



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Agenda

Ordinary Council Meeting Tuesday 18 October 2011

held at Murwillumbah Cultural and Civic Centre
commencing at 3.30pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

1 [CONMIN] Confirmation of Minutes of the Extraordinary Council Meeting held Tuesday 20 September 2011

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Minutes of the Extraordinary Council Meeting held Tuesday 20 September 2011 (ECM 39320787).
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2 [CONMIN] Confirmation of Minutes of the Ordinary and Confidential Meetings held on Tuesday 20 September 2011

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Minutes of the Ordinary Council Meeting held Tuesday 20 September 2011 (ECM 39331406).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 20 September 2011 (ECM 39321874).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

3 [SOR-CM] Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

16 February 2010

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne

Cr K Skinner

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

Current Status: A report will be submitted to a future Council meeting dependent on outcomes of discussions with the Department of Planning on draft LEP 2010. This item has been initially addressed through the officer's report and Council resolution at 15 February 2011 Council meeting for a new Tweed Tree Preservation Order 2011, and interim protection measure for koala habitat.

19 October 2010

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

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

686

Cr K Milne

Cr B Longland

RESOLVED that Council:

....

6. Develops a water friendly garden Policy.

Current Status: Policy development currently programmed for first half of 2012.

16 August 2011

ORDERS OF THE DAY

56 [NOM-Cr D Holdom] Non Potable Water Harvesting in Commercial and Industrial Precincts

504
Cr D Holdom
Cr W Polglase

RESOLVED that the:

1. General Manager investigates and reports back to Council on a new Policy for Tanks (non potable water harvesting) in Commercial and Industrial Precincts within the Tweed Shire Local Government area.
2. Investigation to also consider retrofitting possibilities in existing Commercial and Industrial Precincts.
3. Possibility of any rebate schemes being implemented.

Current Status: Report to be prepared.

57 [NOM-Cr D Holdom] Invitation to the Office of Liquor, Gaming and Racing

505
Cr D Holdom
Cr B Longland

RESOLVED that the General Manager officially writes to the Office of Liquor, Gaming and Racing (OLGR) inviting the Executive to attend a workshop with Councillors with the aim of providing Councillors with a full understanding of the role of the OLGR.

Current Status: Contact has been made with Office of Liquor, Gaming and Racing (OLGR) representatives and a Workshop is still to be scheduled.

20 September 2011

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

20 [CNR-CM] Coastal Hazards - Tweed Development Control Plan Section B25

532

AMENDMENT

Cr W Polglase

Cr P Youngblutt

RESOLVED that Council defers this item to the November Council meeting and conducts a Workshop on Coastal Hazards - Tweed Development Control Plan Section B25, in conjunction with consideration of Council's Tweed Coast Holiday Parks Reserve Trust properties affected by coastal hazard lines.

Current Status: Workshop scheduled for 11 October 2011

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MAYORAL MINUTE

4 [MM] Mayoral Minute for the Period 03 September to 04 October 2011

Councillors,

INVITATIONS:

Attended by the Mayor

Cr Kevin Skinner - 03 September to 20 September 2011

- 4 Sept 2011 - Tyalgum Plastic Bag-free Launch - Tyalgum Primary School
- 5 Sept 2011 - Terranora Public School, Building the Education Revolution Recognition Ceremony - 650 Terranora Road, Terranora
- 6 Sept 2011 - Official Opening of School Extensions and Refurbishment by the Hon Justine Elliot - St James Primary School, Doyle Drive, Banora Point
- 6 Sept 2011 - Official Opening of new Building the Education Revolution classrooms - Centaur Primary School, Eucalyptus Drive, Banora Point
- 7 Sept 2011 - Official Opening of School Extensions and Refurbishment by the Hon Justine Elliot - St Joseph's Primary School, Enid Street, Tweed Heads

Cr Barry Longland - 20 September to 04 October 2011

- 23 Sept 2011 - Launch of the 2011/2012 Surf Life Saving Patrol Season - Kingscliff Beach, Marine Parade
- 24 Sept 2011 - Launch of new inflatables - Fingal Rovers Surf Lifesaving Club, Fingal Head (Crs Polglase and Skinner also advised their attendance)
- 27 Sept 2011 - Private Citizenship Ceremony for Lana Evans - Mayor's Office, Murwillumbah Civic Centre
- 27 Sept 2011 - Opening of Tweed Heads Office of Disability & Aged Information Service Inc - 1AA/28 Corporation Circuit, Tweed Heads
- 29 Sept 2011 - National Police Remembrance Day 2011, combined NSW and QLD Service - St Augustine's Catholic Church, Cnr McLean and Queen Streets, Coolangatta (Cr Holdom also attended)
- 30 Sept 2011 - Launch of Active Ecotours - Murwillumbah Tourist Information Centre

- 30 Sept 2011 - Public Consultation Session Planning System Review - Murwillumbah Services Club, Wollumbin Street, Murwillumbah (Crs Holdom and Youngblutt also advised their attendance)
- 01 Oct 2011 - Opening Ceremony, Tweed Border Hockey, 13 yr old boys National Hockey Championships - Tweed Border Hockey, Brisbane St, Murwillumbah
- 01 Oct 2011 - Opening of the Caldera Artfest 2011 - Murwillumbah Civic Centre Auditorium

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

- 22 Sept 2011 - Sub-committee meeting, Local Traffic Committee - Murwillumbah Civic Centre, Mt Warning Room (Cr Skinner attended)
- 23 Sept 2011 - Guidelines for Council-administered Elections 2012 - Australian Electoral Commission presentation to NOROC Mayors and General Managers - Ballina Council Chambers (attended by Cr Phil Youngblutt)

Inability to Attend by or on behalf of the Mayor

Cr Kevin Skinner

- 5 Sept 2011 - Cancer Council NSW 2011 Daffodil Day Launch & turning yellow of Cape Byron Lighthouse - Lighthouse Road, Byron Bay
- 8 Sept 2011 - Screenworks Life's A Pitch 2011 - Byron Bay Community Centre, Jonson St, Byron Bay
- 10 Sept 2011 - Twin Towns and District Garden Club Inc annual Flower and Garden Expo - Tweed Heads Civic Centre
- 12 Sept 2011 - Launch of Glossy Black Conservancy, Cockatoo Conservation Guidelines - Redlands Indigiscapes Centre, 17 Runnymede Rd, Capalaba, Queensland
- 15 Sept 2011 - Tweed River Art Gallery (TRAG) Foundation Meeting - TRAG, Mistral Rd, Murwillumbah
- 16 Sept 2011 - The Northern Rivers Natural Disaster Assistance Program Launch - Southern Cross University, SCU2, Invercauld House, 161 Invercauld Rd, Lismore
- 17 Sept 2011 - Southern Cross University Graduation Ceremony, Faculty of Arts and Sciences and Faculty of Business and Law - Trinity Sport Hall, Dawson St, Lismore

Cr Barry Longland

- 26 Sept 2011 - Blair Athol Accommodation and Support Programme AGM - St Monica's Catholic Church Hall, Golden Four Drive, Tugun
 - 30 Sept 2011 - Induction Service of the Reverend Bruce Sligo - All Saints Anglican Church, Byangum Rd, Murwillumbah
-

REQUESTS FOR WORKSHOPS:

Date of Request	Requested by Councillor	Topic	Councillors For	Councillors Against	Proposed Workshop Date
12 Sept	Cr Holdom	RDA Funding Applications	7 Unanimous	-	-
19 Sept	Cr Holdom	Rural Lands - Planning matters	7 Unanimous	-	-
19 Sept	Cr Holdom	Homelessness (Council, State, Federal Community Services – Responsibilities)	7 Unanimous	-	-

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 22-23 Sep 2011 - 4th International Urban Design Conference, Resilience in Urban Design - Surfers Paradise Marriott Resort and Spa (attended by Cr Barry Longland)

Information on Conferences to be held

- 28 Nov-1Dec - Australian Regional Food Cultures and Networks Conference - Peppers at Salt Beach, Bells Boulevard, Salt Village, Kingscliff - *Increasingly consumers are focusing on food from a local perspective. The renewal of interest in food origin, how it is produced and by whom, its impact upon our lives, our environment, our cultures as well as its security into the future are some of the threads of discussion. The Conference will bring together people from industry, academia and government to explore key issues; showcase innovative thinking and demonstrate approaches to the development and sustainability of local food - 2 day registration 29 & 30 November \$395 pp plus Conference dinner \$109 plus Optional Field trips \$110 each, no accommodation required. Refer <https://regionalfood.e-register.com.au>*
-

