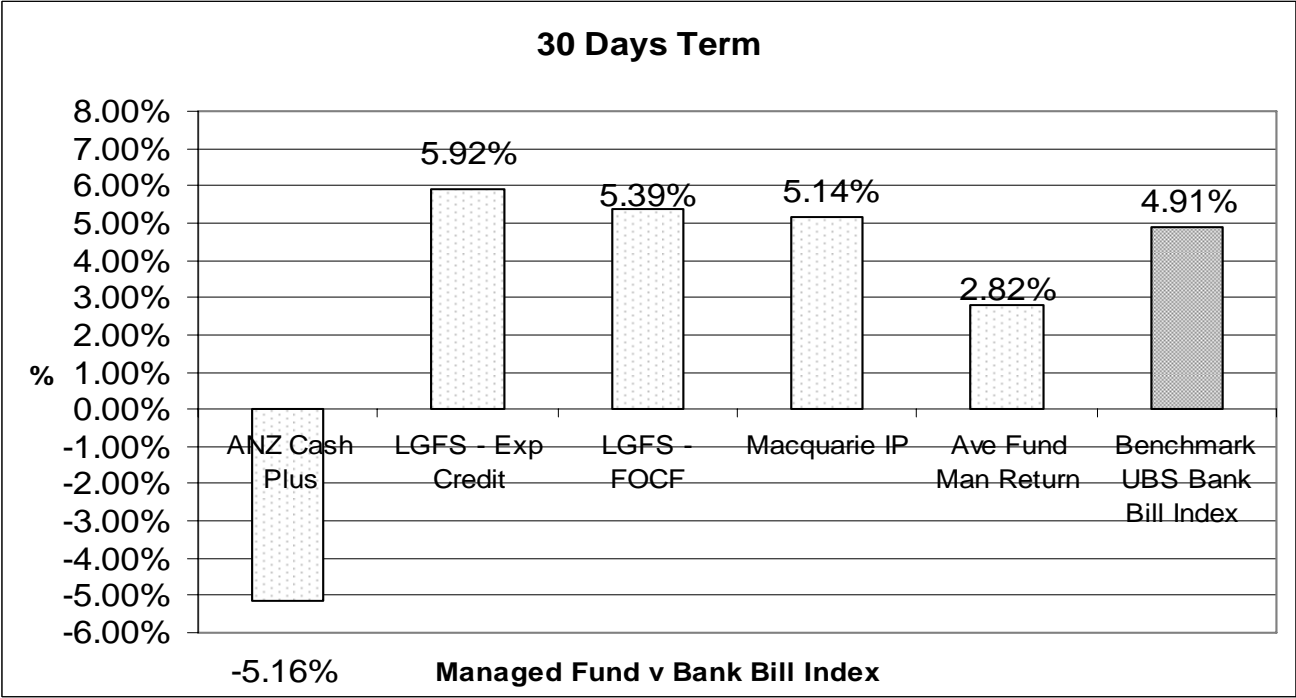
2. Current Investment Portfolio by Category



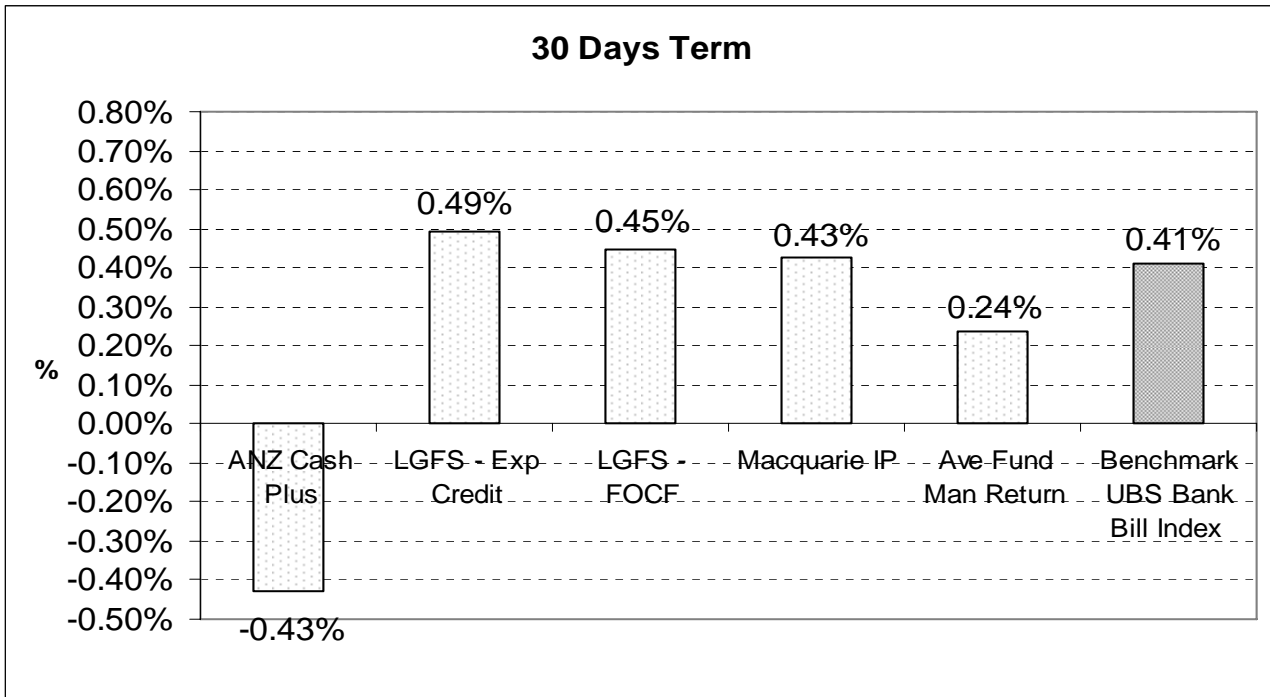
3. Investment Rates - 90 Day Bank Bill Rate (%)



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	2.25%	\$432,835	\$230,179	\$0	Monthly
LGFS - Enhanced Cash	n/a	17.35%	\$1,767,032	\$1,775,401	\$8,369	Monthly
LGFS - FOCF	AA-	25.67%	\$6,610,518	\$2,626,992	\$16,474	Quarterly
Macquarie IP	A	54.73%	\$5,578,260	\$5,601,307	\$26,737	Quarterly
Total		100%	\$14,388,645	\$10,233,880	\$51,581	

7. Direct Securities

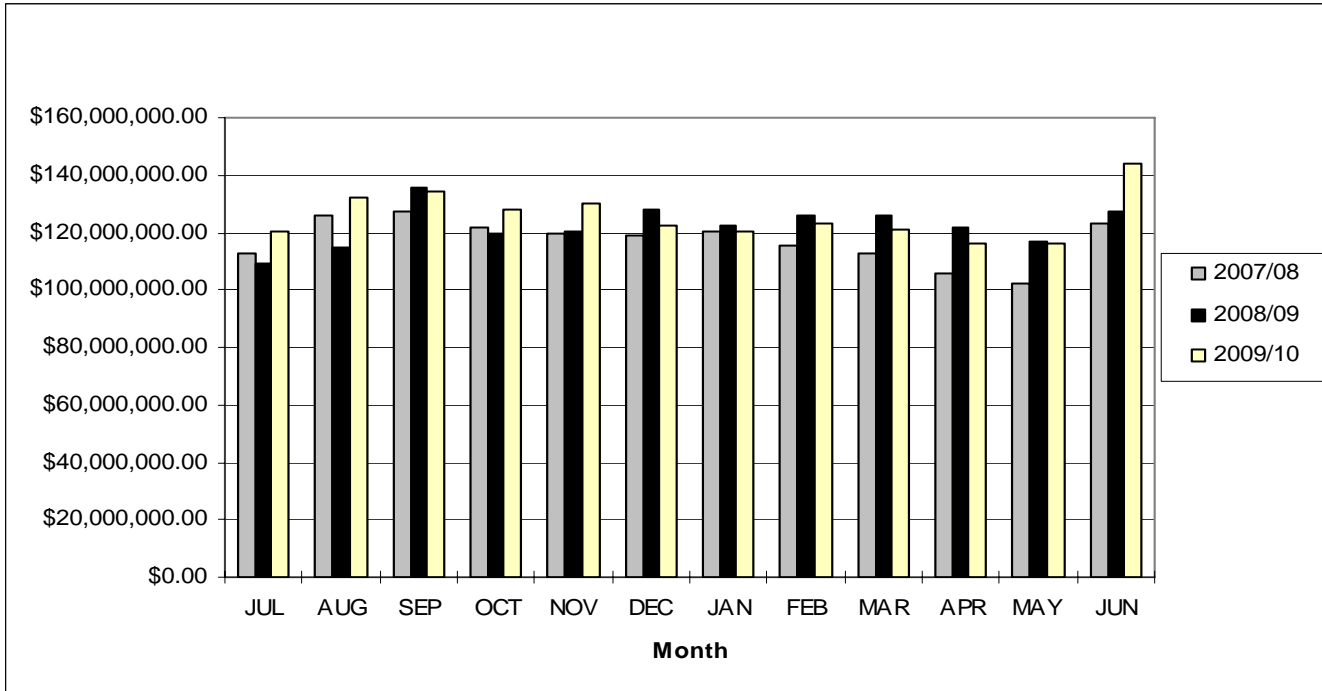
Investment Type	Final Maturity	Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Credit Rating
FRN	20/07/2010	CBA	1,000,000.00	1,009,460.59	4.78	AA
FRN	17/08/2010	ANZ	1,000,000.00	1,006,449.00	5.14	AA
Bond	02/12/2010	Bank of Queensland	1,500,000.00	1,506,296.04	5.55	BBB+
Bond	02/12/2010	Bank of Queensland	1,000,000.00	1,004,197.36	6.00	BBB+
FRN	21/01/2011	CBA	1,000,000.00	1,004,508.05	4.96	AA
FRN	24/01/2011	Macquarie/HSBC	2,000,000.00	2,008,065.04	5.14	A
Bond	08/11/2011	ANZ	1,000,000.00	1,024,270.00	5.15	AA
FRN	08/03/2012	Members Equity	2,000,000.00	1,920,020.00	5.32	BBB-
FRN	17/04/2012	CBA	1,000,000.00	1,030,213.74	5.76	AA
Bond	24/09/2012	Westpac	1,000,000.00	1,052,370.00	4.90	AA
Bond	24/09/2012	Westpac	1,000,000.00	1,052,370.00	5.15	AA
FRN	23/11/2012	Deutsche Bank	1,000,000.00	882,306.00	5.75	A+
Bond	22/04/2013	ANZ	1,000,000.00	1,085,040.00	8.65	AA
Bond	22/01/2018	CBA Zero Coupon Bond	2,000,000.00	2,483,760.00	7.28	AA
ABS = Asset Backed Security		Total	17,500,000.00	18,069,325.82	5.68	
Bond = Fixed Rate Bond						
CDO = Collateralised Debt Obligation						
FRN = Floating Rate Note						

8. Term Deposits

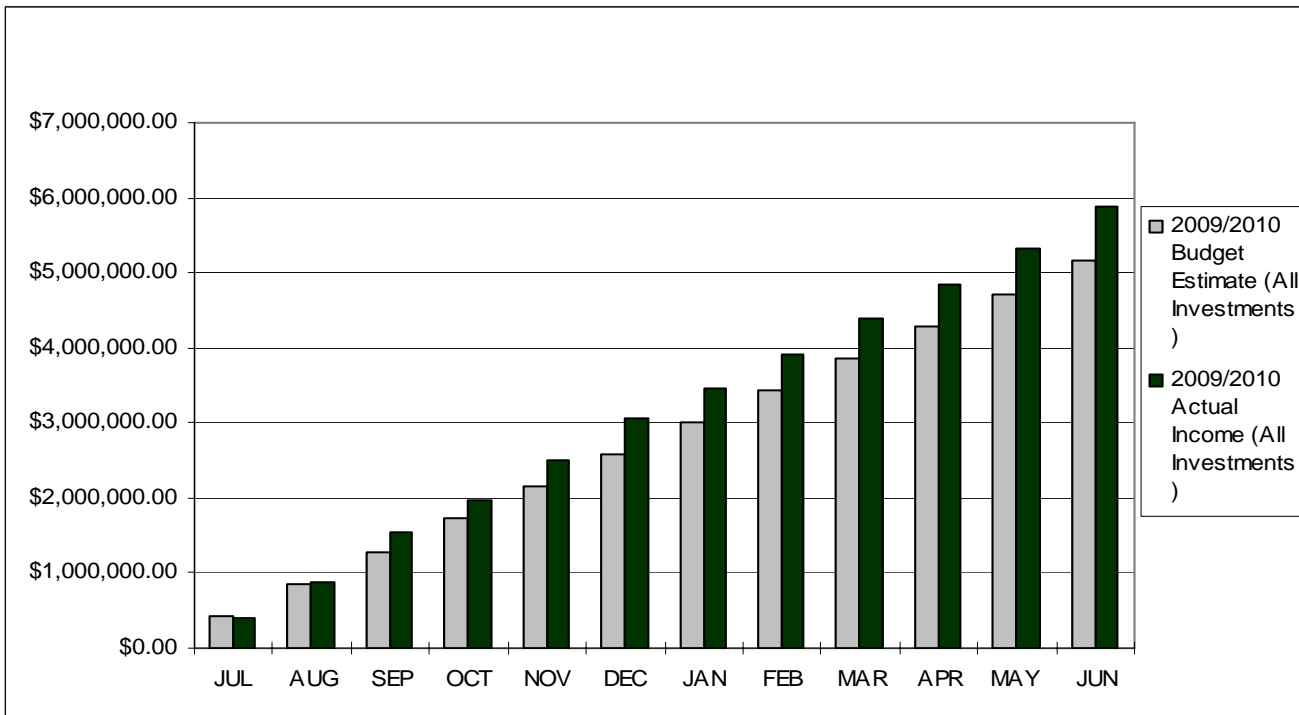
TERM DEPOSITS SORTED BY MATURITY AS AT 30/06/10						
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE
03-Feb-10	05-Jul-10	Westpac Bank	3,000,000.00	152	6.600	82,454.79
16-Sep-09	13-Jul-10	Suncorp Metway	2,000,000.00	307	5.200	87,473.97
11-Jan-10	13-Jul-10	Westpac Bank	2,000,000.00	183	6.600	66,180.82
12-Jan-10	20-Jul-10	Bank of QLD	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
03-Feb-10	03-Aug-10	Suncorp Metway	3,000,000.00	181	6.500	96,698.63
17-Feb-10	03-Aug-10	Westpac Bank	3,000,000.00	167	6.600	90,591.78
11-May-10	11-Aug-10	SLCU	1,000,000.00	92	6.300	15,879.45
18-May-10	18-Aug-10	IMB CRI	1,000,000.00	92	6.090	15,350.14
21-Aug-09	24-Aug-10	Bank of QLD	2,000,000.00	368	5.300	106,871.23
28-May-10	30-Aug-10	LGFS CRI	5,000,000.00	94	5.950	76,616.44
01-Sep-09	01-Sep-10	NAB	4,000,000.00	365	5.530	221,200.00
11-Feb-10	07-Sep-10	Citibank	1,000,000.00	208	6.280	35,787.40
09-Jun-10	07-Sep-10	CPS CU	1,000,000.00	90	6.100	15,041.10
15-Jun-10	14-Sep-10	Suncorp Metway	2,000,000.00	91	6.050	30,167.12
10-Dec-09	14-Sep-10	Westpac Bank	1,000,000.00	278	6.750	51,410.96
01-Jun-10	15-Sep-10	IMB	1,000,000.00	106	6.030	17,511.78
21-Jun-10	20-Sep-10	LGFS CRI	1,000,000.00	92	5.700	14,367.12
19-Jan-10	21-Sep-10	Westpac Bank	2,000,000.00	245	6.630	89,005.48
09-Jun-10	27-Sep-10	LGFS CRI	4,000,000.00	110	5.980	72,087.67
07-Oct-09	05-Oct-10	Suncorp Metway	1,000,000.00	363	6.010	59,770.68
05-Nov-09	05-Oct-10	Westpac Bank	2,000,000.00	334	6.260	114,566.58
09-Jun-10	12-Oct-10	Qantas	1,000,000.00	125	6.100	20,890.41
09-Feb-10	12-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
20-Oct-09	19-Oct-10	Bankwest	1,000,000.00	364	6.000	59,835.62