SIGNING OF DOCUMENTS BY THE MAYOR:

- 13 Sep 2011 - Deed of Agreement and Indemnity - Tweed Economic Development Corporation
- 21 Sep 2011 - Licence R1 487448 - For the public purpose of future public recreation – Knox Park
- 23 Sep 2011 - Licence L1488427 - For site investigation of Tweed River Area 5 for the undertaking of feasibility studies on proposed extraction of sand for replenishment of Kingscliff Beach
- 26 Sep 2011 - Proposed Boundary Adjustment - Lots 601/602 DP 1001049 - Environ Cemetery – Plan of Subdivision
- 27 Sep 2011 - Gift of Additional land - Lots 15,16 & 17 DP103891 - Art Gallery Precinct – Plan of Subdivision
-

RECOMMENDATION:

That:-

- 1. The Mayoral Minute for the period 03 September to 04 October 2011 be received and noted.**
 - 2. The attendance of Councillors at nominated Conferences be authorised.**
-

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

5 [GM-CM] Community Building Partnership 2011

ORIGIN:

Business and Economic Development

SUMMARY OF REPORT:

The NSW Government will conduct the Community Building Partnership (CBP) program in 2011. The CBP program provides funds for community groups and local councils to invest in community infrastructure throughout the State.

These grants are competitively allocated from a fixed amount for each State electorate. Each State member will review and prioritise applications from their electorates which will then be determined by the Department of Premier and Cabinet.

Applications from local councils require a commitment of matching funding by the council and will close 31 October 2011.

Projects must be ready to commence by early 2012 and be completed before the end of March 2013.

Applications are open from Wednesday 14 September until Monday 31 October 2011.

This report recommends that Council submit two applications, one for each State Government electorate within the Tweed.

RECOMMENDATION:

That Council:

- 1. Submits a grant funding applications to the Community Building Partnership 2011 for the Hastings Point Park Upgrade Project within the Tweed State Electorate.**
- 2. Submits a grant funding applications to the Community Building Partnership 2011 for the Covered Walkway over Murwillumbah Bridge Project for the Lismore State Electorate.**

REPORT:

Community Building Partnership 2011

The NSW Government will conduct the Community Building Partnership ("CBP") program in 2011. The CBP program provides funds for community groups and local councils to invest in community infrastructure throughout the State.

In 2009, 1,180 grants were approved for community groups and local councils to build or upgrade local facilities. In 2010, a total of 1,775 grants were approved.

Community organisations and local councils are once again encouraged to apply for funding to build and improve community facilities in their local area. Grant funding of up to \$300,000 is available for every electoral district with an additional \$100,000 for the forty eight electorates previously identified with higher unemployment rates. The funding for the two State electorates in Tweed Shire are;

Tweed Electorate (NSW State):	\$400,000
Lismore Electorate (NSW State):	\$400,000

The objectives of the NSW 2011 Community Building Partnership program are to:

- Improve local community participation and cohesion through the delivery of social, environmental or recreational services or activities by enhancement of community infrastructure.
- Improve opportunities for people from disadvantaged or otherwise isolated groups to be included in community activities.

Criteria

Applicants should demonstrate how their project will benefit their local community through the building or improvement of facilities to deliver positive social, recreational or environmental outcomes.

Applications from local councils require a commitment of matching funding by the council. Projects must be ready to commence by early 2012 and be completed before the end of March 2013.

Applications are open from Wednesday 14 September until Monday 31 October 2011.

Eligible Projects

Applications should demonstrate how they will deliver positive results for communities, especially community social, recreational, environmental or employment outcomes. Funded projects will provide community benefits through:

- 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.

The Grant fund will **not** fund the following;

- Non capital equipment (e.g. computers, IT equipment, sports equipment etc).
- Projects that have commenced prior to 31 October 2011.
- Projects that involve the development of private or commercial ventures including licensed areas of registered clubs.
- Projects that seek funding for the organisation's operating recurrent expenses (eg: staff, consumables etc).
- Projects that seek funding to stage events, exhibit a display or for filming.
- Projects to undertake studies or investigations.
- Purchase of land or buildings is generally not appropriate.

Timetable

14 September 2011	Applications open
24 October 2011	Closing date for registration of Organisation by Applicants
31 October 2011	Applications close
6 December 2011	Complete application checking against eligibility criteria completed
7 December 2011 – 13 January 2012	Local MPs consult with their communities and assessment of applications commence by Local MPs and Independent Review Committees
March 2012	Announcement of successful projects and formal offers and documentation provided to applicants
30 September 2012	Applicants to obtain final planning for construction projects where required
31 March 2013	All projects completed and grant money spent

Assessment and Approval

Members of Parliament will:

- encourage applications from community groups and local councils in their electoral district
- provide comments and recommendations on the suitability and priority of eligible proposals within their electoral district for the Premier's consideration.

The Department of Premier and Cabinet will make recommendations to the Premier based on the assessment criteria and information provided by the Members of Parliament and independent review panels.

Hastings Point Park Upgrade Project

According to Australian Bureau of Statistics 2003 there were 20,000 people or 27% of the population identified within the shire as having a disability, so potentially a quarter of the parks user group. For this large group to participate adequate and complying infrastructure must be installed. The literature has clearly identified that lack of access within the built environment can negatively impact on the capacity of people with a disability to fully access their community and all it has to offer (National People with Disabilities and Carer Council 2009; SHUT OUT; The Experience of People with Disabilities and their Families in Australia).

Play is seen as a social leveller. When kids engage on play equipment they don't judge on social backgrounds, they may be intimidated by size or confidence but often it can be a starting point. Open space in parks also allows for all social groups, disadvantaged or otherwise to mingle and mix as one large group.

Hastings Point is designed to have free BBQ's with all access picnic settings close by. Other furniture is also designed for the park which allows for isolated individuals to come, sit and watch, to be apart of the greater community, to say hello to passer bys or watch others find their way in life. Tweed Shire has an over 65 population group 10% higher than the national average. Opportunities for this age group would include mainly passive recreational activities such as reading and talking with room for more slow paced active pursuits such as walking or cycling.

The parks location also encourages fishing in the local creek as well as more informal walking along the beach. The setting again is the backdrop that encourages all the other activities to be performed, by designing an environment that allows for a wide range of uses by a wide range of users it encourages a more tolerant community, one that sees and accepts the diversity as a greater good and a better place to call their own

Covered Walkway over Murwillumbah Bridge

The project proposes to construct an architect designed covered walkway to provide an aesthetically pleasing but functional addition to an already iconic structure. The bridge is iconic to the town and is the main access into the town. It also connects the Visitor Information Centre on the old Pacific Highway.

The covered walkway component will provide shelter over one side of the footbridge which merges into a new promenade and then into the existing footpath network of the CBD hub.

The design includes a supporting roof which is cantilevered from the riverside edge of the walkway. The main upright supports may also double as flag poles, light poles and banner supports. The design also caters for the existing views and vistas of Mt Warning which are prominent from the bridge.

The development will include an upgrade of Newell Park at the eastern end of the CBD which will better integrate the pedestrian component of the bridge with the shops and main footpaths of the CBD.

The bridge is owned and maintained by the RTA and any work on the structure will require their prior approval.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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6 [GM-CM] Proposal to Host 2013 and 2014 (Option 2015) Surf Life Saving NSW Championships at Kingscliff

ORIGIN:

General Manager

SUMMARY OF REPORT:

Council has successfully worked with Cudgen Headland Surf Club to secure the 2011 and 2012 Surf Life Saving NSW Championships. Surf Life Saving NSW has advised that the option for 2013 to hold the carnival at Kingscliff will not be taken up due to pressure from Sydney based membership to hold the carnivals closer to that area. The carnival held in March 2011 was a resounding success and Council was praised for their “fantastic support for the event”. Surf Life Saving NSW has decided to call for expressions of interest for the carnivals in 2013 and 2014 and has asked Council to once again put in an expression of interest.

The Championships are one of the biggest surf lifesaving events in NSW. The 2011 event at Kingscliff attracted 101 clubs and 5,760 competitors in Junior, Masters and the Open Competitions. In addition to this there were 570 officials and 22 staff employed to conduct the races. Cudgen Headland Surf Club and the local community provided a voluntary workforce on and off the beach over 13 days which contributed 5,371 hours of logged help. This and other in kind community support contributed significantly towards the success of the event.

It is estimated by Tourism Australia that visitors spend to the area is a minimum of \$18 million. In 2011 Destination Tweed reported a significant boost to accommodation along the Tweed Coast and in Tweed Heads for the Championships. This was particularly welcome as it expanded the market base in NSW rather than Queensland.

Council is required to provide a minimum hosting fee of \$65,000 plus GST and CPI annual increase to fund the management and logistical execution of the Surf Life Saving NSW Championships. A further hosting fee, being in kind support, of Council works equipment and operational services is required at an estimated value to a maximum of \$25,000.

RECOMMENDATION:

That:

- 1. Council prepares and submits a proposal to host the Surf Life Saving NSW Championship 2013 and 2014 in conjunction with the Cudgen Headland Surf Life Saving Club.**
- 2. Council endorses the allocation of \$90,000 in the 2012/2013 Budget as required to meet the conditions of the expression of interest.**

REPORT:

Council has successfully worked with Cudgen Headland Surf Club to secure the 2011 and 2012 Surf Life Saving NSW Championships. Surf Life Saving NSW has advised that the option for 2013 to hold the carnival at Kingscliff will not be taken up due to pressure from Sydney based membership to hold the carnivals closer to that area. The carnival held in March 2011 was a resounding success and Council was praised for their fantastic support for the event.

Surf Life Saving NSW has decided to call for expressions of interest for the carnivals in 2013 and 2014 and has asked Council to once again put in an expression of interest. Although they have been advised that there is only an "outside chance" of being awarded the carnivals following on from 2012 Carnival which will be held at Kingscliff, Cudgen Headland Surf Club have confirmed they will support Council in the expression of interest.

The Championships is one of the biggest surf lifesaving events in NSW. The 2011 event at Kingscliff attracted 101 clubs and 5,760 competitors in Junior, Masters and the Open Competitions. In addition to this there were 570 officials and 22 staff employed to conduct the races. Cudgen Headland Surf Club and the local community provided a voluntary workforce on and off the beach over 13 days which contributed 5,371 hours of logged help. This and other in kind community support contributed significantly towards the success of the event.

Council in 2011 also contributed through the hosting fee of \$60 000 plus GST to fund the management and logistical execution of the Surf Life Saving NSW Championships. A further amount of in kind support was provided by Council to assist in the set up of the event. Council was able to successfully respond to the changing beach conditions at Kingscliff providing the junior and senior beach event competitors with their "best ever" running track on the southern end of the beach.

It is estimated by Tourism Australia that visitors spend to the area is a minimum of \$18 million. In 2011 Destination Tweed reported a significant boost to accommodation along the Tweed Coast and in Tweed Heads for the Championships. This was particularly welcome as it expanded the market base in NSW rather than Queensland.

Council is required to provide a minimum hosting fee of \$65,000 plus GST and CPI annual increase to fund the management and logistical execution of the Surf Life Saving NSW Championships. A further hosting fee, being in kind support, of Council works equipment and operational services is required at an estimated value to a maximum of \$25,000.

The Surf Life Saving NSW Championships is conducted across seven days over two weekends, and attracts more than 12,000 visitors to the host venue each day. With almost 8,000 competitors between the ages of 7 and 70+, the Surf Life Saving NSW Championships is one of the largest surf lifesaving events in Australia. The event grows in size and stature each year and requires a venue capable of hosting this unique sporting spectacle.

Competitors compete in individual and team events including ironperson, surf swims, surf ski paddling, board paddling, surf boat races, beach sprints and flags, and the more traditional events of rescue and resuscitation, patrol competition, and first aid competition.

The event provides a significant economic benefit for the host town and local region as well as providing the region with a unique action packed sporting spectacle.

Cudgen Headland Surf Life Saving Club has written to Council to confirm that the Cudgen Headland Surf Life Saving Club fully endorses the opportunity to host the 2013 and 2014 State Surf Life Saving Titles. The Club believes that they can meet the criteria demanded of such a carnival and provide the material and manpower needed to make it a success.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Allocation of \$90,000 from the 2012/2013 Budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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7 [GM-CM] Festivals and Events Policy

ORIGIN:

Communications and Marketing

SUMMARY OF REPORT:

The Tweed Community Strategic Plan 2011/2021 identifies the vision for the Tweed is to be recognised for its desirable lifestyle, strong community, unique character and environment and the opportunities its residents enjoy. Events of all shapes and sizes contribute to achieving that vision through supporting community life, strengthening the economy and promoting caring for the environment.

The provision of financial assistance and in-kind support to festivals and events supports the overall aims of Council and those objectives identified in Council's Events Strategy 2011-2016, adopted in July 2011.

This policy incorporates and replaces the previous Festivals Financial Assistance Policy.

At its 19 April 2011 meeting Council resolved that the Draft Events Strategy, Draft Corporate Sponsorship Policy and the Draft Festivals, Donations and Grants Policy be placed on public exhibition. All three items were on exhibition from 4 May 2011 - 1 June 2011 with the Events Strategy 2011-2016 and Corporate Sponsorship Policy adopted at the 19 July 2011 Council meeting.

In the same report, Council were advised that following feedback the Communication and Marketing Unit would continue to review the Draft Festivals, Donations and Grants Policy and will bring that back to Council for their consideration by the end of the year.

Rather than combine both Policies, it is recommended the Donations Policy (Financial Assistance) will remain the same as it is, providing two rounds of funding per year to provide small funding amounts of below \$2,000 to community organisations across the Shire to assist with their activities.

On review of the Policy this report presents the final Festivals and Events Policy for Council consideration.

Major enhancements to the revised Festivals and Events Policy include:

- Changing from offering two rounds of split funding per year to one major round of funding to go to Council in July, giving events financial certainty a year out for planning their event.
- Options for consideration of multi-year funding.
- Clearer guidelines around acknowledgements of Council support.

RECOMMENDATION:

That Council adopts the Festivals and Events Policy to replace the current Festivals Financial Assistance Policy.

REPORT:

The recently adopted Events Strategy 2011 – 2016 recognises that the Tweed is a dynamic and diverse community with many exciting festivals and special events held each year. These festivals and events showcase the area's unique natural environment and cultural heritage, create a sense of community and deliver a range of economic and social benefits.

Council seeks to attract major events to the Tweed and to identify and develop local community events. Council also provides assistance through financial support and/or professional development of event organisers to ensure the Tweed is a community with great festivals and events.

The provision of financial assistance and in-kind support to festivals and events supports the overall aims of Council and those objectives identified in Council's Events Strategy 2011-2016.

The new policy recommends yearly funding rounds which will assist event organisers with financial certainty for their planned events and allows options for Council to consider multi-year funding of festivals and events.

Applications are assessed by a panel of senior staff in relation to the recently adopted Events Strategy and Council's broad objectives and plans.

In earlier years, Council's focus has been on assisting community events through donations and festivals policies established to provide financial assistance and the development of suitable outdoor spaces and indoor facilities for community events.

With the emerging trends in sports tourism and a need to review and streamline a whole-of-Council approach to financial and in-kind support, the Events Strategy 2011-2016 has been developed along with the new Festivals and Events Policy.

Festivals and Events Policy

This Policy will replace the current Festivals Policy (Financial Assistance). The Donations Policy (Financial Assistance) will remain the same.

The revised Festivals and Events Policy provides small to medium community events and major events wishing to apply to Council for financial assistance in cash and in kind with information about the application process, assessment criteria, eligibility and exclusions and the requirements if successful in receiving funding.

Council contributes a significant amount of support to festivals and events held in the Tweed both financial and in-kind from various units of Council. Once adopted the application forms, checklist and guidelines will be posted on the Council's website and an annual closing date for applications on 1 May 2012 will be advertised in the Tweed Link.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Replaces Festivals Financial Assistance 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. Draft Festivals and Events Policy (ECM40099356)
 2. Events Strategy 2011-2016 (ECM35702831)
-

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

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

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:

- (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

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8 [PR-CM] Development Application DA10/0766 for Drainage, Shed, Stables, Horse Training Track and Fencing at Lot 1 DP 789618; No. 138 Cobaki Road Cobaki

ORIGIN:

Development Assessment

FILE NO: DA10/0766 Pt1

SUMMARY OF REPORT:

Council at its meeting of 16 August 2011 resolved as follows:

*“**RESOLVED** that Item 18 (PR-CM) Development Application DA10/0766 for a drainage shed, stables, horse training track and fencing at Lot 1 DP 789618; No. 138 Cobaki Road, Cobaki be deferred so the applicant can address councillors.”*

The applicant subsequently engaged Opus International Consultants to provide a Hydraulic Assessment of the works undertaken on the site. This was submitted to Council on 30 August 2011 and reviewed by Councils Infrastructure Engineer, whose comments include the following;

‘In my previous memo...the applicant’s flood impact assessment (FIA) was assessed as being inadequate to resolve the issues regarding filling of a rural floodplain. The applicant has now obtained a Hydraulic Assessment by an engineering consultant.’