17-Feb-10	26-Oct-10	Westpac Bank	2,000,000.00	251	6.760	92,973.15
23-Feb-10	09-Nov-10	Bank of QLD	2,000,000.00	259	6.300	89,408.22
02-Mar-10	16-Nov-10	IMB	1,000,000.00	259	6.290	44,633.15
19-May-10	17-Nov-10	Suncorp Metway	1,000,000.00	182	6.320	31,513.42
02-Mar-10	29-Nov-10	ANZ	3,000,000.00	272	6.250	139,726.03
01-Jun-10	30-Nov-10	ADCU	1,000,000.00	182	6.200	30,915.07
04-Mar-10	30-Nov-10	ANZ	4,000,000.00	272	6.300	187,791.78
01-Jun-10	07-Dec-10	Members Equity Bank	1,000,000.00	189	6.200	32,104.11
01-Dec-09	07-Dec-10	Westpac Bank	2,000,000.00	370	6.800	137,863.01
10-Dec-09	14-Dec-10	NAB	1,000,000.00	369	6.650	67,228.77
03-Dec-09	14-Dec-10	Westpac Bank	1,000,000.00	376	7.050	72,624.66
05-Jan-10	21-Dec-10	Suncorp Metway	1,000,000.00	350	6.900	66,164.38
16-Dec-09	21-Dec-10	Westpac Bank	1,000,000.00	370	7.000	70,958.90
25-Jun-10	05-Jan-11	Suncorp Metway	5,000,000.00	194	6.300	167,424.66
29-Jun-10	05-Jan-11	Suncorp Metway	2,000,000.00	190	6.500	67,671.23
28-Jun-10	11-Jan-11	LGFS	5,000,000.00	197	6.300	170,013.70
28-Jun-10	11-Jan-11	Suncorp Metway	5,000,000.00	197	6.310	170,283.56
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
25-Jun-10	22-Mar-11	Adelaide Bendigo Bank	2,000,000.00	270	6.250	92,465.75
25-Jun-10	22-Mar-11	Bank of QLD	5,000,000.00	270	6.300	233,013.70
29-Jun-10	22-Mar-11	LGFS	2,000,000.00	266	6.250	91,095.89
02-Apr-08	01-Apr-11	Suncorp Metway	3,000,000.00	1095	8.300	747,000.00
19-May-10	17-May-11	QTCU	1,000,000.00	363	6.450	64,146.58
27-May-10	24-May-11	Adelaide Bendigo Bank	2,000,000.00	362	6.400	126,947.95
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
			113,000,000.00		6.284	

9. Monthly Comparison of Total Funds Invested

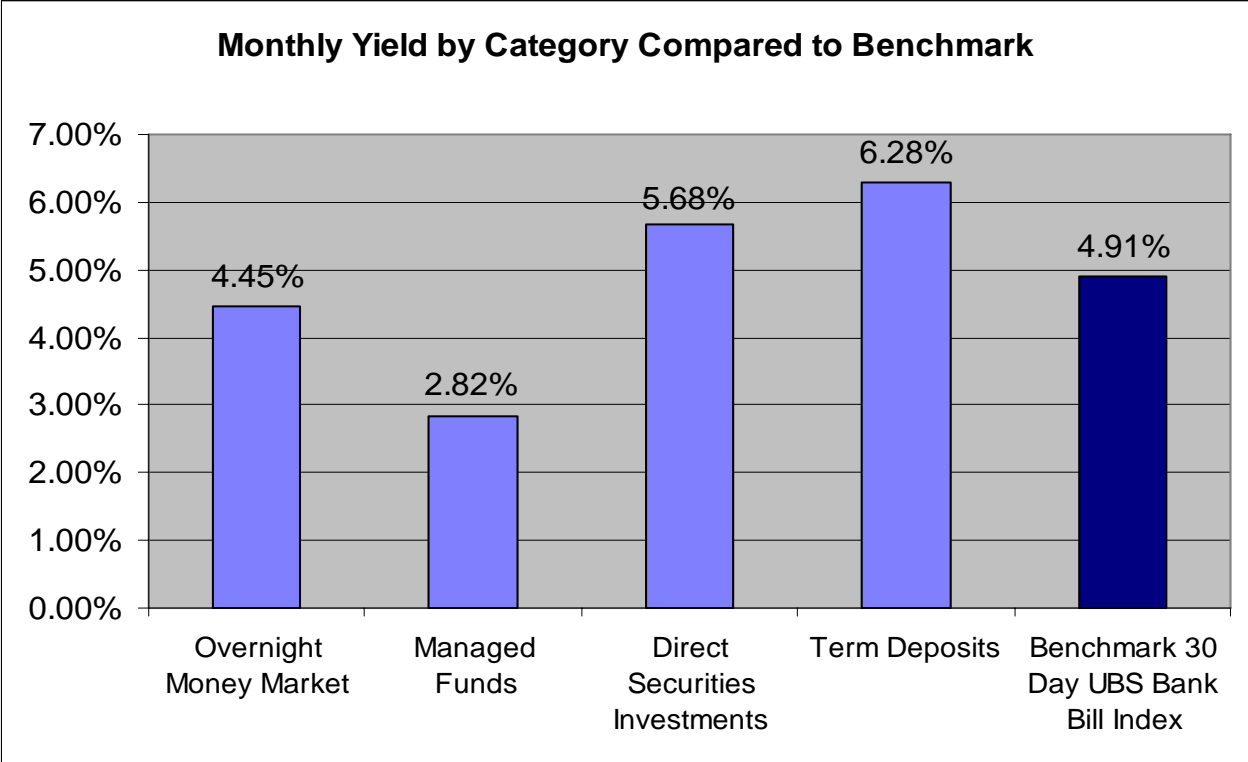


10. Total Portfolio Income Year to Date



11. Performance by Category

Category	Face Value	Market Value	Average Yield	Above/(Below) 30 day BBSW Benchmark
Overnight Money Market	\$2,500,000.00	\$2,500,000.00	4.45%	0.15%
Managed Funds	\$10,233,879.55	\$10,233,879.55	2.82%	-1.48%
Direct Securities Investments	\$19,500,000.00	\$18,069,325.82	5.68%	1.38%
Term Deposits	\$113,000,000.00	\$113,000,000.00	6.28%	1.98%
Benchmark 30 Day UBS Bank Bill Index	\$145,233,879.55	\$143,803,205.37	4.91%	Benchmark 30 Day UBS Bank Bill Index



**12. Section 94 Developer Contributions - Monthly Balances and Receipts Report
Period Ending 30 June 2010**

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	DCP3 Open Space	3,704,679.35	0.00
02	Western Drainage	458,367.95	0.00
03	DCP3 Community Facilities	33,310.74	0.00
04	TRCP	11,700,094.32	22,609.00
05	O/Space	1,327,923.52	3,824.00
06	Contribution Street Trees	205,321.95	0.00
07	West Kingscliff	824,452.25	6,574.61
10	Cobaki Lakes	-162.67	0.00
11	Libraries	1,613,476.38	4,448.00
12	Bus Shelters	30,790.54	240.00
13	Cemeteries	17,015.68	690.00
14	Mebbin Springs	68,958.69	0.00
15	Community Facilities	1,246,314.53	2,063.00
16	Surf Lifesaving	409,985.47	183.00
18	Council Admin - Tech Support	1,694,405.63	10,048.52
19	Kings Beach	1,051,670.19	0.00
20	Seabreeze Estate	575.30	0.00
21	Terranora Village Footpath	25,728.00	0.00
22	Shirewide Cycleways	470,960.98	2,508.00
23	Shirewide Carparking	1,747,434.11	0.00
25	Salt Development	779,209.94	0.00
26	Plan 26 Shirewide Open Space	4,059,342.39	26,106.00
27	Tweed Heads Master Plan & Streetscaping	80,045.08	3,141.00
28	Seaside City	-645.38	0.00
91	DCP14	82,525.27	0.00

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
92	Public Reserve Contributions	103,749.45	0.00
94	Terranora Village Footpath	-113,949.00	0.00
95	Bilambil Heights	494,188.26	0.00
96	Community Facilities Shire Wide	68,721.96	0.00
98	Marana Park Roundabout	0.00	0.00
Total		32,184,490.88	82,435.13

13. Economic Commentary

Domestic Economy

The Reserve Bank of Australia (RBA) left the official cash rate at 4.50% at its 6 July meeting, as widely expected. The RBA still views rates as “appropriate” and have adopted a neutral stance in place of their previous tightening bias. Future changes in the cash rate are “pending further information about international and local conditions for demand and prices”, reinforcing their neutral stance.

Global Economy

Benchmark interest rates in the United States again remained at 0 to 0.25% during June. The US Federal Reserve acknowledged that interest rates were to remain low “for an extended period” and that the speed of recovery was weakening. Consumer spending was increasing but “remained constrained by high unemployment.”

China has stated that they will persist with current economic policies that are widely thought will slow economic growth and the property market. The government is set to impose a resource tax (similar to Australia) that will shift revenue from companies to local governments and raise the price of energy.

The European Central Bank (ECB) kept interest rates on hold in June. Soft retail sales and inflation data mean that rates are not expected to rise until well into 2011. ECB President Jean-Claude Trichet stated price stability as a major policy for the central bank going forward and called for “further development of monetary indicators to help support financial and economic stability.”

The Japanese economy is continuing to improve following the central bank’s recent injection of loans made available to the private sector. A Bank of Japan spokesperson said “the economy is recovering, with the improvement of overseas economies as the starting point but the outlook remains uncertain due to risks such as the European sovereign debt crisis.”

The Reserve Bank of New Zealand (RBNZ) raised its benchmark interest rate 0.25% for the first time in three years in June. The RBNZ Governor said inflation was a concerning problem. "Underlying inflationary pressures are expected to increase." The Bank expects inflation to reach 5.3% next year.

Council's Investment Portfolio Performance

All investment categories except fund managers and cash-at-call again out-performed the UBS 30 day bank bill benchmark this month. Market volatility is highlighted by comparing fund managers 30 day (annualised) returns. For example, Macquarie Income Plus Fund returned 14.47% during April, (4.70%) in May and 5.14% in June.

Overall, the investment portfolio has returned an average 2.64% pa above the 30 day UBS bank bill index for the last 12 month period.

79% of available funds are now invested in term deposits with managed funds being gradually 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 \$143,803,205.37 invested as at 30 June, 2010 and the accrued net return on these funds was \$565,735.49 or 4.72% annualised for the month.

14. Investment Summary as at 30 June 2010

GENERAL FUND

Collateralised Debt Obligations		0.00
Commercial Paper		0.00
Corporate Fixed Rate Bonds	9,208,303.40	
Floating Rate Notes	8,861,022.42	
Asset Backed Securities	0.00	
Fund Managers	1,537,897.59	
Term Deposit - Loan 104 Offset	0.00	
Term Deposits	52,000,000.00	
Call Account	2,500,000.00	74,107,223.41

WATER FUND

Term Deposits	26,000,000.00	
Fund Managers	5,901,784.37	31,901,784.37

SEWERAGE FUND

Term Deposits	35,000,000.00	
Fund Managers	2,794,197.59	37,794,197.59

TOTAL INVESTMENTS		<u>143,803,205.37</u>
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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.

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REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

65 [SUB-DAAC] Tweed Shire Disability Access Advisory Committee Meeting held Wednesday 19 May 2010

Venue:

Coolamon Cultural Centre Murwillumbah

Time:

10.00am

Present:

Ron Douglas, Milena Morrow, Peter Stannard, Kirrily Twyford, Cr Dot Holdom, Cr Phil Youngblutt, Diana Carbines, Ray Clark, Robert Noakes

Apologies:

Beverly Kelso, Vic Sparks, Una Cowdroy, Vanessa Scott-White

Minutes of Previous Meeting:

Moved: Milena Morrow

Seconded: Cr Dot Holdom

RESOLVED that the Minutes of the Tweed Shire Disability Access Advisory Committee meeting held Wednesday 17 March 2010 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

BA3. Location of Meetings

Diana Carbines confirmed the meeting locations for this year

21 July 2010 – Banora Point Community Centre

15 September 2010 – Museum at Murwillumbah – To Be Confirmed July meeting

17 November 2010 – Banora Point Community Centre

BA6. Flood Safe Brochure - Guest Speaker: Darren Winkler Tweed Heads SES.

The Flood Safe Brochure is a first in NSW and has been in development for 2 years. It is the result of workshops and consultations with Aged Care facilities, the Tweed Community Care Forum and The Tweed Disability Interagency. Over 3000 people receive services through more than 70 organisations. Darren acknowledged the contribution by Tweed Shire Council of \$2000 towards the Flood Safe Brochure production and printing.

The official launch is expected in July 2010 and requires liaison with a number of MP's. The brochure launches initially at Tweed, with follow up days at Murwillumbah, Tweed Coast and then at smaller communities around the shire.

The Advisory Committee discussed further promotion of the brochure using the Tweed Link, mailing with council rate notices and access to the brochure on the Tweed Shire Council

web site. The clarity of the brochure was discussed and the importance that it is not shrunk for inclusion in the Tweed Link.

Moved: Cr Dot Holdom

Seconded: Cr Phil Youngblutt

RESOLVED that Diana Carbines obtains costing and options for the brochure to be promoted in the Tweed link or a mail out of the brochure with rate notices.

GB2. Establishment of a Development Control Plan (DCP) for Tweed Shire in respect of Disability Access. Guest Speaker - Iain Lonsdale, Unit Coordinator TSC Planning Reforms Unit.

Iain advised the TSC Planning Reforms Unit have a 3 year work program, reviewed annually. In order for a DCP Access to be considered for planning reform, the committee will need to establish a clear objective and understand the mechanisms already in place as many areas are already addressed ie Building Codes of Australia.

Moved: Milena Morrow

Seconded: Robert Noakes

RESOLVED that the committee investigate the matter further as a group or as individuals about the DCP Access.

GB3. Finance

Details of the current financial year 2009/2010 and the past 2 financial years provided to the committee for their information.

Agenda Items:

1. Renaming of the Committee- Proposal for the committee to be renamed Equal Access Committee.

Dot Holdom has proposed a change of name from Disability Access to Equal Access. It was considered to be important and that when approved a press release or story be provided to the Tweed link.

Moved: Milena Morrow

Seconded: Peter Stannard

RECOMMENDED that the name of the Tweed Shire Disability Access Advisory Committee be amended to the Tweed Shire Equal Access Advisory Committee.

2. Proposed Development - Murwillumbah Community Centre Knox Park.

Ron Douglas advised that he provided a letter to council with comments on the proposed development. Ron made the letter available to members present at the meeting. Milena Morrow requested a copy of the letter be sent to her.

3. Proposed Development - 204 Byangum Rd, Murwillumbah.

Ron had provided comments about this development earlier in the meeting as an example of issues around not having a DCP Access.

4. Lions Club Activity: "Squares" on Thursday 1 April 2010.

Ron Douglas was jostled when he walked into a Lions Club Activity which was being conducted across the footpath between the Post Office and the National Bank. Due to the incident Ron rang the Council and was advised that the Lions Club had a permit for a table.

Ray Clark advised that he will investigate the issue of the permit for the event and can report directly back to Ron outside the committee.