‘The report concludes that the filling and drainage works will have no significant impact on flooding behaviour, but recommends the following works be undertaken to ensure that pre-development flow capacities are maintained:

- 1. Widen the section of drain from the dam to Section D (shown in Figure 3.0) to provide a trapezoidal channel with a base width of 5m, depth of 0.8m and side slopes of 1:4 (v:h);*
- 2. Install twin 600mm pipe culverts (or equivalent) at the access causeway (Figure 3.0, Section F) to replace the previously installed 300mm pipe culvert;*
- 3. Reduce the level of the low flow outlet from the dam by 200mm (to RL 0.9m AHD), in order for the high flow weir to operate adequately.*

It is considered that should the above works be undertaken (or conditioned to be undertaken as part of a development approval for the filling works) this will satisfactorily mitigate the potential impacts of the filling works, reinstate previous drainage patterns, and protect adjacent properties from adverse impacts.’

This Hydraulic Assessment was forwarded to an adjoining neighbour who had provided a submission on this application during the notification period. This has resulted in further correspondence being received from the adjoining neighbour raising issue with the Hydraulic Assessment and requesting further detail to be submitted as well as assurances with respect to the work carried out not having any impact on their property. This correspondence is included as Attachment 1 of this report.

This correspondence was forwarded to the applicant who was requested to engage their hydraulic engineer to provide a detailed response with respect to the issues raised. Opus International Consultants have provided a response to these issues. This is included as Attachment 2 to this report. Attachment 3 contains the report considered by Council on 16 August 2011.

Having regard to the information provided by the applicant subsequent to the Council meeting on 16 August 2011 and comments provided by Councils Infrastructure Engineer with respect to same, it is considered that the subject development be recommended for approval subject to appropriate conditions of consent.

Further detail with respect to the application is provided below.

Council is in receipt of a Development Application for drainage, shed stables, horse training track and fencing works at the subject site. Following receipt of this application it became clear that earthworks have also been undertaken on the site, however these were described as 'top- dressing' in the submitted application.

Drainage and earthworks were carried out on the site and were brought to Council's attention by residents in the locality. Council requested the applicant to stop work and submit a development application.

The proposal is defined as an 'animal establishment', works for drainage and landfill, and 'earthworks' in accordance with the Tweed Local Environmental Plan 2000 (LEP 2000).

Earthworks, works for drainage and landfill, and animal establishment are listed under Item 2- allowed only with consent under the 1(a) Rural zoning provision for this area.

The development as originally submitted did not adequately address issues regarding the earthworks undertaken on the site, specifically relating to the importation of fill to a flood prone area. The total impact of the development could not be assessed given the lack of detail provided to Council with respect to a Flood Impact Assessment.

As outlined above, further assessment of the site has been undertaken with the result that it is considered that should the recommended works be undertaken, this will satisfactorily mitigate the potential impacts of the filling works, reinstate previous drainage patterns, and protect adjacent properties from adverse impacts.'

The proposal was notified to adjoining owners for a period of 14 days. A number of submissions were received by an adjoining neighbour during the notification period.

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

RECOMMENDATION:

That:

- A. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 104(2)(a) of the Local Government Act 1993, because it contains personnel matters concerning particular individuals (other than councillors).
- B. Development Application DA10/0766 for a drainage shed stables horse training track and fencing at Lot 1 DP 789618; No. 138 Cobaki Road COBAKI be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects, Hydraulic Assessment prepared by Opus Engineering and the following plans;

- Site Plan, prepared by Shane Fraser and dated 28 August 2010;
- Stable Shed Plan, prepared by Shane Fraser and dated 28 September 2010;
- Elevation & Section of Stables, prepared by Shane Fraser and dated 28 September 2010;
- Shed plan- PFP-5626, prepared by Ranbuild and dated September 2011;
- Shed elevation & section- Tweed1-5626, prepared by Ranbuild and dated September 2011.

as amended in red, except where varied by the conditions of this consent.

2. No excavation works shall be carried out on any land shown as being Class 1, 2, 3, 4 or 5 land on the series of maps held in the office of the Council and marked 'Acid Sulfate Soil Planning Map' unless a site specific Acid Sulfate Soil and (if required) Dewatering Management Plan is prepared in accordance with the provisions of the New South Wales Acid Sulfate Management Advisory Committee Guidelines 1998 and submitted to Council's Environmental Health Unit for consideration and approval.

[GEN0005]

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0465]

4. Council advises that the land is subject to inundation in a 1 in 100 year event to the design flood level of 2.6m AHD.

[PCCNS02]

5. A Section 68 application shall be required for:-
 - Erosion and sediment control works.
 - Stormwater drainage works.

Applications for these works must be submitted on Council's Section 68 Stormwater Drainage Application form accompanied by the required attachments and the prescribed fee.

[PCCNS03]

DURING CONSTRUCTION

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

[DUR2205]

7. The following works are to be undertaken to ensure that pre-development flow capacities are maintained:

- Widen the section of drain from the dam to Section D (shown in Figure 3.0) to provide a trapezoidal channel with a base width of 5m, depth of 0.8m and side slopes of 1:4 (v:h);
- Install twin 600mm pipe culverts (or equivalent) at the access causeway (Figure 3.0, Section F) to replace the previously installed 300mm pipe culvert;
- Reduce the level of the low flow outlet from the dam by 200mm (to RL 0.9m AHD), in order for the high flow weir to operate adequately.
- All areas of fill shall be provided with adequate perimeter drainage discharging to a legal point of discharge in order to prevent ponding on adjacent land..

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

8. Prior to the occupation of any building and prior to the issue of any occupation certificate approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council.

[POC1040]

USE

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

[USE0225]

10. Prior to use of all prior cut and filling works, a certificate of compliance shall be submitted to the Principal Certifying Authority by a suitably qualified engineer verifying that the earthworks have been constructed in accordance with Tweed Shire Council Specifications.

[USENS01]

11. Prior to use a certificate of practical completion shall be obtained from Council's General Manager or his delegate for all works required under Section 68 of the Local Government Act.

[USENS02]

C. The owners of Lot 1 DP 780618 No. 138 Cobaki Road be issued with a Penalty Infringement Notice for undertaking development without consent.

REPORT:

Applicant: Mr SI Fraser
Owner: Mr Shane I Fraser
Location: Lot 1 DP 789618; No. 138 Cobaki Road Cobaki
Zoning: 1(a) Rural
Cost: \$80,000

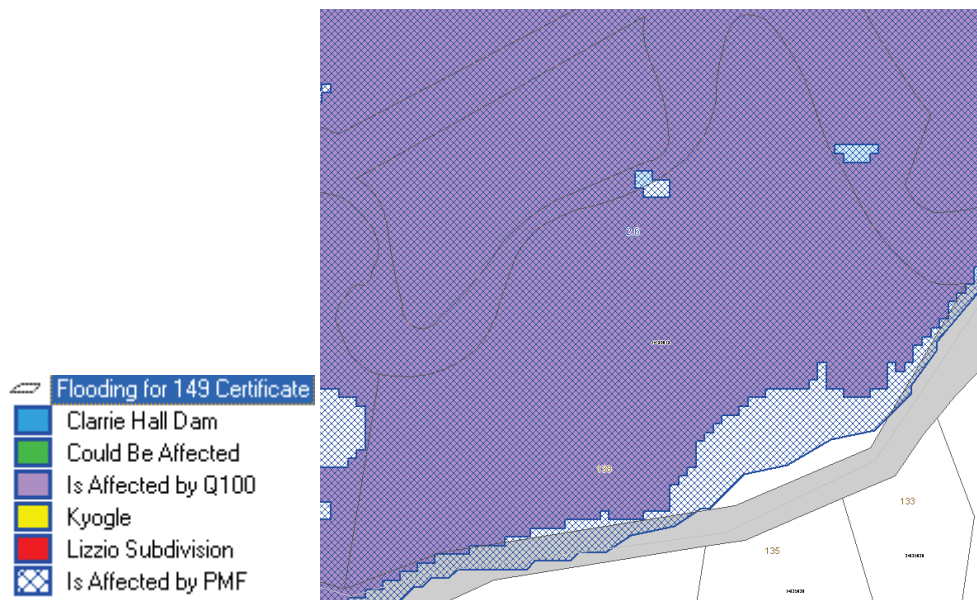
BACKGROUND:

The Subject Site

The subject land is described as Lot 1 DP 789618 at No. 138 Cobaki Road, Cobaki and has a total area of approximately 55.33ha. The site has a 425 metre frontage to Cobaki Road at its southern boundary and is defined to the north by Cobaki Creek. The subject site is irregular in shape and has a relatively level topography, with the exception of the area surrounding the dwelling, which is raised by approximately 3-5 metres from the remainder of the site. Improvements to the site include a dwelling and associated outbuildings to the roadside boundary.

Site Constraints

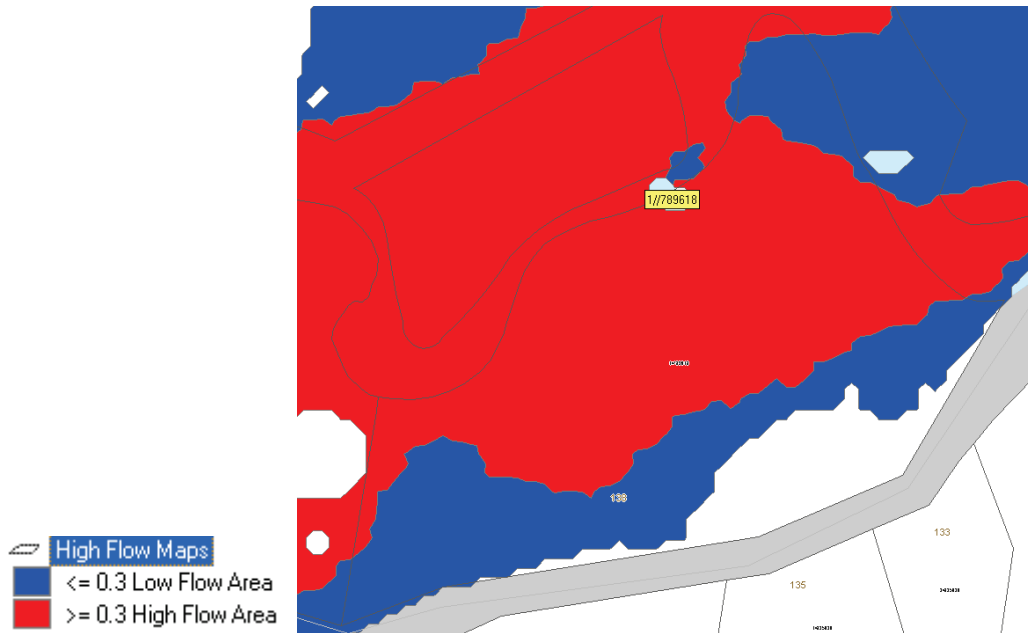
The site is located within an area which is within Tweed Shire Council's Q100 flood level as per Development Control Plan (DCP) A3- Development of Flood Liable Land. This flood level covers the majority of the site with exception of the current dwelling location, which is raised from the surrounding area. The Probable Maximum Flood (PMF) level also covers the majority of the site.



Area of site covered by 1:100 Flood level and PMF flood level.

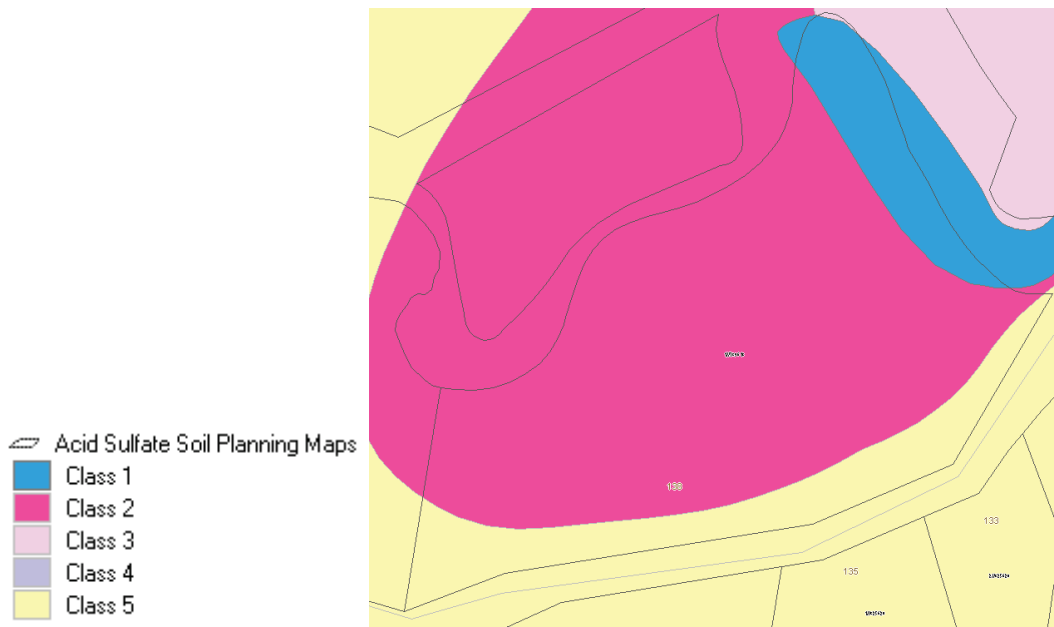
In addition to this, the subject site is also demonstrated as being located on land designated as High and Low flow areas as per DCP A3- Development of Flood Liable Land. This DCP

indicates that development is only permissible within a high flow area if the ground level is not altered by more than 300mm (for local drainage purposes) or obstruct flood flows.



High and Low flow areas over the subject site.

Council's mapping system indicate that the subject site is constrained by Class 1,2 & 5 Acid Sulfate Soils (ASS). Tweed Local Environmental Plan 2000 (TLEP 2000) indicates that works below the ground surface in Class 2 ASS areas as being specified works which must not be carried out without development consent.



Class 1,2 & 5 Acid Sulfate Soils on the site.

The Proposed Development

Drainage and earthworks were carried out on the site, and were brought to Council's attention by nearby residents. Council officers subsequently requested the owners stop work and submit a development application.

The current Development Application provides for drainage works, to erect a shed and stables, as well as a horse training track and fencing on the subject site. The application was lodged on 25 November 2010.

The proposal includes:

- Works which are described as improvements to drainage on the site. This involves using an excavator to clear out the existing drains and laying two (2) 750mm pipes to aid the flow of water.
- The applicant indicated that the drain was widened to create a dam swimming area to aid the training of horses on the site. This dam has a total area of approximately 512m² and has a capacity of 1075m³. In addition to this, a overflow drain is proposed off the artificial water body to Cobaki Creek.
- A raised sand jog track is proposed around the site. The submitted plans demonstrate that this will be approximately 40m wide and will run in a oval shape around the site.
- The applicant has indicated that undulations to the centre of the site are to be top-dressed in order to facilitate the drainage of water to the low end of the paddock. It is stated that these earthworks are a maximum of 250mm deep, and only a 'small amount' of areas require attention.
- A 309m² stable building is proposed with maximum height of 5.2m. This building contains eight (8) stables, a store and a tie-up area.
- A 96m² ancillary shed is proposed.
- New fencing is proposed to the site.
- The planting of native vegetation through approximately 100 native trees to the roadside boundary is proposed.

Much of the above work had been carried out prior to the application being lodged.