5. Outdoor Ramp - Murwillumbah Civic Centre.

Diana advised an Occupational Therapist (OT) assessment was held for the concrete disability access ramp which leads to the Murwillumbah Civic Centre Auditorium. The OT found 1. Gradient is too steep 2. Landing is too small 3. Railings need to extend beyond the end of the ramp 4. No kerb to act as a barrier for wheeled frames or wheelchairs.

Peter Ganser is currently estimating the cost of the alterations to the ramp and the committee agreed to consider an estimate of costs when received.

6. Murwillumbah Council Chambers - Improved Disability Access

A community member has experienced access issues in the council chamber as she cannot sit for any length of time. Instead she can stand for short periods and needs to lie down on a mattress when attending Community Access or Council Meetings.

An OT report confirmed that to use a mattress in the gallery is an OHS risk and to provide a safe space would require the removal of 8-10 seats in the gallery. Therefore the current solution has been to create a safe Access in the foyer where the meetings can be heard through speakers.

The community member has acknowledged the OHS risk and has found that the audio quality is poor in the foyer. Some councillors are particularly difficult to hear and she feels isolated from the meeting as she cannot see the proceedings.

Peter Brack, Acting Public Officer, addressed the Advisory Committee providing feedback on the situation. Peter agreed that the first stage of an improvement is the audio quality. He is discussing an improvement of the speakers with IT and better use of the microphones by some Councillors.

Resolved unanimously that Diana Carbines continue to report back to the committee on progress.

7. International Day of People with a Disability – 3 December 2010.

Diana advised that this International Day has not been celebrated by the Tweed Shire Council since 2007. A number of ideas for the celebration of the event, based on a sport activity day with the theme “Unlimited Abilities”, were discussed.

Ray Clarke advised that he knows a local person with links to the Paralympic Team who may be interested in supporting the day. Diana advised that the Dept of Sport and Recreation may support by hosting a sport day for people with a disability, carers, family and friends.

Moved: Milena Morrow

Seconded: Cr Dot Holdom

RESOLVED to investigate options for the day and discuss further at the next meeting.

8. Signage for Beach Access Chairs (Peter Stannard).

Peter advised there is no signage for the beach access wheelchairs. People are either not aware of the chair availability or they feel it is too far away. He cited a recent example of a young woman crawling over hot sand as her carer was unable to carry her to the water.

Peter also advised that he understands that people are being handed a key and not receiving instructions when they collect the chair. Diana will follow up on the storage and administration of the chairs urgently.

The Advisory Committee discussed the possibility of housing the Kingscliff chair at another location such as the Surf Club or Ambulance Station. Peter advised that the surf club did not have the space or a safe location to house the chair.

Ray advised that he can arrange for appropriate signage for both chairs.

Moved: Kirrily Twyford

Seconded: Cr Dot Holdom

RESOLVED that Ray Clarke arrange for purpose built signage at various locations at Kingscliff and Pottsville.

General Business:

1. Access to Premises Standards – Local Government Courses and Seminars from the Institute of Access Training Australia

Diana advised the Access Committee that from time to time correspondence is received from private organisations regarding training, in this instance Access Assessment training. Committee members may be interested in attending information sessions or workshops when the opportunity arises.

Next Meeting:

The next meeting of the Tweed Shire Disability Access Advisory Committee will be held 21 July 2010, at Banora Point Community Centre, Lilly Pilly Room, Banora Point.

The meeting closed at 12.15pm.

Executive Management Team Comments:

A1 Renaming of the Committee- Proposal for the committee to be renamed Equal Access Committee.

Nil.

Executive Management Team Recommendations:

A1 Renaming of the Committee- Proposal for the committee to be renamed Equal Access Committee.

As per the Committee's recommendation being:-

That the name of the Tweed Shire Disability Access Advisory Committee be amended to the Tweed Shire Equal Access Advisory Committee.

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66 [SUB-TRRM] Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 20 May 2010

Venue:

Coolamon Cultural Centre

Time:

4.00pm

Present:

Cr Barry Longland; Gary Corbett (Manager Community & Cultural Services); Kathryn King (Acting Senior Museum Curator); Max Boyd (Community); Gary Fidler (Community); Sandra Flannery (Community); Joan Smith (Tweed Heads Historical Society); Yvonne Waddington (Tweed Heads Historical Society); Helena Duckworth (Uki & South Arm Historical Society); Mary Lee Connery (Uki & South Arm Historical Society); Ron Johansen (Murwillumbah Historical Society); Beverley Lee (Murwillumbah Historical Society); Carol Piggott (Observer); Denise Garrick (Observer).

Apologies:

David Oxenham (Director Community & Natural Resources); Faye O'Keeffe (Community).

Minutes of Previous Meeting:

Moved: Barry Longland

Seconded: Beverley Lee

RESOLVED that the Minutes of the Tweed River Regional Museum Advisory Committee meeting held Thursday 18 March 2010 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

1. Visit by Kylie Winkworth, Museum Consultant

A message has been left for Ms Winkworth. Yet to confirm details regarding her visit.

2. Insurance for Volunteers

Kathryn King advised that Council's insurance policy covered both public liability and personal injury for volunteers. The insurance policy was provided to Denise Garrick to peruse at the meeting.

Kathryn will provide a summary of the policy to members of the Committee.

3. Patron for Tweed Heads Historical Society

Joan Smith has not heard from Julie Anthony as to when she will be back in the Tweed Shire area. The Tweed Heads Historical Society would like to organise an event/media opportunity with Ms Anthony to celebrate her becoming patron of the Society.

4. Resignation of Museum Collections Assistant, Meg McKavanagh

Further to the Committee being advised of Meg McKavanagh's resignation at the last meeting, Kathryn King wished to recognise Meg's excellent work and rapport with volunteers.

It was agreed to send a letter of appreciation to Meg, from the Advisory Committee.

Agenda Items:

1. Correspondence:

Nil

2. Acting Senior Museum Curator's Report - 18 March 2010 – 20 May 2010

Museum Building and Development Program

Architectural model for Flagstaff Hill building project was delivered Friday 23 April by Shane Donnelly of Mo-Make Model Makers, the same company who were commissioned for the model of Murwillumbah Museum extensions. Paul Berkemeier, project architect, has seen photos of the model and spoke favourably of its completion.

The model has already been viewed by many of our museum supporters as well as members of the public, due to recent events and media. These include:

- an evening talk given by Gary Fidler, President of the Friends, on 3 May when he spoke to 80 members of the Evening View Club.
- by the 1000 attendees at the Gold Coast Heritage Expo on Saturday 8 May.
- in a news article with accompanying photo that appeared in local papers and media, including the Tweed Link and Daily News.

There have been some initial discussions in regards to formulating a booking system for the model, but nothing has been formalised as yet.

Works to Existing Buildings

The Murwillumbah access ramp building works are still underway, with an anticipated completion date of end June 2010. Preliminary discussions are underway in regards to celebrating the event and media opportunities.

Conservation / Collections

No new acquisitions or deaccessions to report this meeting.

Projects

Arts NSW Grant Acquitted

The Museum successfully acquitted grant monies received from Arts NSW for Stage 2 of the Digitisation project. The main focus of this stage of the project was to digitise the Museum's hard copy original photos and complete the scanning of framed and large scale images.

Afternoon Tea event at 'Kynnumboon'

On Saturday 24 April a successful afternoon tea event was held at 'Kynnumboon', the original site of the home of Joshua Bray, one of the earliest European settlers to the Tweed Valley. One of his many great grandchildren, Bev Fairley, and one of his three remaining grandchildren, Noella Elworthy presented four beautifully-framed photographic prints of Joshua Bray and his wife Rosalie, and Samuel Gray and his wife Mary to the Tweed River Regional Museum. Attendees included Mayor - Councillor Warren Polglase, Councillor Joan van Lieshout and volunteers and supporters of the Museum. The event received some

media attention and the framed photographic prints are now on display at Murwillumbah Museum.

Gold Coast Heritage Expo

On Saturday 8 May the Museum participated in the 2010 Gold Coast Heritage Expo. Just under 1000 people attended the expo and the Museum had the opportunity to showcase the newly completed 1:100 scale model of the Flagstaff Hill building project, museum publications, documentary DVDs, some old photographs and video footage. Museum volunteers and staff had the opportunity to talk to members of the public as well as other industry workers and staff from the Heritage Unit at Gold Coast City Council.

Friends of the Museum "Vintage Film night"

The Friends of the Museum held a very successful Vintage Film night on Thursday 13 May at the historic Regent Cinema in Murwillumbah.

Rare film footage and photographs of life on the Tweed from the 1920s to the 1960s were shown, selected from the Museum's collection, as well as on loan from local film makers, photographers and the National Film and Sound Archive. The event sold out at least a week in advance and discussions are underway to determine if and when a repeat performance can be scheduled. The evening was held as a fundraiser for the Museum. Special mention to organisers Liz Bretherton and Sandra Flannery, Friends of the Museum, for their hard work and attention to detail, as well as the wonderful support they were shown by the many museum volunteers across the organisation whose efforts all came together on the night to host a most successful and enjoyable night.

Migration Projects

- Sea Change: Migration Project 1970s and 1980s

The project is progressing well with 25 interviews already completed, and the remainder to be done over the next few weeks. Once all interviews have been transcribed initial work can commence on the form and content of the publication. The next scheduled meeting is 28 July.

- South Sea Islander and Sikh project

The last meeting was held 24 March. Four of the filmed interviews have been completed leaving the final two to be conducted when the filmmaker returns in September/October. Currently work is progressing on finalising photographs and release forms associated with the project. The next meeting is scheduled for 20 October.

Museum receives Highly Commended in National Trust Awards

At the 2010 National Trust of Australia (NSW) Energy Australia Heritage Awards held in Sydney on 12 April the Museum, in conjunction with project partners NSW Migration Heritage Centre and Historian Joanna Boileau, received a Highly Commended in the category of Corporate/Government for the *Families of Fortune* Migration Project. The aim of the project was to collect, record and preserve information on the formation of the Tweed's culturally diverse community, specifically Chinese migrants.

The scope of works for the project included:

- identification and recording of photographs and objects relating to Chinese heritage held in private hands in the Tweed.
- filming of four oral histories.

- documentation of Chinese heritage sites in the Tweed Valley for listing on the Chinese State Heritage Inventory (SHI) developed by the Chinese Australian Cultural Heritage (CACH) project.
- a 96 page illustrated publication on the Chinese in the Tweed Valley written by historian Joanna Boileau.
- an exhibition featuring significant objects from the Museum's collection as well as items loaned from families and individuals in the Tweed.
- a launch event involving descendents and family members of some of the early Chinese migrants to the Tweed.

Volunteer Week

As part of National Volunteer Week 10-16 May, the Museum acknowledged the commitment and hard work shown by our Museum volunteers with a letter and lapel pin sent out to volunteers, hampers at each site and a press release that was picked up by media that showcased the marvellous work and abilities of our volunteer base.

Moved: Barry Longland

Seconded: Sandra Flannery

RESOLVED that the Acting Senior Museum Curator's report be received and noted by the Committee.

2. Murwillumbah Historical Society Report

A verbal report was presented by Ron Johansen, President. Attachment 1.

3. Tweed Heads Historical Society Report

This report was tabled, circulated and read to members. Attachment 2.

4. Uki and South Arm Historical Society Report

This report was tabled, circulated and read to members. Attachment 3.

Moved: Max Boyd

Seconded: Sandra Flannery

RECOMMENDED that the reports from the Acting Senior Museum Curator, Murwillumbah Historical Society, Tweed Heads Historical Society, and Uki and South Arm Historical Society be noted by Council.

Business arising from the Acting Senior Museum Curator's Report:

1. Flagstaff Hill museum model

Joan Smith advised that the model was too big to stay in its present location of the Courthouse building at Tweed Heads museum.

Other locations to show the model were discussed, with the consensus being that the foyer of Tweed Heads Civic Centre was the most appropriate.

Gary Fidler advised that he displayed both Murwillumbah and Tweed Heads models at a recent talk to the Evening View Club, and that the models looked very effective placed together and gave people a better idea of the regional museum project.

Gary offered to take the models and speak to other organisations to promote the Museum.

Kathryn King will set up a booking system so that the models' use is organised and does not interfere with the individual sites' use of them.

A donation box will accompany the models.

2. Heritage Expo

Gary Corbett, as Manager Community and Cultural Services, wished to recognise the efforts of Kathryn King, Kirsty Andrew, and volunteers at the recent Heritage Expo.

3. Friends' Vintage Film Night

Sandra Flannery offered thanks to all who assisted with the very successful Night of Vintage Film, and advised that the program would be repeated. Proposed date for repeat screening is 5 August, however, venue is yet to be confirmed.

As well as raising a large sum of money for the Friends, the event raised the profile of the Museum within the community.

General Business:

1. Patrick Smith and Joshua Bray

Max Boyd advised that the burial site of Patrick Smith, the first white child born in the Tweed, was recently uncovered and cleared up, at Dulguigan. The family has been notified.

As a result of the event at Kynnumboon, the importance of Joshua Bray to the Tweed has been reinforced.

Max Boyd and Ron Johansen have approached the owner of a piece of land on the river next to the Kynnumboon Bridge to see if he would be willing to make the land available to create a park in memory of Joshua Bray.

Further to this, Sandra Flannery suggested involving local artists to make this memorial park special and distinctive.

2. Aboriginal and Torres Strait Islander representative

The Aboriginal Advisory Committee will nominate a representative for our Committee to replace the position made vacant by the resignation of Lesley Mye.

A representative has not yet been appointed.

Next Meeting:

The next meeting of the Tweed River Regional Museum Advisory Committee will be held Thursday 15 July 2010 at the Coolamon Cultural Centre.

The meeting closed at 5.05pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

A4. Uki and South Arm Historical Society Report

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

A4. Uki and South Arm Historical Society Report

As per the Committee's recommendation being:

"That the reports from the Acting Senior Museum Curator, Murwillumbah Historical Society, Tweed Heads Historical Society, and Uki and South Arm Historical Society be noted by Council."

Attachment 1

20.5.10
Museum Advisory Committee Meeting

Presidents Report Murwillumbah Historic Society

The front entrance and the disabled ramp at the Museum are nearing the end of construction, there is only the safety rail to erect and then the painters to have to make an appearance, then the landscape and gardens have to be found and reconstructed. The whole project is a much bigger job than we first thought. Instead of going directly from the street up to the front of the building as they did before, the steps will go from the street at a 45 degree angle to a landing halfway up and then turn at another 45 degree to the main landing in front of the building. Uncle Ernies clock has to be re-erected at the front of the building when the job is finished.

This main landing will also be where the wheelchairs will enter the building on a ramp built from near where the steam engine is situated. As a point of interest when this building was built for the Shire Council in 1915 the street at the front was much higher. Some time in the 1920's the street was lowered about six feet and the steps were added on, it looked like they were added on at a working bee on a hot day when water was scarce but there was plenty of other liquid refreshment.

Due to the confusion of entry into the museum with trucks and machinery while the building is going on, we have decided to postpone our photographic display of one hundred old enlargements of villages and districts of the Tweed. I must say the workers on this display from the photographic work to the display itself have done a marvellous job. Some of these photos are well over one hundred years old and will be well worth seeing. We hope to be able to combine the showing of the display with the opening of the front entrance.

We have a display of Radar Equipment that was used by our esteemed life member, the late Norm Smith during his time in the Air Force during W.W.2. This equipment has been housed in a glass cabinet donated by his sons. Norm was also instrumental in building our Radio Room to what it is today ably assisted by Kevin Dickson. It was Kevin who put the Radar display together in honour of Norm. This display will be opened on a day that is suitable for Norm's sons to attend.