Site History

[0045/91B](#) Building Application – Shed- Approved - 30/01/1991

[1309/90B](#) Building Application – Dwelling. Approved - 29/11/1990

[1260/90B](#) Building Application – Shed. Approved - 9/11/1990

Public Submissions

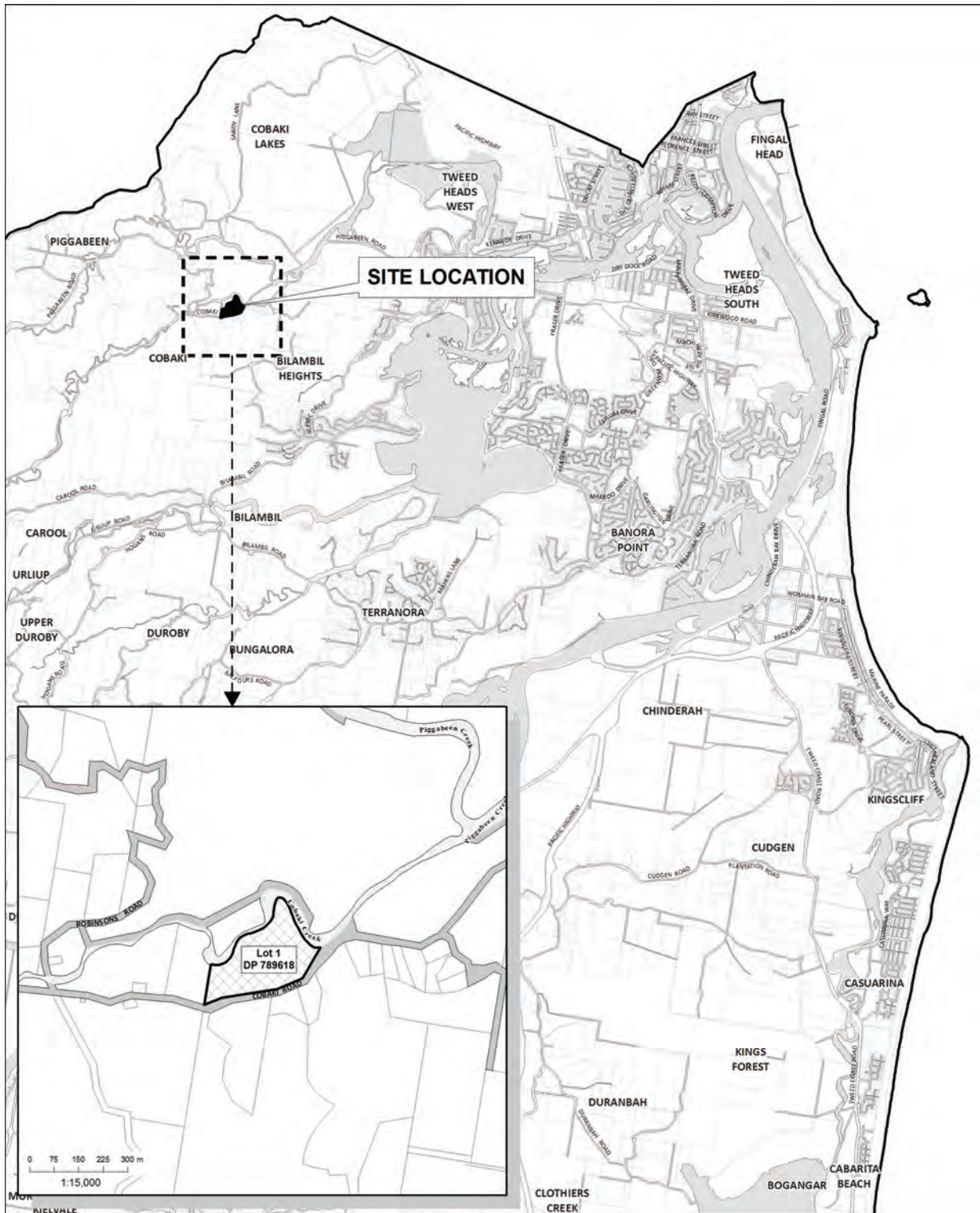
The subject development attracted a number of separate submissions from the owners of one neighbouring property following exhibition of the application. The objections were focused on the works carried out prior to lodgement, with particular attention to the earthworks on the site, the drainage works undertaken, the digging and spreading over the site of acid sulfate soils, the proposed trotting track and fencing.

In addition to this, the objectors have submitted correspondence between them and the applicant prior to a Development Application being submitted, and a factsheet outlining the 'Top 10 Common Law Drainage Problems between Rural Neighbours' from Ontario Ministry of Agriculture, Food & Rural Affairs. A number of photographs were also submitted demonstrating the extent of the works undertaken on the site.

Summary

After consideration of applicable environmental planning instruments, the Tweed Development Control Plan and various policies, the proposal is recommended for approval.

SITE DIAGRAM:



Locality Plan

Lot 1 DP 789618
No.138 Cobaki Road, Cobaki

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and 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.

Cadastre: 04 August, 2011
© Land and Property Management Authority (LPMA) & Tweed Shire Council.
Boundaries shown should be considered approximate only.

0 0.5 1 1.5 Km
1:75,000 @ A4 Portrait
DO NOT SCALE
COPY ONLY - NOT CERTIFIED
Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56
GDA

Civic and Cultural Centre
3 Tumbulgin Road
Murwillumbah NSW 2484
PO Box 816
Murwillumbah NSW 2484
T | (02) 6670 2400 | 1300 292 872
F | (02) 6670 2423
W | www.tweed.nsw.gov.au
E | planning@tweed.nsw.gov.au



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

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

Tweed Local Environmental Plan 2000

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan.

The vision of the plan is *“the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced”*. Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire’s environmental and residential amenity qualities.

Having regard to the submitted information, the subject development application is considered suitably in keeping with the above, as it is not considered likely to result in a reduction of residential amenity for nearby residential properties or the shire as a whole.

Clause 5 - Ecologically Sustainable Development

The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms.

Having regard to the information submitted with respect to this application originally, it was not possible to ascertain that irreversible environmental damage had not been caused by the earthworks and works for drainage and landfill undertaken. However following the submission of Hydraulic Analysis it is considered that the proposal is in keeping with the ESD principles.

Clause 8 - Zone objectives

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

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

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

The proposal is generally consistent with the primary objectives of the zone.

Other relevant clauses of the TLEP have been considered elsewhere in this report and it is considered that the proposal generally complies with the aims and objectives of each.

The proposal is not considered to contribute to any unacceptable cumulative impact in the community, in particular having regard to the submitted information with respect to hydraulic analysis submitted.

Clause 11 - Zone objectives

The subject site is located within the 1(a) Rural zone.

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

The proposed animal establishment, earthworks and works for drainage and landfill undertaken on the site are both listed under Item 2- allowed only with consent under the zoning provision for this area.

Clause 15 - Essential Services

This clause of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. Having regard to the proposed development, on a site which currently has an approved dwelling, it is considered that adequate services are available to the proposed shed stables and shed.

Clause 16 - Height of Building

Clause 16 of the TLEP requires development to be undertaken in accordance with a building height plan, which identifies the site as being limited to three storeys. The proposed dwelling complies with this criterion at a maximum height of approximately 5.3m from finished ground level.

Clause 17 - Social Impact Assessment

The scale of this development proposal does not necessitate a social impact assessment.

Clause 35 - Acid Sulfate Soils

The subject site exhibits Class 2, 3 & 5 acid sulfate soils with respect to this clause. The area of the subject site where the dam/ horse swimming artificial waterbody was created is classified as containing Class 2 and Class 5 acid sulfate soils.

Works carried out on the site include the excavation of an artificial waterbody to a depth of two (2) metres and an overall area of 512m².

The objectives of this clause are outlined as;

- to manage disturbance of acid sulfate soils to minimise impacts on water quality, ecosystems, infrastructure and agricultural and urban activities.
- to require special consideration and development consent for works, including some agricultural and infrastructure-related works, that would disturb soils or ground water levels in areas identified as having acid sulfate soils.
- to provide for a regime of self-regulation by those organisations which have demonstrated to the Council their ability to manage acid sulfate soils issues.