Martin and his team of workers managed to bring many old photos to top condition for our coming photo display, some of these old photos are over 100 years old. They also spent a lot of time in getting photos ready in top condition for the showing by the Friends of the Museum

Attachment 2

Museum Advisory Committee Report Thursday 20th May 2010

TWEED HEADS HISTORICAL SOCIETY INC REPORT

As the Assistant Senior Curator will no doubt have mentioned in her report the model for the **New Museum Building for Flagstaff Hill** has arrived and is currently being housed at the **Tweed Heads site on Kennedy Drive**. We would like to put it in the centre of the room so people can walk all round it to view from every angle. However this is not possible with the space constraints and is most noticeable when we have visitors on walking frames and wheel chairs, which is quite often. If nothing has happened in the interim to decide where it might have a better home we would like to ask if it is possible to house it in the foyer of the **Tweed Heads Civic Centre** outside the Tweed Heads Library where more people would have the opportunity to see it.

Friday the 14th May was a very busy day on site with all five newspapers coming to **photograph** it and to get a **media story**, a nursing home mini bus arrived at 11am along with the first of the photographers. The last arriving after 1pm so we were interrupting the volunteers all morning to get the photos done. Some of us should have been at the Anniversary Service for the Hospital Ship Centaur at Point Danger however a representative from the Society was there.

Volunteers Week will be marked at the Society next Monday morning with a cup of tea for the 37 people who keep the wheel turning each week. They will have the pleasure of opening the attractive hamper donated by the TRRM Acting Senior Museum Curator, Kathryn King and Museum Assistant Kirsty Andrew and partaking of the goodies therein. The Society is busy finalising the set-up for their **display at Centro Tweed** the first week in June. It will incorporate the theme of Wintersun [the last?] and the Twin Towns in the 60's and 70's, which is always very popular.

History Week in September is also on the drawing board the theme for that this year is "Faces in the Street", we have made our interpretation of the title and will be coordinating with the Museum Curator to see how it will fit with the "Photographic Competition" to be held at the same time.

I would like to move my report be received

Joan A Smith

President

Attachment 3

UKI and SOUTH ARM HISTORICAL SOCIETY
ADVISORY COMMITTEE MEETING T.R.R.M.
20th May, 2010

It was great news to hear that the model for the new Museum has been completed and is on show at the Tweed River Historical Society Museum. Maybe now there is a visual large donations will start coming in.

The launch of Penny Watsford's book, Forest Bountiful - Settler Use of Australian Plants, and the Heritage Walk at Uki is all organised and we are looking forward to a wonderful day. The book looks attractive and so does Uki.

The Vintage Film Night was fantastic. Thanks to Sandra, Liz, Gary and everyone who made the night run so smoothly. And we musn't forget the technical buffs who compiled the photos and found the entrancing background music. The second showing won't come too soon for all those who missed out first time round. I wonder what the 30 something age group in the audience made of the holiday fun at the Coolangatta Beach and resorts. Ah, those were the days. Do you blame you crook knees on the Twist and aching back on the Limbo?

It was a heartwarming surprise to receive the box of goodies courtesy of Kathryn and Kirsty. Thanks for being so thoughtful and supportive of the volunteers. Also, thanks to whoever was behind organizing the Volunteer badges. This is nothing to do with Museum business but volunteering. When I was a little kid growing up in Burleigh Heads, I don't recall any visible signs of volunteer groups. Most business people belonged to the Chamber of Commerce and then came Lions, Rotary and Apex. Church groups looked after the needy. Somehow though the community prospered. It wasn't until we joined Jaycees that volunteering entered our life. From then on everybody seemed to be a volunteer in some cause and now many of us belong to several groups.

Back to business. Mary Lee and Penny met with Council's Ian Kite and Cr. Barry Longland to discuss the Hatton Fig at Byangum. Mary Lee pointed out the benefits of an accessible site for a memorial and the planting of a fig tree. This are is below the present bridge and near where the old bridge exited, on the Baker's road side. Penny supplied a timeline of the white settlement of the area as well ad the names of the early inhabitants. Thanks to Barry for his support. We are hopeful that now talks are positive and agreeable on the matter that it won't be too long before the Hatton Fig story reaches a happy conclusion.

Helena Duckworth

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67 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 4 June 2010

Venue:

Minjungbal Museum, Tweed Heads South

Time:

9:25am

Present:

Councillor Holdom (Tweed Shire Council), Garth Lena (Minjungbal Community), Jackie McDonald (Tweed Wollumbin AECG), Joyce Summers (Canowindra Aged & Disability Coop), Desrae Rotumah (Tweed Coop/Minjungbal), Chris Appo (Bugalwena) (left meeting at 1.20 pm)

Ex Officio David Oxenham (Tweed Shire Council).

Guest/Observers:

Glenda Nalder (TSC Cultural Development Advisory Committee), Rick Nolan (Employment Plus) (left meeting at 10.50 am), Ruth Green (left meeting at 11.45am), Item AI 4 Vince Connell, Mark Kingston, Josh Townsend, Iain Lonsdale (Tweed Shire Council)
Item AI 2 & 3 Stewart Brawley, Andrea Hamann (Tweed Shire Council)

Apologies:

Maureen Logan, Frank Krasner

Moved: Desrae Rotumah

Seconded: Dot Holdom

The Chair was declared vacant and nominations were called. Jackie MacDonald was nominated and was unanimously elected to Chair the meeting.

Moved: Garth Lena

Seconded: Joyce Summers

Jackie McDonald opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Garth Lena

Seconded: Chris Appo

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 7 May 2010 be accepted as a true and accurate record of the proceedings of that meeting.

Carried

Business Arising:

BA 1 Memorandum of Understanding (MOU)

Discussion held on the latest draft MOU. David Oxenham to provide an electronic copy of the MOU to committee members. Glenda Nalder provides a view that there is currently no community development plan for the Aboriginal community and that this is gap. Committee discussed this issues and communities role.

Moved: Joyce Summers

Seconded: Chris Appo

RESOLVED that committee members seek endorsement of the MOU from their respective groups.

Carried

BA 2 "Between River and Sea" Historical Images of Kingscliff

Three (3) Tweed Historical Society representatives will attend the meeting on 2 July 2010 at 11am.

BA 3 Councillor Holdom - Recommendations to Council

Discussion regarding the requirement to provide written reports to the Aboriginal Advisory Committee.

Moved: Joyce Summers

Seconded: Garth Lena

RECOMMENDATION that committee members provide a verbal report from their represented groups or committees at Aboriginal Advisory Committee meetings.

Carried

Moved: Dot Holdom

Seconded: Joyce Summers

RECOMMENDATION that with regard to recommendation 4 dated 16 February 2010, the words "and members of their organisations" be deleted and that the details provided be updated after each organisation's Annual General Meeting.

Carried

BA 4 Corrine Martin -- Tweed Valley General Practice Network

Joyce Summers provided additional insight into this proposal - the ability to provide free medication through this Service and there needs to be greater awareness of this initiative.

Agenda Items:

AI 1 Committee Composition and Voting Rights

David Oxenham advised of the current list of committee members and the need to confirm membership. The list of current members was circulated. Committee requested that the Mayor attend the next Aboriginal Advisory Committee meeting at 9.30 am.

AI 2 Arkinstall Park, Tweed Heads South - Regional Sporting Facility Update and Concept Plan Overview

Stewart Brawley introduced Andrea Hamman and provided a summary of the process to date. In 1995, Council undertook a study of what was required for the Shire in terms of sporting facilities. This recognised the need for a regional facility. Further work was undertaken in the form of a Masterplan for a regional facility at Arkinstall Park to see if the site would be suitable. Stewart Brawley provided a copy of the Masterplan indicating all of the proposed sporting and associated facilities for the site.

AI 3 Aboriginal Gardens - Jack Evans Boat Harbour

Stewart Brawley advised of progress of the Goorimabah (place of stories) gardens. The landform is almost two thirds complete. The question was asked if the committee wishes to have a sign erected recognising the location of the proposed gardens and if there is a desire to have a function to recognise the same.

Stewart Brawley to email out to committee members the draft signage and wording for consideration prior to completion

Moved: Joyce Summers

Seconded: Garth Lena

RESOLVED that a sign be erected to recognised the proposed Goorimabah gardens and that a function be held to mark the occasion during NAIDOC week

Carried

Moved: Joyce Summers

Seconded: Garth Lena

RESOLVED that the Aboriginal Advisory Committee invite Councillors and staff of Tweed Shire Council to march with the community during NAIDOC week.

Carried

AI 4 LEP

Vince Connell introduced Tweed Shire Council staff who would provide presentation: Iain Lonsdale, Josh Townsend and Mark Kingston.

Vince Connell provided background to the Draft LEP. The Draft LEP is State Government driven based on a standard template. Vince provided a summary of the process to date and the process of moving forward. The exhibition period has finished and staff are preparing a Report to Council for consideration. Jackie McDonald advised that the community wanted to know what are the glaring issues with the new LEP? Iain Lonsdale advised that they would be addressing those issues in part today.

Iain Lonsdale advised of the complexity of the LEP and provided a handout (Draft LEP Overview) to assist in understanding what it all means. The LEP is the primary planning document for Council. The LEP sits under the State documents and must be in accordance with Government policy. Council can lobby for change however the State has the final say and is the ultimate approval authority. Iain invited the committee to write to Council if there are concerns with the Draft LEP. Iain also provided a number of fact sheets and documents in an information pack outlining the changes.

Josh Townsend provided overview of the Draft Tweed City Centre LEP 2009 which included a handout on the key drivers and components. Discussion from the committee relating to the increase in population in the Tweed locality and the concern of Gold Coast type high-rise development occurring.

Mark Kingston provided an overview of environmental aspects of existing and draft LEP and provided a map showing the zones of the Shire and provided comment of the link to the LEP and clauses that enable the protection of environmental land. Mark provided history of the Vegetation Management Strategy ("VMS") and its outcomes. The VMS provided framework for further environmental protection of various land within the Shire. The State Government standard template did not accommodate the VMS environmental protection strategy. Mark spoke about the removal of the dual consent role of Council and that approval for the clearing of Native Vegetation will be left to DECCW under the Native Vegetation Act.

AI 5 Tweed Shire Council Aboriginal Liaison Officer - Role and Responsibilities

David Oxenham requested advice on what the community would like to see this position doing. The current role has been a liaison role that facilitates the Aboriginal Advisory Committee and acts as a link to the community.

Committee requested that the Position Description be tabled at the next meeting.

AI 6 Aboriginal Community Member Representative to the Museum Advisory Committee
This matter was deferred to the 2 July meeting.

AI 7 Tweed Coast Regional Plan of Management
This matter was deferred to the 2 July meeting.

Incoming Correspondence:

1. Correspondence from North Coast Institute of TAFE dated 7 April 2010 re Deadly Days Festival 2010
 2. Email from Everick Heritage Consultants Pty Ltd dated 6 May 2010 re Radiocarbon Dating from the shells analysed from the Sand Ridge, Cobaki. Email to be provided to committee members.
 3. Correspondence from Hon Tony Kelly MLC dated 19 May 2010 re response to request for amendment to Section 94 of the EPA to allow levying of contributions for community benefits to compensate for the erosion and loss of cultural landscapes. Committee requested that this be included as an agenda item on the next AAC.
-

General Business:

GB1 Request by Anne Duke to attend July AAC meeting and also extend invitation to visit Tyalgum site

David Oxenham advised briefly of the proposal from the Tyalgum Trust to prepare a management plan for the land under their control and adjoining crown land. He advised that Anne Duke would like to attend the next meeting to discuss the proposal with the AAC and that in the interim for anybody who wishes to visit the site with her she is more than happy to accommodate them.

GB2 Meeting presentations

Moved: Joyce Summers

Seconded: Chris Appo

RESOLVED that for future meetings, invited guest be provided timeslots at the end of the meeting.

Carried

GB3 - Naming of the Viaduct Banora Point Highway Upgrade

Jackie McDonald advised that there has been a request for the naming of the proposed viaduct and that there is an opportunity for an Aboriginal name. Committee members requested to give this be given due consideration by taking it back to their respective groups.

GB 4 - Water Supply Augmentation Community

David Oxenham provided minutes of the Meeting held on the 24 March 2010 relating to the TSC water supply augmentation strategy.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held Friday, 2 July 2010.

The meeting closed at 2.15pm

EXECUTIVE MANAGEMENT TEAM COMMENTS:

BA 3 Councillor Holdom - Recommendations to Council
Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

BA 3 Councillor Holdom - Recommendations to Council

As per the Committee's recommendations being that:

- 1. committee members provide a verbal report from their represented groups or committees at Aboriginal Advisory Committee meetings.**
 - 2. with regard to recommendation 4 dated 16 February 2010, the words "and members of their organisations" be deleted and that the details provided be updated after each organisation's Annual General Meeting.**
-

68 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 9 June 2010

Venue:
Canvas & Kettle

Time:
9.10am

Present:
Cr Katie Milne (Chair); Cr Dot Holdom; Robert Quirk (NSW Cane Growers' Association); Richard Hagley (Department of Environment, Climate Change & Water); Bob Loring (Department of Primary Industries - Fisheries); Claire Masters (Tweed Landcare Inc); Rhonda James (Environmental Restoration Industry); Max Boyd (Community Representative); Jane Lofthouse (attended from 10.15am), Tom Alletson, Sebastien Garcia-Cuenca, Mark Kingston (Tweed Shire Council).

Informal:
Cathey Philip (Minutes Secretary); Norbert Benson (Gold Coast Airport Limited)

Apologies:
David McPherson (NSW Land & Property Management Authority); Pat Dwyer (Department of Industry & Investment NSW); Carl Cormack (NSW Maritime Authority); Martin Dobney (Action Sands Chinderah); Lance Tarvey (Department of Environment, Climate Change & Water); Scott Peterson (Tweed River Charter Operators); Peter Baker (Tweed Agriculture Representative); Kyle Slabb (Tweed Byron Local Aboriginal Land Council); Judy Robinson (Fingal Head Community Representative); David Oxenham (Tweed Shire Council).

Minutes of Previous Meeting:
The Minutes of meeting held Wednesday 14 April 2010 will be presented at the meeting scheduled for Wednesday 11 August 2010.

Business Arising:

BA1. Flood Management

Robert said he thought there was an action or recommendation regarding flooding that should have been in April minutes. Tom referred to his April notes but did not have an action recorded. Tom will also check February minute notes and advise the committee if there is an unrecorded action.

BA2. Commercial Fish catches in the Tweed

In light of previous discussions regarding the sustainability of commercial fishing in the Tweed estuary, Bob Loring presented on the numbers and species of fish captured commercially in the Tweed Estuary. The information presented can be requested from Dept. I and I Fisheries.

Norbert Benson attended at 9.45am.

BA3. Draft LEP 2010

Mark provided a brief update on environmental issues arising from the draft LEP. Approximately 350 public submissions were received, many of which were concerned with the loss of environmental zones and controls. On 12 May a Council delegation met with the Department of Planning (DoP) in Sydney to discuss a wide range of issues which included rural land issues, environmental protection, sugar industry self-regulation, and a large number of planning and administrative issues measurement of building heights, boundary alterations, definitions, DoP role in the Tweed Heads LEP, management of water infrastructure etc. The meeting in Sydney was followed up a written response by DoP dated 3 June 2010 and a Councillor workshop on 8 June 2010.

Mark explained that the DoP was very keen to see the LEPs gazetted and was prepared to accommodate Council's issues where it could.

In relation to environmental zones it was suggested that Council needed to re-strategise its approach as Council's adopted approach could not be effectively achieved through the LEP Standard Instrument. Options included reinstatement of the Environmental Protection zones in the rural hinterland and/or the use of the draft LEP 2000 Amendment 21 Steep land zone as an a E3 Environmental Management zone within Stage 1 followed by a more comprehensive review in Stage 2. DoP was supportive of this and indicated that this would not require re-exhibition. Maintaining existing controls for land clearing would be more difficult but DoP acknowledged that there are legal issues here that require further legal advice. Some options to address this were discussed. In relation to the self-regulation of the Sugar Industry, DoP indicated that it was seeking further legal advice on whether or not the changes to Clause 7.2 were intentional and if so the rationale.

Mark informed the Committee that a report would be prepared for Council once the submissions have been reviewed to determine the appropriate way forward.

Cr Holdom commented on the amount of work done by Council staff on the LEP and said she felt indebted to the staff for the effort they had put in.

Robert also added the Sugar Industry's thanks for the work done.

Robert left at 11.30am

Moved: Max Boyd

Seconded: Rhonda James

RESOLVED that the following recommendation be presented to Council.

RECOMMENDATION:

That Council, at the appropriate time, hold public meetings at which planning staff can clearly identify the variations between the old LEP and the new LEP.

BA4. Sedimentation and Erosion Control

Tom provided an explanation on Council's Executive Management Team's response regarding the above.

Moved: Max Boyd

Seconded: Rhonda James

RESOLVED that the following recommendation to presented to Council.

RECOMMENDATION:

That funds be made available in the 2010/11 budget to increase compliance regulation with respect to environmental conditions of approval on development sites due to this issue being identified as a high priority in the Cobaki/Terranora Management Plan and the extensive amount of development that will and is occurring in this catchment.

The issue of existing erosion and sediment pollution problems into Cobaki Creek, from the Cobaki Lakes site was discussed. It was stated there have been reports to Council from the community regarding this matter, and enquiry was made as to action taken in response to this issue.

Moved: Max Boyd

Seconded: Claire Masters

RESOLVED that the following recommendation be presented to Council

RECOMMENDATION:

That Council advise Tweed River Committee of recent actions taken to inspect and/or regulate erosion sediment control on the LEDA land at Cobaki Lakes, given the concerns expressed via community representatives.

BA5. Water Augmentation

It was discussed if a request should be made to the Water Unit for a staff member to provide an overview on the process of the Water Augmentation and what conclusions were drawn.

Next Agenda

Anthony Burnham to be invited to address the Tweed River Committee meeting on the progress and next steps in development of the Water Supply Augmentation Strategy.

Agenda Items:

A1. Presentation from Gold Coast Airport Limited (GCAL)

Norbert Benton provided an overview on the Gold Coast Airport Environment Strategy 2009, and explained how GCAL manages the environment in relation to the Cobaki Broadwater.

Max Boyd asked if GCAL could provide details of water quality monitoring, including a map of sites sampled, parameters tested and results. Norbert advised that that he could not provide this data, and recommended that the Tweed River Committee request it from airport management.

Robert Quirk asked if it would be possible for interested members of the Tweed River Committee to visit the airport. Norbert advised that this request should be included in Council's letter to GCAL.

*Norbert Benson left at 10.50am
Sebastien left at 10.50am*

Moved: Max Boyd

Seconded: Bob Loring

RESOLVED that the following recommendation be presented to Council.

RECOMMENDATION:

That Council:

1. Requests Gold Coast Airport Limited to provide to Council a detailed plan showing the location of all drainage systems leading to Cobaki Broadwater, surface and ground water quality monitoring locations and results of environmental investigations, as well as requesting permission for interested Tweed River Committee members to be taken on a site visit by GCAL personnel to view relevant environmental features and management approaches.
 2. Writes to the Queensland Main Roads Authority requesting a copy of recent surface and ground water quality monitoring locations and results of environmental investigations in areas draining to the Cobaki Broadwater.
-

A2. Banora Point Highway Construction

Tom presented details of works proposed to be undertaken at Kerosene Inlet, Fingal, as part of habitat compensation works in association with the Banora Point Highway Upgrade. Council has been requested to undertake the assessment and approvals of proposed works, which includes constructing a barrier to vehicle access on the western side of Kerosene Inlet, and enlarging the channel connecting the inlet to the river, to improve tidal flushing

Moved: Dot Holdom

Seconded: Max Boyd

RESOLVED that the Committee provide funding from the Wetland Management Budget to assist with gaining approvals for restoration works to be done as partial compensation for the Banora Point Highway Upgrade.

Cr Milne advised that any works relating to the training wall should be discussed with Aboriginal Advisory Committee.

A3. Project Proposal from CSIRO

Tom advised of a request he received from Geoffrey Carlin who is working with CSIRO, putting forward a proposal to undertake high frequency water quality monitoring in Terranora Creek.

Tom has discussed the proposal with the Water Unit and there is a potential to fund the proposal 50/50. The details of the proposal need to be clarified however it was agreed that the Tweed River Committee could commit funding to the project.

Sebastien said it needs to be taken into consideration that this type of equipment costs more to maintain than to purchase.

A4. Tweed River Committee Program

Tom provided an update on the above program and explained individual projects and the allocations towards each.

Tom is looking for projects sites under the Riparian Vegetation Rehabilitation Budget area. Max identified a location near Dulguigan Road. Tom to discuss further with Max.

There was discussion on a number of potential projects including riparian works at a site at Dulguigan (Tom to liaise with Max Boyd) as well as some funding for the Rous River and other areas not covered under the Water Unit budgeted River Health Grants.

Claire highlighted the need to provide follow-up funding to sites worked on through the riparian Vine Weed project.

The Committee agreed to provide \$800 for 100 frog posters.

A5. Tweed River Committee Meeting Frequency

Deferred due to time constraints.

General Business:

GB1. Wetland Policy

Jane advised that the Department of Environment, Climate Change & Water issued a new NSW Wetlands Policy on 12 May 2010.

GB2. Community Support Officer

Jane advised that Northern Rivers Catchment Management Authority has allocated funding in the 2010/2011 budget for the continuation of the Community Support Officer being employed at Tweed Shire Council.

GB3. Red Water Incident - Chinderah

Samples of the red water at Chinderah have been taken for assessment. It would appear to be related to an acid runoff. Sebastien provided details.

GB4. Introduced Fish

Next Agenda:

I and I Fisheries be requested to provide advice on introduced fish populations in the Tweed and steps that Tweed River Committee may undertake to assist in their control.

Next Meeting:

The next meeting of the Tweed River Committee will be held Wednesday 11 August 2010.

The meeting closed at 1.00pm

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

BA3. Draft LEP 2010

Nil.

BA4. Sedimentation and Erosion Control

Nil.

A1. Presentation from Gold Coast Airport Limited (GCAL)

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

BA3. Draft LEP 2010

That Council considers the request of the Tweed River Committee to hold public meetings at which planning staff can clearly identify the variations between the old LEP and the new LEP is not appropriate at this time.

BA4. Sedimentation and Erosion Control

1. That Council officers conduct a review of development related environmental compliance issues and activities across Council.
2. That the relevant Council officers attend a future Tweed River Committee meeting to advise of recent actions taken to inspect and/or regulate erosion sediment control on the LEDA land at Cobaki Lakes, given the concerns expressed via community representatives.

A1. Presentation from Gold Coast Airport Limited (GCAL)

As per the Committee's recommendation being that Council:

1. Requests Gold Coast Airport Limited to provide to Council a detailed plan showing the location of all drainage systems leading to Cobaki Broadwater, surface and ground water quality monitoring locations and results of environmental investigations, as well as requesting permission for interested Tweed River Committee members to be taken on a site visit by GCAL personnel to view relevant environmental features and management approaches.
 2. Writes to the Queensland Main Roads Authority requesting a copy of recent surface and ground water quality monitoring locations and results of environmental investigations in areas draining to the Cobaki Broadwater.
-

**69 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday
24 June 2010**

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 10.30am

PRESENT:

Committee Members: Cr Barry Longland (Deputy Mayor), Mr Ian Shanahan, Roads and Traffic Authority of NSW, Sgt Richard Baxter, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr John Zawadzki (Chairman), Mr Ray Clark, Mr Danny Rose, Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Snr Constable Paul Henderson, 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 20 May 2010 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC] Schedule of Outstanding Resolutions 24 June 2010

1. [LTC] Eyles Avenue, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3999809; Traffic - Committee; School Zones; Parking Zones; Safety; Eyles Avenue; Schools - Murwillumbah Public

SUMMARY OF REPORT:

From Meeting held 27/8/09 (Item B1)

Concern has been raised with cars parking in Eyles Avenue on the school side.

"These vehicles are causing problems for buses accessing the School Bus Zone. Could 'No Parking' at School finishing times be implemented here?"

Council officers will investigate this site and report to the meeting.

COMMITTEE ADVICE:

That:-

1. Council officers discuss with the School representatives the possibility of extending the 'No Parking' zone on the eastern side of Eyles Avenue to the intersection with Prince Street.
2. This item be placed on the Schedule of Outstanding Resolutions.

Current Status: That Item 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.

Current Status: That Item 1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 April 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item 1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 20 May 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item 1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 24 June 2010 remain on the list of Outstanding Resolutions.

2. [LTC] Kennedy Drive, Tweed Heads West

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3948168; Traffic - Committee; Kennedy Drive, Tweed Heads; Kennedy Drive - Tweed Heads West; Norman Street; Parking - Zones; Traffic - Lights; Traffic - Roundabouts; Boat Ramps

SUMMARY OF REPORT:

From Meeting held 27/8/09 (Item B7)

Concern received in relation to increasing traffic problems along Kennedy Drive.

"In particular the intersection of Norman Street and Kennedy Drive causes local residents a great deal of frustration which is worsened by parking of boats and boat trailers using the boat ramp located on the opposite side of the road.

..... Norman Street is one of the few streets where right hand turns are permitted and this also contributes to traffic problems. He has suggested that either a roundabout or traffic lights are needed to facilitate turning into and out of Norman Street."

The Norman Street/Kennedy Drive intersection has been the subject of community concern for a number of years.

A concept design for a roundabout has been previously completed by Council officers and unfortunately there is insufficient room within the road reserve to install a small roundabout. The installation of traffic signals would not meet the warrants of the Roads and Traffic Authority of NSW guidelines.

Another alternative is to provide a narrow central median on Kennedy Drive which would prevent right turns from both the boat ramp area and Norman Street into Kennedy Drive. This is very undesirable as it would inconvenience many motorists and encourage possibly less safe "U" turns to be made on Kennedy Drive away from the intersection.

Council officers will advise the Committee of the accident history of this intersection.

Council officers advised that of seven accidents from 2005 to 2008, four of them were right rear crashes. The right turns were from Kennedy Drive into Norman Street. Council officers suggested that a right turn lane be further investigated with a view for reducing this type of crash.

COMMITTEE ADVICE:

That:-

1. Council officers further investigate the possibility of a right turn lane on Kennedy Drive into Norman Street.
2. That this item be listed on the Schedule of Outstanding Resolutions.

Current Status: That Item 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.

Current Status: That Item 4 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 April 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item 2 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 20 May 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item 2 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 24 June 2010 remain on the list of Outstanding Resolutions.

3. Pottsville Public School - Tweed Coast Road, Pottsville

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 14868320; Traffic - Committee; Traffic - School Zones; Pedestrian Crossings; Safety; Pottsville Public School; Tweed Coat Road Pottsville

SUMMARY OF REPORT:

From Meeting held 22/4/10 (Item B3)

Request received for a pedestrian crossing at Pottsville Beach Public School.

"I am writing this letter to raise my concerns about the lack of a pedestrian crossing at Pottsville Primary School.

Since the start of the school year I have seen many incidents that could have quite easily resulted in serious injury or death.

Due to the fact that this is a primary school there are many very young children who are at most risk due to their lack of road safety and maturity.

The current situation where there are 'children crossing' flags yet no lollipop person seems untenable, and an invitation for disaster.

I invite representatives from the local traffic committee to view the current situation in person and see for themselves how precarious this situation is."

The Roads and Traffic Authority of NSW administer the School Crossing Supervisor Scheme and Council provides advice on current traffic and pedestrian volumes for its consideration.

Pedestrian counts will be submitted to the Committee meeting.

The Committee Representatives considered that the existing school crossing is located undesirably, being immediately adjacent to the roundabout. Consideration should be given to relocating the School Crossing to the north side of the roundabout near the School's southern driveway entrance and a report tabled at the next meeting including comments from the School.

Council's pedestrian counts did not satisfy the Roads and Traffic Authority of NSW's warrants for a School Crossing Supervisor however additional counts will be carried out by the Roads and Traffic Authority of NSW and an assessment will be undertaken. Counts conducted on Wednesday 24 March 2010 found there were 10 unaccompanied children, 24 children with adults and 24 adults in a one hour period after school in the afternoon.

COMMITTEE ADVICE:

That the item for Pottsville Public School be brought forward to the May 2010 meeting of the Local Traffic Committee.

Current Status: That Item 4 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 April 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item 4 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 20 May 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 24 June 2010 remain on the list of Outstanding Resolutions.

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Minjungbal Drive - Parking Restrictions - Banora Point Upgrade

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 17358131; Traffic - Committee; General; Parking Zones; Minjungbal Drive; Banora Point Upgrade

SUMMARY OF REPORT:

Request received for the installation of parking restrictions on Minjungbal Drive immediately north of Rivendell:

".... The RTA is currently reviewing the refinements (of the revised Banora Point Upgrade option) for consistency and approval.

The purpose of this submission is to seek your approval/concurrence to install parking restrictions on the northbound carriageway of Minjungbal Drive Between Rivendell Road and Soorley Street as required by the proposed design refinements discussed above.

The proposal will involve the following work:

- Installation of parking restrictions (6.30am to 6.30pm, Mon-Fri) along 138m of kerb space on the western side of Minjungbal Drive, immediately north of the existing Bus Shelter (Refer attached Sketch)*
- Replacement of existing shoulder edge line with L1 lane line*
- Removal of the left turn pavement arrows in the northbound carriageway of Minjungbal Drive approaching Rivendell Street.*

The work would be undertaken by the Banora Point Upgrade Alliance. This work is recommended to improve northbound traffic capacity in Minjungbal Drive approaching Rivendell Road, during and after the construction of the Banora Point Upgrade. The proposal effectively provides an additional through lane at the Rivendell Road stop-line. SIDRA analysis under 2012 forecast flows suggest that the proposed changes will increase existing northbound capacity at the stop line by 800vph (33%) and 1000vph (43%) in the AM & PM peaks, respectively.

The proposal will impact up to 12 existing unrestricted parking spaces in front of businesses located at 147 to 157 Minjungbal Drive (Eastcoast Automotive Group, Surf Marine, Bi-Rite, South Tweed Autos, Tweed Coast Marine). These businesses have alternative on-site parking.

The restrictions would be installed to coincide with opening of Stage 2 construction arrangements for the Banora Point Upgrade in November 2010.

The proposed period of parking restriction coincides with the highest average northbound weekday hourly flows on Minjungbal Drive which range between 600vph and 1500vph, as shown in the attachment. This is based on tube count surveys undertaken by the BPUA in February 2010."

It is suggested that adjacent businesses be consulted about the proposed parking restrictions prior to implementation.

The Committee considered the existing limited time stopping zone on Minjungbal Drive and believes that consistency of signage would be beneficial although an earlier restriction time is appropriate.

RECOMMENDATION TO COMMITTEE:

That "No Stopping 6.30am to 6.30pm Monday to Friday" signage be installed along the western side of Minjungbal Drive between Rivendell and opposite Soorley Street, excluding the existing bus stop zone and appropriate linemarking.

RECOMMENDATION TO COUNCIL:

That "No Stopping 6.30am to 10.30am and 3.00pm to 5.00pm Monday to Friday" signage be installed along the western side of Minjungbal Drive between Rivendell and opposite Soorley Street excluding the existing bus zone subject to liaison with all the adjacent business owners by the Banora Point Upgrade Alliance.

*FOR VOTE - Ian Shanahan, Rod Bates, Sgt Richard Baxter, Cr Barry Longland
PRESENT. DID NOT VOTE - Col Brooks*

A2 [LTC] Tweed Heads Civic Centre - Car Park

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 17346569; Traffic - Committee; Parking Zones; Disability/Accessibility - Matters; Civic Centre -Tweed Heads; Car Parks - Tweed Heads; Brett Street

SUMMARY OF REPORT:

Request received for the provision of more disabled car spaces at the Tweed Heads Civic Centre Car Park.

The existing two disabled car spaces are considered appropriate for the total number of spaces that have been provided for the Civic Centre. Council officers will assess the demand of the existing disabled car spaces and report to the meeting.