A person must not, without development consent, carry out works on land shown as being Class 1, 2, 3, 4 or 5 land, the works specified for the class of land in the following Table:

Class of land	Specified works
1	Any works
2	<ul style="list-style-type: none">• Works below the ground surface• Works by which the watertable is likely to be lowered
3	<ul style="list-style-type: none">• Works beyond 1 metre below the natural ground surface• Works by which the watertable is likely to be lowered beyond 1 metre below the natural ground surface
4	<ul style="list-style-type: none">• Works beyond 2 metres below the natural ground surface• Works by which the watertable is likely to be lowered beyond 2 metres below the natural ground surface
5	<ul style="list-style-type: none">• Works within 500 metres of Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD in adjacent Class 1, 2, 3 or 4 land

The consent authority must not grant consent to works specified above unless it has considered:

- (a) a preliminary soil assessment to ascertain the presence or absence of acid sulfate soils within the area of proposed works, unless the applicant agrees that acid sulfate soils are present within the area of proposed works, and
- (b) where the preliminary soil assessment ascertains (or the applicant agrees) that acid sulfate soils are present, the adequacy of an acid sulfate soils management plan prepared in accordance with guidelines, as amended from time to time, published by the Environment Protection Authority, and

- (c) the likelihood of the proposed development resulting in the oxidation of acid sulfate soils and discharge of acid water from the area of the proposed works,

Having regard to the works carried out on the site, in particular on the Class 2 & 5 land on the site, development consent was required. Assessing the information submitted on the file with respect to ASS disturbance, it has not been adequately demonstrated that the disturbance of acid sulfate soils will not have a negative environmental impact on the locality.

Consequently, it is considered that the works carried out have not been in accordance with the objectives or provisions of this clause.

Other Specific Clauses

Clause 34 – Flooding

Clause 34 of the TLEP 2000 seeks to minimise flood damage to future development occurring on flood liable land along with the adverse effects of flooding on a community. The applicant has submitted information, indicating that approximately 1500m³ of fill has been imported to the site.

The site is identified on Council's mapping as being affected by the Probable Maximum Flood (PMF) level and as being susceptible to the 1 in 100 year flood level, with that level identified as 2.6 metres AHD.

This clause states that where land is likely to be subject to flooding, Council must not grant consent to development on that land unless it has considered the following:

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

The subject site is predominately located within an area identified as Councils Q100 and PMF flood level as well as being within a high flow area for flood water.

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

This applicant has submitted a Hydraulic Assessment as part of this application. This was referred to Councils Planning and Infrastructure engineer who provided comments with respect to flooding.

It is considered that should the appropriate recommended works be undertaken, this will satisfactorily mitigate the potential impacts of the filling works, reinstate previous drainage patterns, and protect adjacent properties from adverse impacts

Based on this, it is concluded that the development would not increase the risk or severity of flooding of other land in the vicinity, subject to the proposed works being undertaken.

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

The submitted information indicates that the applicant is to widen the section of drain, install twin 600mm pipe culverts and reduce the level of the low flow outlet from the dam in order to improve the drainage of water through the site.

Detailed analysis with respect to the improved flow rates or how these would offset the fill imported on the site has been provided. Therefore, it is concluded that the severity of flooding affecting the development could be reasonably mitigated.

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

The subject development is not considered to have an immediate impact upon the provision of emergency services, having regard to the lack of any residential development proposed.

- (e) *the provisions of Section A3 - Development of Flood Liable Land of Tweed Development Control Plan.*

The development is assessed against the provisions of DCP A3 elsewhere in this report. It is concluded that the information submitted by the applicant with respect to flooding is acceptable.

Clause 39A – Bushfire protection

The object of this Clause is “*to minimise bushfire risk to assets and people and to reduce bushfire threat to ecological assets and environmental assets*”.

Council's mapping system demonstrates that the site is minimally mapped as being located within a bushfire prone area buffer of 30 to 100 metres. However as this buffer surrounds bushfire prone land which is located to the other side of Cobaki Road, it is considered that there is an adequate vegetation free buffer area between the subject development and the bushfire vegetation. Furthermore, the proposed stable and shed buildings are not located in the area mapped as being within the bushfire buffer zone. On this basis referral to the NSW RFS was not considered necessary.

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 subject site is listed on Council's GIS Enlighten system as being partially within an area which is identified as being a Regionally Significant Farmland. The GIS enlighten system also demonstrates that the agricultural suitability of the land is both land suitable for grazing and not for agriculture and land not suited for agriculture. It is considered that generally, the site consists of low quality agricultural land suitable for use for grazing. Therefore, the development would not lead to a loss of prime crop and pasture land.

Having regard to the works carried out on the site, the submitted Hydraulic Assessment has indicate that subject to remediation measures being undertaken as outlined elsewhere in this report, it is considered that there would not be any negative impact on the surrounding area in accordance with this Clause.

Clause 15: Wetlands or Fishery Habitats

Clause 15 of the NCREP is applicable to any application to carry out development adjoining a river or stream or within the drainage catchment of a river or stream. As this site adjoins Cobaki Creek and is located within its drainage catchment, this Clause is considered to apply to the proposal.

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

(a) *the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat,*

The submitted Hydraulic Assessment states '*Additional drainage works.... are proposed to improve the current drainage and ensure capacity in excess of the pre-work scenario.*'

As such it is concluded that the quality or quantity of flows of water is maintained in accordance with this clause.

(b) *the need to conserve the existing amateur and commercial fisheries,*

The subject application is not considered to negatively impact upon any amateur or commercial fishing activities.

(c) *any loss of habitat which will or is likely to be caused by the carrying out of the development,*

The subject development is not considered to result in the loss of any significant habitat.

(d) *whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve,*

Not applicable to the subject development.

(e) *whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution,*

The proposal was referred to Councils Environmental Health Section who have indicated that the subject development is acceptable subject to appropriate conditions of consent.

(f) *the proximity of aquatic reserves dedicated under the [Fisheries Management Act 1994](#) and the effect the development will have on these reserves,*

The proposal is not considered to have a negative impact upon any aquatic reserves as outlined above.

(g) *whether the watercourse is an area of protected land as defined in section 21AB of the [Soil Conservation Act 1938](#) and any measures to prevent soil erosion, and*

The proposal is not considered to have a negative impact upon any watercourse as outlined above.

(h) *the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved, and*

The applicant has indicated the some camphor laurel vegetation is to be removed. This is not considered to be in contravention of the above clause. The proposal is considered to be acceptable in this regard.

(i) *the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment.*

Not applicable

This Clause is considered to be adequately satisfied

Clause 32B: Coastal Lands

The proposal is considered consistent with Clause 32B as it is deemed unlikely that it will impede public foreshore access to the beach or result in significant overshadowing of adjacent open space. The proposal does not contradict the strategic aims of the NSW Coastal Policy, the Coastline Management Manual or the North Coast: Design Guidelines.

SEPP No 71 – Coastal Protection

Clause 8 of the SEPP identifies matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development will be considered compatible with existing and approved development for the locality upon completion of the proposed works.

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.

Provisions contained within this SEPP must be taken into account in consideration of granting consent for a dwelling on rural land. Measures designed to reduce these land use conflicts are aimed at creation of residential land uses through subdivision on land that is adjacent existing farming activities.

The subject site contains a portion of Regionally Significant Farmland. However, this SEPP does not specifically apply to this development as no dwellings or subdivision is proposed on rural land.

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

The subject site is zoned RU2- Rural Landscape under the Draft Tweed LEP 2010. The objectives for this zone include provisions to encourage sustainable primary industry production, to maintain the rural landscape character of the land, to provide for a range of compatible land uses and to provide for a range of tourist accommodation-based land uses.

The drainage and earthworks work proposed and undertaken is listed under Clause 4 (Prohibited) of the indicated zone provisions as 'any other development not specified in item 2 or 3'. As such this element of the proposal is considered to be contrary to the provisions of the zone.

The farm buildings proposed as part of this application are listed under Clause 3 Permitted with Consent and are acceptable under the Draft LEP.

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

Tweed Development Control Plan

A3-Development of Flood Liable Land

The subject site is indicated as being flood liable and as such the provisions of this DCP apply to the proposed development. Specifically the site, is flood affected with a design flood level of 2.6m AHD. In addition to this the site is within an area identified as Councils PMF flood level as well as being within a high flow area for flood water.

The application was referred to Council's Planning and Infrastructure engineer for comment, having regard to the fill imported to the site, and the possible impact that this may have on the area. Arising from this the applicant was requested to either remove the fill imported to the site or provide Council with a Flood Impact Assessment considering the impacts of the works on flood events originating from Cobaki Creek as well as local overland flow catchments.

The applicant provided a Flood Impact Assessment prepared by Opus which was referred to Councils Planning and Infrastructure Engineer for comment. In a memo dated 25 July 2011, it is indicated that '*the FIA (Flood Impact Assessment) provides no hydraulic analysis to demonstrate that the works will have no adverse impact on local or regional flood behaviour.*' In addition to this, it is stated that '*the*

FIA's impact assessment is based on the assumption that the works achieved a balanced cut/fill. This is not the case, as 150 truckloads of fill have been imported to the site.'