It was considered that, subject to consultation with the Mayor, three car spaces which includes the 'Mayor Only' space be converted to two additional disabled parking bays.

COMMITTEE ADVICE:

That subject to consultation with the Mayor, three car spaces which include the one 'Mayor Only' space be converted to two additional disabled parking bays at the Tweed Heads Civic Centre. These spaces shall be appropriately signed and marked as disabled parking spaces.

RECOMMENDATION TO COUNCIL:

That subject to consultation with the Mayor, three car spaces which include the one 'Mayor Only' space be converted to two additional disabled parking bays at the Tweed Heads Civic Centre. These spaces shall be appropriately signed and marked as disabled parking spaces.

*FOR VOTE - Ian Shanahan, Rod Bates, Sgt Richard Baxter, Cr Barry Longland
PRESENT. DID NOT VOTE - Col Brooks*

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] 2010 Speed on Tweed - Road Closure Application

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 17803510; Traffic - Committee; Safety; Road Closure - Temporary; Festivals - Speed on Tweed; Murwillumbah Street; Commercial Road; Byangum Road; Mooball Street; Rous Street; Waterloo Street; Ewing Street; Queensland Road; Wharf Street; Showground

SUMMARY OF REPORT:

Request received in relation to temporary road closures for the 2010 Speed on Tweed event to be held on 10 to 12 September 2010 as follows:

Friday 10 September	Closed	Reopen
Event Closure	1500hrs	12-Sep, 1700hrs
Murwillumbah Street from Commercial Road to Byangum Road	1500hrs	12-Sep, 1700hrs
Mooball Street from Murwillumbah Street to Rous Street	1500hrs	12-Sep, 1700hrs
Rous Street from Mooball Street to Waterloo Street	1500hrs	12-Sep, 1700hrs
Ewing Street from Waterloo Street to Queensland Road	1500hrs	12-Sep, 1700hrs
Queensland Road from Murwillumbah Street to northern entrance of Showgrounds	1500hrs	12-Sep, 1700hrs
Speed on Tweed Parade/Show		
Queensland Road to Wharf Street		1730hrs 2100hrs

Saturday 11 September

Murwillumbah Street from Commercial Road to Byangum Road	10-Sep	12-Sep, 1700hrs
Mooball Street from Murwillumbah Street to Rous Street	10-Sep	12-Sep, 1700hrs
Rous Street from Mooball Street to Waterloo Street	10-Sep	12-Sep, 1700hrs
Ewing Street from Waterloo Street to Queensland Road	10-Sep	12-Sep, 1700hrs
Queensland Road from Murwillumbah Street to northern entrance of Showgrounds	10-Sep	12-Sep, 1700hrs

Sunday 12 September

Murwillumbah Street from Commercial Road to Byangum Road	10-Sep	1700hrs
Mooball Street from Murwillumbah Street to Rous Street	10-Sep	1700hrs
Rous Street from Mooball Street to Waterloo Street	10-Sep	1700hrs
Ewing Street from Waterloo Street to Queensland Road	10-Sep	1700hrs
Queensland Road from Murwillumbah Street to northern entrance of Showgrounds	10-Sep	1700hrs

The circuit and traffic control is the same as previous years.

It is recommended that the road closures as outlined above be approved subject to Police approval and standard conditions.

Col Brooks raised concerns with the cut off time of 1500 hours as school buses still need to run and parents may continue to need to pick students up from schools.

COMMITTEE ADVICE:

That:

- The following temporary road closures:

Friday 10 September 2010:

	Closed	Reopen
Murwillumbah Street from Commercial Road to Byangum Road	1600hrs	12-Sep, 1700hrs
Mooball Street from Murwillumbah Street to Rous Street	1600hrs	12-Sep, 1700hrs
Rous Street from Mooball Street to Waterloo Street	1600hrs	12-Sep, 1700hrs
Ewing Street from Waterloo Street to Queensland Road	1600hrs	12-Sep, 1700hrs
Queensland Road from Murwillumbah Street to northern entrance of Showgrounds	1600hrs	12-Sep, 1700hrs

Speed on Tweed Parade/Show Friday 10 September 2010

	Closed	Reopen
Queensland Road to Wharf Street	1730hrs	2100hrs

Saturday 11 September 2010

	Closed	Reopen
Murwillumbah Street from Commercial Road to Byangum Road	10-Sep	12-Sep, 1700hrs
Mooball Street from Murwillumbah Street to Rous Street	10-Sep	12-Sep, 1700hrs
Rous Street from Mooball Street to Waterloo Street	10-Sep	12-Sep, 1700hrs
Ewing Street from Waterloo Street to Queensland Road	10-Sep	12-Sep, 1700hrs
Queensland Road from Murwillumbah Street to northern entrance of Showgrounds	10-Sep	12-Sep, 1700hrs

Sunday 12 September

	Closed	Reopen
Murwillumbah Street from Commercial Road to Byangum Road	10-Sep	1700hrs
Mooball Street from Murwillumbah Street to Rous Street	10-Sep	1700hrs
Rous Street from Mooball Street to Waterloo Street	10-Sep	1700hrs
Ewing Street from Waterloo Street to Queensland Road	10-Sep	1700hrs
Queensland Road from Murwillumbah Street to northern entrance of Showgrounds	10-Sep	1700hrs

be approved subject to Police approval and standard conditions.

2. All temporary road closures proposed for Friday 10 September 2010 to commence at 1600 hours.

B2 [LTC] Wharf Street, Tweed Heads

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 17639210; Traffic - Committee; Parking Zones; Car Parks - Tweed Heads; Wharf Street; LN 75406

SUMMARY OF REPORT:

Request received for a change in the 2 hour parking limit in front of the Wharf Central building from 2 hours to a 1 hour limit.

"A member of the Executive Committee would like the Council to consider changing the 2 hour parking limit out front of the building to a 1 hour limit. A lot of visitors to the building are unable to park out front or near the building due to many shoppers parking here to attend to their shopping."

This is a new development and parking is provided on site off Frances Street.

It was observed by a Committee member that access to the site was prohibited by a closed roller door. The Committee considered that this item should be referred to Council's Compliance Officer.

COMMITTEE ADVICE:

That the request to change time limited parking in front of the Wharf Central building is not supported.

B3 [LTC] Rainbow Ride Cycle Challenge - November 2010

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 17639211; Traffic - Committee; Control; Safety; Bicycle Matters; Kyogle Road, Uki; Limpinwood Road, Tyalgum; Tweed Valley Way, Burringbar, Stokers Siding and Mooball; Queensland Road, Murwillumbah; Smiths Creek Road, Uki, and Stokers Siding; Tomewin Road, Kynnumboon, Dungay and Tomewin, Zara Road, Chillingham, Limpinwood; Numinbah Road, Chillingham, Kynnumboon; Smiths Creek Road; Uki Road, Uki.

SUMMARY OF REPORT:

Request received for the Rainbow Ride Cycle Challenge from Byron Bay to Currumbin on Sunday 14 November 2010 (being the same course as last year).

Roads to be used within Tweed Shire are:

Tweed Valley Way, Burringbar, Stokers Siding and Mooball
Stokers Road, Smiths Creek Road intersection
Kyogle Road, Uki
Tyalgum Road
Limpinwood Road
Zara Road
Numinbah Road
Queensland Road
Tomewin Road

The number of competitors in this event is unknown. More information will be provided at the meeting.

Details of the event can be viewed on line at http://tr.nelson.co.nz/rainbow_ride.htm

COMMITTEE ADVICE:

The Committee does not object to the event however it is considered that the Rainbow Ride Cycle Challenge is a race and needs to conform to all Roads and Traffic Authority of NSW guidelines, Police approval and permit conditions.

B4 [LTC] Tweed Valley Way, Eviron

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 17695750; Traffic - Committee; Safety; Tweed Valley Way; Eviron;
Cudgen Road

SUMMARY OF REPORT:

Request received for Local Traffic Committee assessment and consideration to the installation of prohibitive signage to prevent vehicles accessing the development from the southbound lanes in relation to:

"... travelling south on Tweed Valley Way when approximately 1.5kms north of Cudgen Road a vehicle towing a caravan turned right across the median to access the former BlackWatch boat factory.

The caravan protruded into the through lane and was a hazard for southbound drivers."

Tweed Valley Way at this location carries approximately 11,000 vehicles per day. It is expected that the 85th percentile speed is slightly greater than 100km/h.

The Committee considered this a safety issue and Council should consider removal of the median crossing that provides access to the site. Also the Committee suggested that Council officers investigate the development consent for the site.

COMMITTEE ADVICE:

That Council consider the removal of the median vehicular crossing on Tweed Valley Way adjacent to Lot 1 DP 612314, 9293 Tweed Valley Way, Chinderah.

B5 [LTC] Twin Towns Triathlon Club 2010 - 2011 Season

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 17637067; 17637068; Traffic - Committee; Control; Safety; Bicycle Matters - General; Leisure Drive; Fraser Drive; Glen Ayr Drive; Ash Drive; Amaroo Drive; Botanical Circuit; Woodlands Drive; Darlington Drive; Winders Place, Eucalyptus Drive

SUMMARY OF REPORT:

Request received for permission to use Tweed Shire roads for the 2010-2011 Twin Towns Triathlon club 2010 - 2011 season.

"To provide a safe venue for the cycle leg (14.5km) with minimal disruption to the public or traffic flow. The Tweed Police, Roads & Traffic Authority of NSW and Tweed Shire Council endorsed a new cycle route for the 2007-08 season. The TTTC seeks to continue with this course and achieve safe cycling amongst its members, through education on the relevant road rules and appropriate cycling etiquette.

Cycle management plan

Cycle leg of TTTC Saturday morning triathlon event comprises 14.5km course with members on the road at intervals between 6.15am and 7.15am.

- *TTTC program starts on September 11th September 2010 and concludes on March 19th 2011 (a total of 28 weeks).*
- *All members must adhere strictly to NSW road rules.*
- *Bikes must meet strict standard of maintenance. Lights (front & rear) are compulsory for early starters.*
- *Helmets must be worn at all times.*
- *Drafting is illegal (bunches should not form).*
- *Road signs are displayed at strategic points to alert motorists of the presence of cyclists*
 1. *Amaroo Drive prior to turning right onto Fraser Drive*
 2. *Fraser Drive prior to roundabout at South Tweed Leagues Club playing fields.*
 3. *Greenway Drive prior to roundabout at Leisure Drive.*
- *All registered persons are numbered allowing identification of any breaches of road rules. Breach of road rules and not complying with the Traffic Act will result in:*
 1. *First offence - two week suspension*
 2. *Second offence - one month suspension*
 3. *Third offence - suspension for rest of season*
- *Events will be cancelled when weather conditions are dangerous, as the club has a duty of care to all members.*
- *All members understand their obligation to be part of the road traffic flow and at no time to take precedence over normal traffic flow.*
- *Club Championship day will be March 19th 2010. The club pays for police supervision of the lights at Winders Place, Eucalyptus Drive and the Fraser Drive & Amaroo Drive intersection.*

Dates of Competition

<i>September</i>	<i>11,18,25</i>
<i>October</i>	<i>2,9,16,23,30</i>
<i>November</i>	<i>6,13,20,27</i>
<i>December</i>	<i>4,11,18 (no race on Xmas Day)</i>
<i>January</i>	<i>(no race on NYD) 8,15,22,29</i>
<i>February</i>	<i>5,12,19,26</i>
<i>March</i>	<i>5,12,19*</i>

** Police supervised Club Championship race*

Course details

- The cycle leg begins at Club Banora (side adjacent to tennis courts) then turn left onto Leisure Drive. Continue straight until traffic lights at Fraser Drive and turn left. Continue up Fraser Drive and turn left at Glen Ayr Drive and then left at Ash Drive onto Amaroo Drive. Proceed to Fraser Drive and turn right. Turn left at Botanical Circuit and continue the loop until left at Leisure Drive and left at Fraser Drive. Continue to roundabout at Vintage Lakes and turn right until travelling south on Fraser Drive. Turn left at the traffic lights then turn right at roundabout on Woodlands Drive and right at roundabout on Darlington Drive. Continue around loop until left at roundabout on Leisure Drive and then left back into Club."*

The event is similar to previous years. It is recommended that the event be approved subject to Police approval and standard conditions. The number of participants is unknown.

The Police representative raised concerns regarding safety/conflict issues at the easternmost driveway of the Banora Point Shopping Centre on Leisure Drive.

COMMITTEE ADVICE:

That:

1. The Twin Towns Triathlon Club event, excluding the Club Championship Race Day on 19 March 2011 be approved subject to Police approval and standard conditions.
2. A separate application be submitted for the Committee's review for the Club Championship Race Day on 19 March 2011.
3. The event organiser be advised of the Committee's concerns regarding safety at the Banora Point Shopping Centre easternmost driveway on to Leisure Drive.

Item B6 dealing with Tweed Heads Civic Centre - Car Park moved to Item A2 to be dealt with under the Formal Items Section for Regulatory Devices

B7 [LTC] Upper Burringbar Road, Burringbar

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 17064318; Burringbar Road; Upper Burringbar Road; Traffic - Committee; Safety; Speed Zones; Directional Signs; Pedestrian Safety

SUMMARY OF REPORT:

Request received for 50km/hr signage on Upper Burringbar Road between the 2 railway crossings.

"Due to the recent upgrading of Upper Burringbar Road between the 2 railway crossings, the residents of this area would like to request 50km/hr road signs as well as bike signs. We already struggle with speeding cars and accidents and with the upgrade these drivers will find it easier to speed even more. Our children ride their push bikes to and from school along this road and we feel that these signs are essential to our families safety."

This item was discussed at the LTC meeting held 15 August 2002 and the item is reproduced as follows:

"R5690; DW685873

Request received for:-

- 1. Re-positioning of the "Drive to Suit Conditions" sign from its present position just past number 143 Upper Burringbar Road to at least another kilometre along the road.*
- 2. The 50kph zone be continued for at least another kilometre.*
- 3. Replacement of the "Drive to Suit Conditions" sign with an 80kph speed zone further up the road.*
- 4. More effective policing of the drivers on Upper Burringbar Road.*

Concerns have been raised for safety, especially for children as drivers begin to speed up before the "Drive to Suite Conditions" sign.

The Committee noted that there is a footpath from Greenvale Court to the School. The RTA Representative noted that the road environment is suitable for de-restriction signage.

The Committee noted that the 50kph speed zone is adequate as it covers from Greenvale Court (rural residential) back to the shopping area.

The Committee noted that the extent of existing 50kph zone was a generous interpretation of the guidelines but to extend it another kilometre into a rural environment is not appropriate.

The Police Representative advised that resources permitting, Police would be tasked to enforce speeds on Upper Burringbar Road.

For Council's information."

Upper Burringbar Road is a rural road with low traffic volumes and limited adjacent development. Council's accident database shows no recorded crashes along the length of road described in the correspondence.

It was suggested that Council officers investigate the matter further with regard to road conditions, traffic volumes, vehicle speeds and the road environment and report back to the Committee.

COMMITTEE ADVICE:

That the Upper Burringbar Road, Burringbar matter be listed on Outstanding Resolutions.

B8 [LTC] Tomewin Road, Dungay

ORIGIN:
Planning & Infrastructure

FILE NO: EMC 2948848; 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.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 April 2010 remain on the list of Outstanding Resolutions.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 20 May 2010 remain on the list of Outstanding Resolutions."

Advice has been received from the Roads and Traffic Authority of NSW as follows:

- "1. Tomewin Road from Numinbah Road to 2.5km north of Numinbah road. Total distance of 2.5km. That the existing 100 km/h speed limit be retained.*
- 2. Tomewin Road from 2.5km north of Numinbah Road to 5.6km north of Numinbah Road. Total distance of 3.1km. That the existing 100 km/h speed limit be reduced to 80 km/h. The RTA recommends that Council undertake a curve warning / speed advisory survey with a view to installing appropriate signage prior to the installation of the new 80 km/h speed limit.*
- 3. Tomewin Road from 5.6km north of Numinbah Road to NSW/QLD Border. Total distance of 4.6km. That the existing 100 km/h speed limit be reduced to 60km/h. The RTA recommends that Council undertake a curve warning / speed advisory survey with a view to installing appropriate signage prior to the installation of the new 60km/h speed limit."*

Council will advise the Roads and Traffic Authority of NSW of the installation dates when known.

It is recommended that the Local Traffic Committee note the advice of the Roads and Traffic Authority of NSW

COMMITTEE ADVICE:

That the Committee noted the advice of the Roads and Traffic Authority of NSW in relation to speed management of Tomewin Road, Dungay.

B9 [LTC] Laura Street and Anderson Street, East Banora Point

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 16619546; Traffic - Committee; Pedestrian Crossings, Safety; General; Laura Street; Anderson Street

SUMMARY OF REPORT:

Request received:

"As per our conversation, I am writing concerning the increasing traffic problem on Laura St and Anderson St at East Banora Point. Last Saturday afternoon (15.5.10), my husband and I attended a near-fatal car crash on Laura St. Conditions were dry. An unregistered car came around the Elsie St bend so fast, the driver lost control, created a 40 yard skid mark, ploughed his car sideways into a builder's van that was parked partly on the footpath in front of 17 Laura St. My husband witnessed the crash. The offending car crashed at an angle toward 17 and 19 Laura St properties. It went over the pedestrian footpath, and into the front yard of 17 Laura St. Had the van not been there to buffer the crash, the car would surely have continued and rolled or smashed hard into the house of either 17 or 19 Laura St. It is lucky that the builders renovating No 17 were all at the back of the house and not working in the front yard as they had been doing all day, otherwise they could have been hit. It was also fortunate that no pedestrians were walking on the footpath at the time of the crash.

The car which crashed is just one of many cars that I have seen on numerous occasions cut the corner as it turned into Anderson St, not slowing for the pedestrians that cross at that point, due to the council footpath which was constructed there. Pedestrians, including elderly folk and young children, are confronted with a blind spot when they cross from west to east Anderson St, as they cannot see traffic coming from west Laura St turning into Anderson – and the cars certainly do not slow down to see if any pedestrians are crossing.

In 2009 a car full of young hoons took the corner too quickly as they attempted to turn from Laura into Anderson St. This car crashed into the east corner of Anderson and Laura, outside our house which is 26 Laura St. This car went up onto the pedestrian strip and damaged the gutter. The gutter remains damaged from this crash. My husband phoned the police but they did not appear to arrive – certainly not for the first 2 hours, as we waited for them. The driver and his mates appeared to have removed the car before police did or did not arrive. This crash occurred on a dry day also.

Anderson St neighbours witnessed another accident about 3 years ago where a woman turned from Laura into Anderson, lost control, fishtailed and smacked into the gutter in front of my property and the neighbours. These neighbours can easily verify this incident.

Over 10 years ago, a young man crashed his car through the pool fence of our corner property, on the Anderson St side, after taking the turn from Laura into Anderson too fast. This man admitted that he was drag racing, and he stated that the East Banora roads including Laura, Anderson and Oyster Point Roads were referred to by hoons as "the race track." Indeed we still get a lot of people hooning around here including motor cyclists riding without helmets and on unregistered trail bikes.

Hoons are not the only problem. Most people exceed the 50km/hr speed limit along Laura St, all day, every day. I would estimate that people do up to 80km/hr along Laura St. This problem escalated after a letter was sent to residents requesting that no-one parks on Laura St due to the double lines. Residents did the right thing and stopped parking on the road; however, the moment the road was clear, the people who live further east on this hill started driving like maniacs at excessive speeds.

Since the commencement of the 50-unit high density housing development at East Banora, and since the Abigroup started work on the Sexton Hill tunnel, large trucks regularly travel too fast up or down Anderson, turning into Oyster Pt Rd or Laura St without stopping to look or give way to traffic. They come down Anderson so fast that they tend to brake for half of the road to get around into Laura St, sometimes using compression brakes, and causing unnecessary noise and risk.

In 2009, my husband and I spoke with a council worker about the traffic problems, and my husband personally walked him across the Anderson St crossing area and demonstrated how dangerous the blind spot there is. I myself find it risky to cross at that point, and there is no way that it is safe for the elderly and children who do not have the speed or maximum perception and reaction time to safely cross. My husband and I have been dreading having to attend an accident in this area, and it is only a matter of time before we have to witness the trauma of a dead child or the like on the roads near our home. Last Saturday is a warning of what will certainly come if nothing is done to remedy this growing problem.

I think that your idea of putting a traffic island at the junction of Laura and Anderson is a good start to dealing with this problem. I know that the ambulance find pedestrian crossing humps an inconvenience – but it's better than them having to scrape a body off the road. I also think that the police need to do regular speed checks on Laura St, as I think they would be hard pressed to find a worse domestic street area for speeding. I reckon the Abigroup people should also be spoken to about briefing their truck drivers on safer driving on these streets, so too the construction workers on that 50-unit development site."

It is considered the installation of rumble bars or other median splitter treatment devices could be implemented at Anderson Street at the intersection of Laura Street to reduce the speeds of vehicles turning right into Anderson Street.

The Committee considered that a splitter island or equivalent at the intersection of Anderson Street and Laura Street will be beneficial in slowing vehicle turns and improving the intersection delineation and safety in general.

COMMITTEE ADVICE:

That Council considers installing a splitter island on Anderson Street at the intersection of Laura Street.

B10 [LTC] Numinbah Road Chillingham

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 173600364; Traffic - Committee; Speed Zones; Numinbah Road, Chillingham

SUMMARY OF REPORT:

Request received for Local Traffic Committee advice in relation to speed limits on Numinbah Road.

It is reported that:

"I have lived at my current address for eight years, and in that time On week-days drivers use this road as an alternative to the M1 between Nerang and Murwillumbah, while week-end traffic consists of motor-cycle club outings, car clubs, Sunday tourists and competitive cycling events.

This is an interstate road. The Queensland section has speed limits of 80kph except where otherwise signed - 60 through built-up areas and 40 past schools - whereas on the NSW section between the border and Murwillumbah speeds are unrestricted (up to 100). Strangely, the Queensland section is a much better road than the NSW section so there is an anomaly here. It is almost impossible to maintain a speed of 100, yet drivers will try to do so because they can, which results in dangerous driving: crossing double white lines and risky overtaking. I believe 80 should be the top speed with many sections posted at 70. I see dangerous driving practices every day."

The signage and linemarking on Numinbah Road is currently under review. It is now requested that the speed limits and speed zonings on Numinbah Road be reviewed to ensure consistency.

The speed and traffic volume data are as follows:

	85 th percentile	ADT
NUMINBAH ROAD (M.R.399) - at Numinbah Tick Gates	12/03/2009 - 55 31/05/2007 - 57 11/08/2004 - 57	12/03/2009 - 338 31/05/2007 - 340 11/08/2004 - 339 16/10/2003 - 384 8/05/2002 - 320
NUMINBAH ROAD (M.R.399) - west of CHILLINGHAM	12/03/2009 - 85 31/05/2007 - 87 25/08/2005 - 88 16/10/2003 - 85	12/03/2009 - 670 31/05/2007 - 655 25/08/2005 - 626 16/10/2003 - 658 24/08/2001 - 616
NUMINBAH ROAD (M.R.399) - east of CHILLINGHAM	12/03/2009 - 68 31/05/2007 - 72 25/08/2005 - 72	12/03/2009 - 988 31/05/2007 - 950 25/08/2005 - 964 16/10/2003 - 925 7/11/2002 - 963
NUMINBAH ROAD (M.R.399) - east of NOBBY'S Ck Rd	25/03/2009 - 84 25/08/2005 - 84 16/10/2003 - 85	25/03/2009 - 1546 25/08/2005 - 1333 16/10/2003 - 1136 24/08/2001 - 1033 7/07/1997 - 772
NUMINBAH ROAD (M.R.399) - west of NORTH ARM Rd	25/03/2009 - 82 7/06/2007 - 83 25/08/2005 - 84	25/03/2009 - 1734 7/06/2007 - 1658 25/08/2005 - 1749 16/10/2003 - 1653 24/08/2001 - 2262
NUMINBAH ROAD (M.R.399) - west of KYNUMBOON BR	25/03/2009 - 85 11/08/2004 - 86 16/10/2003 - 83	25/03/2009 - 1838 15/03/2005 - 1368 11/08/2004 - 1487 16/10/2003 - 1490 29/08/2002 - 1071

Council's speed database shows that the 85th percentile speed along Numinbah Road varies between 55kph and 88kph.

Submitted for the consideration of the Local Traffic Committee.

COMMITTEE ADVICE:

That Numinbah Road be referred to the Roads and Traffic Authority of NSW for a speed limit review.

B11 [LTC] Fun Runs - SALT

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 17359297; Traffic - Committee; Safety; Central Park - SALT; Festivals - Other

SUMMARY OF REPORT:

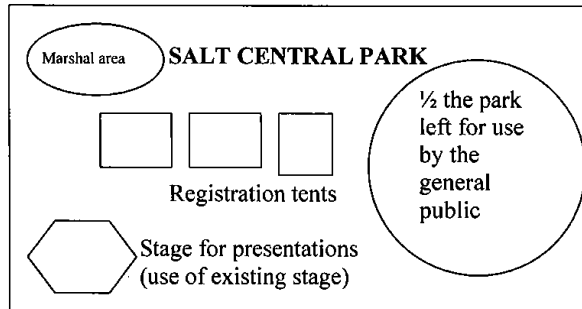
Request received for proposed Fun Runs at SALT in 2010 as follows:

Race 1	Sunday 1 August 2010
Race 2	Sunday 5 September 2010
Race 3	Sunday 10 October 2010

These runs have been held in this area for the last several years. A traffic control plan has been provided for this event and is put forward for the Committee's assessment.

The route commences and finishes at SALT Central Park using various roads within the development.

Traffic Management Plan



FUN RUN SERIES 2010

RACE 1 – AUGUST 1ST RACE 2 – SEPTEMBER 5TH RACE 3 – 10TH OCTOBER

THE COURSE

Race Start (8:00am) – Bells Blvd on the outside of SALT Central Park.

Runners complete one lap of SALT Central Park and then turn left into Gunnamatta, left into Barrel, right into cylinders, right into Banzai, then a U turn into Avoca before crossing the bridge onto the Bike Way.

Runners Will Remain On the bike way as they head North and then turn left to access Elliston Street. Runners will then run down Elliston Street, cross Casuarina Rd and join Point Break Cct before again joining the cycle way and running on it south.

Runners will then cross Casuarina Way again and head back along Banzai, left into Forester, right into Barrel, left into Gunnamatta and back into SALT Central Park for the finish line.

PLEASE NOTE – 10km runners, of which there will be approximately 200, will complete 2 laps of the course.

Finish Line (last person at 9:30am) – Bells Blvd adjacent to SALT central park.

ROAD CLOSURES:

1. NONE.

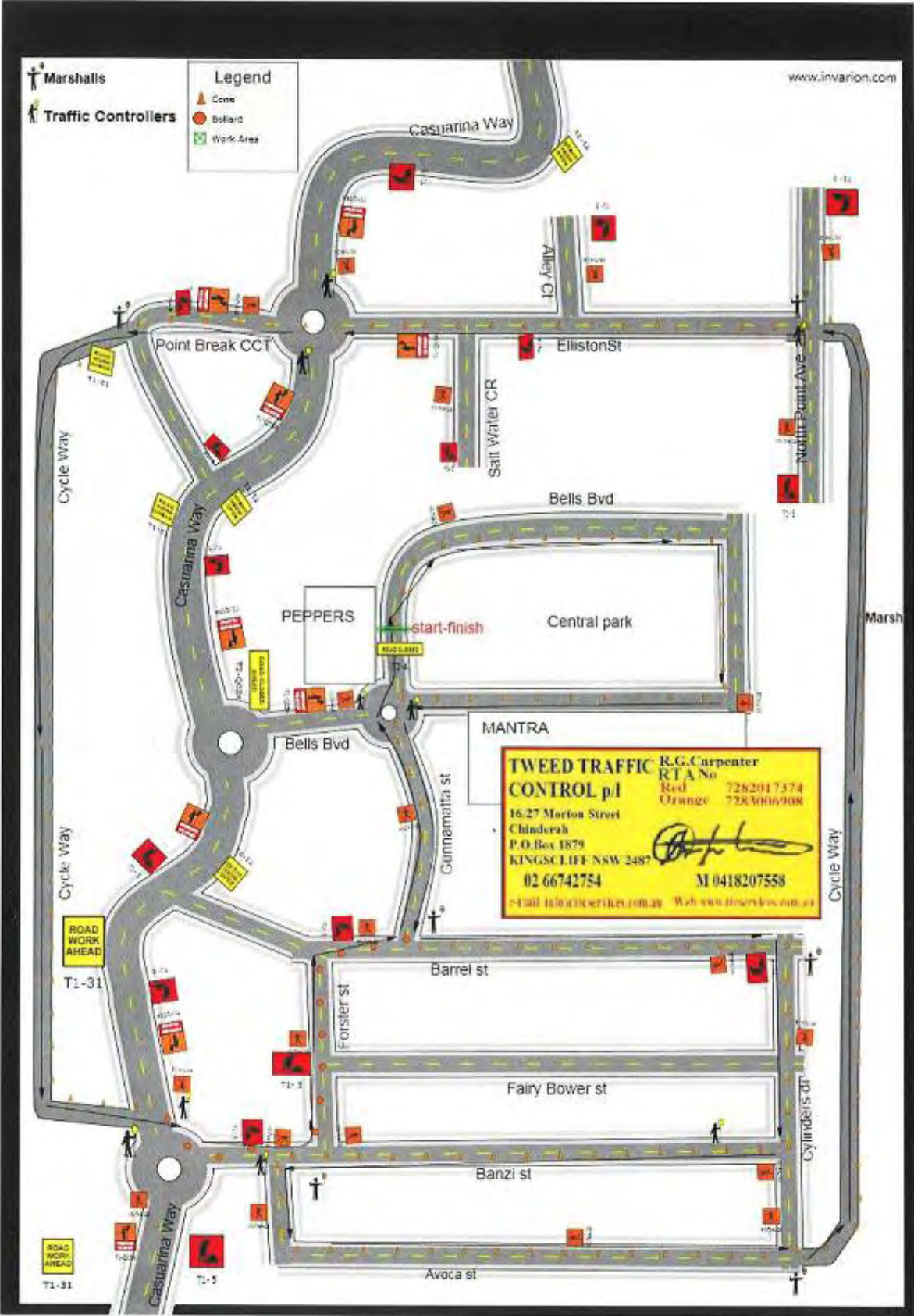
TRAFFIC DELAYS – MINIMAL:

1. Traffic may be delayed for short periods of time (no more than 2 - 3 minutes) as runners cross Casuarina Way off Elliston St. Certified Traffic Controllers will let traffic through at every opportunity. **Runners are expected to cross Casuarina Way between 8:10am – 9:00am.**
2. Traffic may be delayed for short periods of time (no more than 2 - 3 minutes) as runners cross Casuarina Way onto Banzai St. Certified Traffic Controllers will let traffic through at every opportunity. **Runners are expected to cross Casuarina Way between 8:15am – 9:15am.**
3. Some cars coming into SALT Central Park may be stopped as runners start and finish, with this stop being minimal and no more than 2 minutes. **Runners expected here between 8:00am – 8:05am and then between 8:30am – 9:30am intermittently.**

ROAD SAFETY & TRAFFIC CONTROLLERS:

- ✓ Both SALT Hotels will be informed (and are also Major sponsors)
- ✓ All retail outlets will be personally informed prior to the event.
- ✓ Runners on Road signs on race day will be placed at all streets entering the course.
- ✓ Six Marshals will be placed as per the above map (wearing safety vests). Their role will be to keep "an eye" on runners and divert any unexpected traffic including pedestrian and cycle.
- ✓ Four Stop/Go Traffic Controllers (certified) will be placed as per the map to control traffic as they cross Casuarina Way on two occasions. These 4 officers will allow traffic through whenever there is a break in the road.

Traffic Control Plan



COMMITTEE ADVICE:

That the Committee has no objection to the Fun Runs at SALT in 2010 subject to Police approval and standard conditions.

B12 [LTC] Scenic Drive, Tweed Heads West

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 16665596; Traffic - Committee; Pedestrian Safety; Speed zones; Pedestrian Crossing; Bus Services - Shelter; Scenic Drive, Tweed Heads West; LN 20008

SUMMARY OF REPORT:

Request received in relation to a recent incident:

"After witnessing a near fatal accident between a child of kindergarten age and a vehicle on the road adjacent to the Panorama Shopping Centre on Friday Afternoon 14 May at 3.40pm (approx), I urge that Council initiate immediate remedial action to minimize a future tragedy happening with certainty at this site.

As school buses stop to load and unload passengers, a dangerous situation arises with passing traffic. This traffic can be heavy at the times that children are going and returning from school. Children alighting from buses often cross the road unlawfully and often unwittingly step out onto the road when sky-larking, as children are wont to do.

In the instance on Friday the small girl (aged 5/6 years) suddenly left the vicinity and unobserved by older children accompanying her, waited momentarily for a vehicle to pass and then ran towards the opposite side unaware of a vehicle approaching from the opposite direction. She ran right into the path of this car which miraculously missed her by inches, brushing her and felling her backwards onto the road. Another step would have meant very serious injury or death.

Therefore I call upon Council to undertake the following:-

- (1) To create a fully painted Zebra crossing on the road at the site.*
- (2) To erect a guard rail on the road edge leading from the bus stop shelter back to the entrance to the shopping centre car park to prevent children unthinkingly stepping out onto the road into the traffic lane.*
- (3) That a traffic sign, directing that a 40 kilometre speed limit exists, from the bottom of the hill to the corner of Scenic / Gollan Drive. (Vehicle drivers constantly ignore the present speed limit and pass by the shopping centre at illegally dangerous speeds, especially when descending from Bilambil Heights).*

I feel that unless these measures are enacted, be warned that a fatal accident in all probability involving a young child or an old person WILL OCCUR here in the near future."

Council's database shows that the 85th percentile speed in this area is approximately 67km/h and the vehicle volume is 7,386 vehicles per day (June 2010). It is unlikely that the warrants of the Roads and Traffic Authority of NSW for a marked pedestrian crossing will be met at this location due to the low volumes of pedestrians. There have been numerous vehicle crashes near this location.

It was suggested that a Council officer contact the relevant bus company with a view to providing services into Seagulls Estate.

COMMITTEE ADVICE:

That Council officers:

1. Contact the relevant bus company with a view to providing bus services into Seagulls Estate, Tweed Heads West.
2. Investigate the adequacy of signage for the existing pedestrian refuge located on Scenic Drive opposite the Panorama Shopping Centre.
3. Consider placing the speed trailer in the vicinity of the Panorama Shopping Centre on Scenic Drive, Tweed Heads West.

B13 [LTC] Sunshine Avenue, Tweed Heads South - Lindisfarne Anglican Grammar School

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 16424620; Traffic - Committee; Pedestrian Safety; Speed Zones; Pedestrian Crossings; School Zones; Parking - Illegal; School - Lindisfarne Anglican

SUMMARY OF REPORT:

Request received in relation to:

"pedestrian and vehicle movements in Sunshine Ave outside Lindisfarne Anglican Grammar.

One of the problems I identified was vehicles mounting the footpath and angle parking along the nature strip which blocks visibility of children and parents stepping out from the kerb.

I have attached a copy of the Linisfarne School Newsletter dated 7/5/10 highlighting an incident where a parent was hit whilst protecting a student from being knocked over by an illegally parked car pulling out in front of them.

This incident reinforces the safety issues I highlighted and I urge Council to investigate the provisions of a childrens crossing in Sunshine Ave. I also, requested that

arrangements be made for Council Rangers to carry out patrols to deter illegal parking however, to date have not observed any patrols."

Council Rangers have been requested to enforce parking regulations in this vicinity.

The issues of unlawfully parked vehicles and sight distance problems they create are prevalent around many school sites.

Advice is being sought from the School on whether a school crossing is supported in Sunshine Avenue. There are no footpaths on either side of Sunshine Avenue.

The Police Representative left the meeting at 1.00pm.

COMMITTEE ADVICE:

That Council officers liaise with the Roads and Traffic Authority of NSW regarding a request for the provision of a school crossing near Lindisfarne Anglican Grammar School on Sunshine Avenue, Tweed Heads South.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 22 July 2010 in the Mt Warning Meeting Room commencing at 9.30am.

The Committee agreed that until December 2010 meetings be brought forward to a 9.30am start.

There being no further business the Meeting terminated at 1.10pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 [LTC] Minjungbal Drive - Parking Restrictions - Banora Point Upgrade

Nil

A2 [LTC] Tweed Heads Civic Centre - Car Park

Nil

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

A1 [LTC] Minjungbal Drive - Parking Restrictions - Banora Point Upgrade

That "No Stopping 6.30am to 10.30am and 3.00pm to 5.00pm Monday to Friday" signage be installed along the western side of Minjungbal Drive between Rivendell and opposite Soorley Street excluding the existing bus zone subject to liaison with all the adjacent business owners by the Banora Point Upgrade Alliance.

A2 *[LTC] Tweed Heads Civic Centre - Car Park*

That two additional disabled parking spaces be provided at the Tweed Heads Civic Centre.

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70 [SUBCOM] Minutes of Sub-Committees and Information Circulated to Councillors not requiring a decision of Council

1. Minutes of the Tweed Coastal Committee Meeting held Wednesday 9 June 2010 (ECM 18583260)
 2. Minutes of the Sports Advisory Committee Meeting held 10 June 2010 (ECM 17795013).
 3. Director's Report to the Tweed River Art Gallery Foundation (ECM 189594893).
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ORDERS OF THE DAY

71 [NOM-Cr W Polglase] Pottsville Shopping Village

NOTICE OF MOTION:

Councillor W Polglase moves that Council schedules a Workshop on a revised shopping village proposal on the Seabreeze/Pottsville site which includes a presentation from the proponents.

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

NOTICE OF MOTION:

Councillor P Youngblutt moves that a report be brought forward on the status of the redevelopment of South Murwillumbah.

73 [NOM-Cr Polglase] Crown Land at Pottsville

NOTICE OF MOTION:

Councillor W Polglase moves that a Councillors' workshop be held with Land and Property Management Authority and Tweed Shire Council Staff with reference to their Crown Land at Pottsville:

74 [NOM-Cr K Milne] Tweed Futures Twenty Year Vision Strategy

NOTICE OF MOTION:

Councillor K Milne moves that Council reinvigorate the adopted Tweed Futures Twenty Year Vision Strategy by implementing the following processes as prescribed on the final page of the Strategy:

1. The Tweed Futures Steering Committee will be retained to promote and oversee implementation. It will coordinate the work on the Expert Advisory Panels and advise Council on further action required, and
 2. Include an annual Tweed Futures Summit each February, bringing together government, business and community representatives to discuss progress and possible new initiatives for inclusion in the next Management Plan.
-

75 [NOM-Cr K Milne] Workshop - Recent Advice on Koala Decline Issues

NOTICE OF MOTION:

Councillor K Milne moves that Dr Stephen Phillips be invited to a workshop to update Council on Koala issues including the recent findings of his research on the Tweed that indicated further declines, and the option or necessity of instigating a moratorium on development in Koala sensitive areas.

76 [NOM-Cr K Milne] Workshop - Environmental Significance and Environmental Decline Issues in the Tweed Shire

NOTICE OF MOTION:

Councillor K Milne moves that Council holds a workshop on:

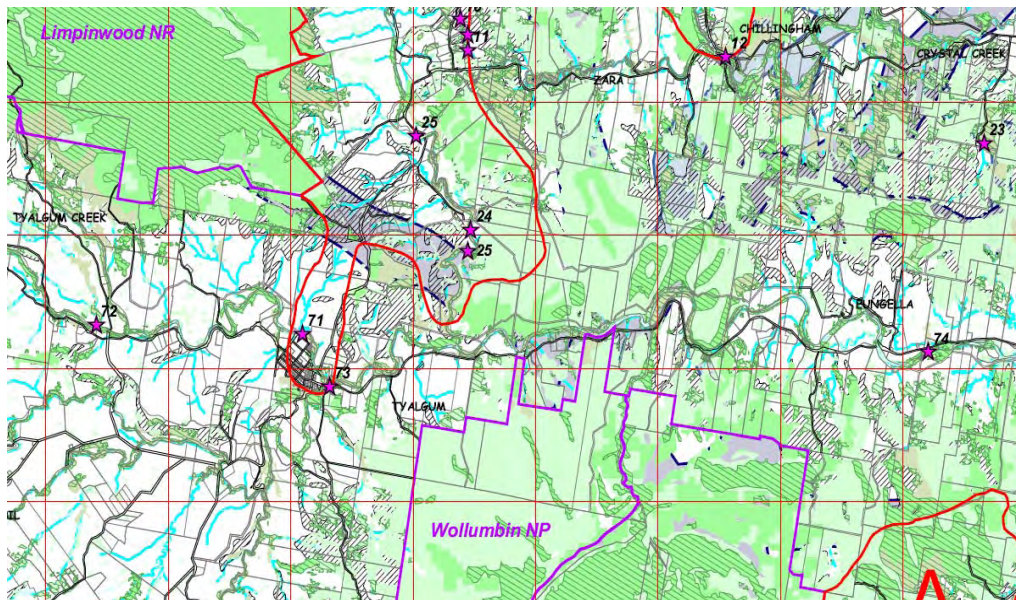
1. the significance of the Tweed Caldera environment, including in the international context and including the marine environment;
 2. the state of Tweed Shire of ecological environment, especially the situation of having the highest concentration of threatened flora in Australia, and including the latest information from Biolink on the Koala situation;
 3. future options for Council to reverse these declines;
 4. getting the community more aware and involved in environmental restoration.
-

77 [NOM-Cr K Milne] Limpinwood

NOTICE OF MOTION:

Councillor K Milne moves that Council actively pursues the purchase, for low impact/conservation purposes, of the 1000 acre property at the base of Mt Warning, 4 Boormans Road, Limpinwood, currently for sale, in recognition of the property's significant size, its location between Wollumbin National Park and Limpinwood Nature Reserve, high conservation value status, regional wildlife corridor values, and significance for the koala.

Purchase could be considered by reprioritisation of funds such as from the River Committee budget, or through lobbying and negotiation with State, Federal, International, and non government agencies, or from private funding.



78 [NOM-Cr K Milne] Climate Change and Sea Level Forums

NOTICE OF MOTION:

Councillor K Milne moves that Council holds two (2) public forums, one in Tweed and one in Murwillumbah, on climate change, sea level rise and flooding impacts for the Tweed Shire.

79 [NOM-Cr K Milne] Workshop - Waste Reduction

NOTICE OF MOTION:

Councillor K Milne moves that Council holds a workshop on waste reduction and treatment plans including but not limited to:

1. Waste reduction targets;
 2. Potential for increased separation and treatment of recyclable and toxic waste materials, including:
 - a. batteries
 - b. compact fluorescent globes
 - c. electronic waste
 - d. industrial
 - e. building waste
 - f. compost
 3. Potential for increased collection of separated waste or by increased drop off points in each village;
 4. Potential for encouraging/fostering green waste enterprises and initiatives eg through business incubator centres.
-

80 [NOM-Cr K Milne] Workshop - Arkinstall Park

NOTICE OF MOTION:

Councillor K Milne moves that Council holds a workshop on the redevelopment of Arkinstall Park including:

1. Impacts from traffic during major and minor events, on the business and residential community Tweed and South Tweed and for the Pacific Highway;
 2. Works proposed for Stage 1 in the 2010/11 budget;
 3. Results of the previous community survey;
 4. Aboriginal cultural use and heritage issues;
 5. Impacts on local open space amenity;
 6. Impacts on environment;
 7. Parking issues; and
 8. Sources of funding.
-

81 [NOM-Cr B Longland] Workshop - Provision of Development Control Plan A2

NOTICE OF MOTION:

Councillor B Longland moves that Council conducts a workshop on the provisions of Development Control Plan A2 as it relates to the requirements for on-site car parking for new development applications. The current policy, applied strictly, is having unintended consequences in terms of constraining the establishment of small businesses in parts of the Shire where car parking availability is not unduly affected by such new enterprise.

82 [NOM-Cr D Holdom] Aboriginal Cultural Heritage Assessment

NOTICE OF MOTION:

Councillor D Holdom moves that:

1. The General Manager undertakes an investigation and reports back to Council, on a Shire wide Aboriginal Cultural Heritage Assessment, the report to give regard to:
 - the approximate time frame to undertake the assessment, any state and federal legislation applicable to Aboriginal Cultural Heritage that Council needs to take into consideration;
 - an overview of the due process steps and assessment procedures which would be undertaken in any assessment of Aboriginal Cultural Heritage;
 - any (possible) assistance that may be required by the Local Aboriginal Land Council;
 - any (possible) consultation of local Aboriginal people to assist with the assessment via oral historical information;
 - possible cost and policy implications thereafter along with any other relevant matters; and
 2. Any confidential information from this report is to be contained in a separate confidential attachment to ensure protection of sensitive cultural heritage information.
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QUESTION TIME

83 [QON-Cr K Milne] Ozone Street, Chinderah

QUESTION ON NOTICE:

Councillor K Milne asks can Council provide any advice in relation to progress on the four lot industrial subdivision at Ozone Street especially in relation to alternative access routes?

84 [QON-Cr K Milne] Mayors Suggested Moratorium for s94 Funds

QUESTION ON NOTICE:

Councillor K Milne asks can the Mayor provide details and figures on the anticipated shortfalls in regard to the s94 developer contributions plans and clearly outline if and when he intends to instigate the moratorium on development that he recently spoke of in the media.

85 [QON-Cr K Milne] Koala Decline

QUESTION ON NOTICE:

Councillor K Milne asks can Council provide information on the preliminary advice of the koala situation as recently reported to Council by Biolink Consultants.

86 [QON-Cr K Milne] Local Environmental Plan

QUESTION ON NOTICE:

Councillor K Milne asks can Council provide an update on any progress with the State Government with regard to the environmental concerns with the Local Environmental Plan and especially the dual consent issues.

87 [QON-Cr K Milne] Jack Evans Boat Harbour Filling

QUESTION ON NOTICE:

Councillor K Milne asks:

The proposal description of the Review of Environmental Factors for Jack Evans Boat Harbour states, *"In summary the proposed headland works would involve: Placement of precast concrete blocks and rock material within harbour and along foreshore."*

Why was it not described in the proposal description that there was to be a 24 metre extension into the harbour and also the placement of loose fill material in the harbour?

88 [QON-Cr D Holdom] Jack Evans Boat Harbour

QUESTION ON NOTICE:

Councillor D Holdom asked can the Director Engineering and Operations please update Council on the progress of stage one of the Jack Evans Boat Harbour project?

89 [QON-Cr K Skinner] Rubbish - Locality Chinderah

QUESTION ON NOTICE:

Councillor K Skinner asked that due to the ongoing proliferation of rubbish in the vicinity of the BP Service Station in Chinderah could the General Manager write to the operators of this facility requesting their assistance in the clean up of this continual problem?

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

1 [EO-CM] Transfer of Open Space - Lake Kimberley Estate - Banora Point

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

2 [EO-CM] Reserve Creek Road, Kielvale

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)

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