The applicant subsequently engaged Opus International Consultants to provide a Hydraulic Assessment of the works undertaken on the site. This was submitted to Council on 30 August 2011 and reviewed by Councils Infrastructure Engineer, whose comments include the following;

'In my previous memo...the applicant's flood impact assessment (FIA) was assessed as being inadequate to resolve the issues regarding filling of a rural floodplain. The applicant has now obtained a Hydraulic Assessment by an engineering consultant.'

'The report concludes that the filling and drainage works will have no significant impact on flooding behaviour, but recommends works be undertaken to ensure that pre-development flow capacities are maintained'.

'It is considered that should the...above works be undertaken (or conditioned to be undertaken as part of a development approval for the filling works) this will satisfactorily mitigate the potential impacts of the filling works, reinstate previous drainage patterns, and protect adjacent properties from adverse impacts.'

Having regard to the information provided by the applicant subsequent to the Council meeting on 16 August 2011 and comments provided by Councils Infrastructure Engineer with respect to same, it is considered that the subject development is acceptable when assessed against the provisions of DCP A3.

A11-Public Notification of Development Proposals

This Development Application was notified for a period of 14 days. One submission was received during the notification period.

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

Clause 92(a) Government Coastal Policy

The subject site is governed by the requirements of Clause 92(a) Government Coastal Policy. The development does not pose a threat to coastal processes.

Clause 92(b) Applications for demolition

The Development Application does not contain any provisions for demolition on the site.

Clause 93 Fire Safety Considerations

The subject application was referred to Council's Building Section, who provided recommended conditions with respect to the proposed stable and shed development. As such the proposal is considered to be acceptable in this regard.

Clause 94 Buildings to be upgraded

Not applicable. The proposal does not include the upgrade of any buildings.

(a) (v) **Any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)),**

Tweed Shire Coastline Management Plan 2005

Not applicable.

Tweed Coast Estuaries Management Plan 2004

Not applicable.

Coastal zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

The relevant management plan is the *Coastal Zone Management Plan for Cobaki Broadwater and Terranora Broadwater*.

The objectives of the Plan are:

- To improve water quality and ecosystem health by revegetation/regeneration of riparian vegetation, prioritising the mid – transition zones of all creeks and their ephemeral drainage lines.
- To improve rural stormwater discharge quality and ecosystem health by facilitating and supporting best practice land management and functional On-site Sewage System Facilities (OSSF).
- To improve urban stormwater discharge quality by implementing a Stormwater Quality Improvement Device (SQID) retrofitting strategy in existing priority areas, and ensuring future development does not contribute further to the existing pollutant loads.
- To restore riparian habitat to enhance connectivity of wildlife corridors.
- To protect and enhance shorebird habitat and provide additional high tide roosting sites.
- To increase and enhance public access to foreshores and low-impact recreation activities.
- To protect viable commercial fishery industries by preserving and improving fish habitat, including marine vegetation such as seagrass and saltmarsh and improving fish passage.
- To stabilise degraded creek bed and banks, to restore their natural values, improve downstream instream health, and reduce the infilling of the broadwaters.
- To increase community awareness and protection of areas important to Aboriginal cultural heritage.

Comment

The applicant has indicated that the works for drainage and landfill will improve drainage through the site by providing cleared drain paths and culvert pipes. As outlined elsewhere in this report, the applicant was requested to demonstrate to Council that the works carried out would not adversely impact on local flood behavior.

Subsequently the applicant has provided information by way of an Hydraulic Assessment which has demonstrated to the satisfaction of Council officers that the proposal will not have an unacceptable impact on the surrounding area by virtue of flooding or water flow. As such it is considered that the proposed development is in accordance with the objectives of the Coastal Zone Management Plan for Cobaki and Terranora Broadwater.

(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

Earthworks

The application details state that 150 loads of fill, totalling approximately 1500m³ of fill has been imported to the site as part of this application. As mentioned previously in this report, measures have been outlined in order to ensure that these earthworks do not have a negative impact on the surrounding area. As such it is considered that these earthworks will not have a detrimental impact on the surrounding natural or built environment.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is located in an area which is predominately rural in nature. The immediate surrounding allotments all contain a rural or rural residential use. The proposed stables and shed are considered suitable to the site.

As indicated elsewhere in this report, the earthworks have been demonstrated to not have a negative impact on surrounding landuses arising from the proposal in accordance with the submitted Hydraulic Assessment. As such,

Natural Hazards

The subject site is indicated as being flood liable under the provisions of DCP A3 as outlined above. As outlined in more detail elsewhere in this report it is considered that the proposal is considered to be acceptable when assessed against the relevant provisions of this DCP or other Council Policy in relation to development on flood liable land, having regard to the submitted Hydraulic Assessment.

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

The application was not considered integrated and therefore not referred to public agencies for comment.

The application was notified to adjoining owners for a two-week period from 6 to 20 December 2010 in accordance with DCP A11. The subject development attracted a number of separate submissions from the owners of one neighbouring property following exhibition of the application.

Issues raised include:

- the works being carried out without Development Consent,
- the earthworks on the site, which are considered to have an impact upon their property,
- the drainage works undertaken,
- the digging and spreading over the site of acid sulfate soils,
- the proposed trotting track,
- the fencing to the roadside boundary.

In addition to this, the objectors have submitted correspondence between them and the applicant prior to a Development Application being submitted, and a factsheet outlining the 'Top 10 Common Law Drainage Problems between Rural Neighbours' from Ontario Ministry of Agriculture, Food & Rural Affairs. A number of photographs were also submitted demonstrating the extent of the works undertaken on the site. A copy of this submission is provided as a Confidential attachment.

(e) Public interest

A detailed assessment has been undertaken based on all matters raised above which concludes that the proposed development generally results in a outcome which is acceptable in terms of the public interest.

Detailed conditions have been applied to regulate the development and subject to the recommended conditions, the proposed development is considered to be in the public interest.

OPTIONS:

1. Approve the application in accordance with the recommended conditions for approval.
2. Refuse the application for specified reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant not be satisfied with the determination they have the right to appeal the decision in the NSW Land & Environment Court.

Works were undertaken without consent and therefore it is considered appropriate to issue a Penalty Infringement Notice to the owners for carrying out unauthorised development.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

A comprehensive assessment has been undertaken of the merits of the application by Council's planning, engineering and environmental health staff. The application is considered to be worthy of approval, subject to satisfaction of recommended conditions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. **Confidential Attachment** - Submission from the owners of a neighbouring property in respect of DA10/0766 dated 14 September 2011 (ECM 40060996)
 2. Letter from Opus International Consultants (Australia) Pty Ltd addressing comments regarding hydraulic information submitted to Council on 26 August 2011 (ECM 40094144)
 3. Council Report considered by Council on 16 August 2011 (ECM 40094145)
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9 [PR-CM] Development Application DA10/0505 for a Three (3) Lot Subdivision at Lot 9 DP 583345; No. 70-76 Reserve Creek Road Kielvale

ORIGIN:

Development Assessment

FILE NO: DA10/0505 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 98.47%.

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 Zones 1(a) and 1(b2) if the area zoning within each allotment created is at least 40 hectares.

Total land area of the subject site is 30.575 hectares. Land areas of the proposed lots are as follows:

- Lot 1 = 2.058ha (retention of existing dwelling)
- Lot 2 = 5.737ha
- Lot 3 = 22.78ha.

Proposed Lots 1 and 2 are located entirely within the 2(d) Village zone.

Proposed Lot 3 is split-zoned. Zone areas within the lot are as follows:

- 2(d) Village zone = 4265m²
- 1(a) Rural zone = 21.75ha
- 1(b2) Agricultural Protection zone = 6100m².

The creation of proposed Lot 3 results in a variation to the 40ha minimum lot size for the 1(a) zone of 45.64% and a variation to the 40ha minimum lot size for the 1(b2) zone of 98.47%. Existing 45.64% and 98.47% variations to the abovementioned development standard currently relate to the site as one lot. The extent of variations will neither reduce nor increase following this subdivision proposal.

The applicant seeks consent for a three (3) lot residential subdivision, including the creation of an internal driveway with Rights of Carriageway over proposed Lots 1 and 2 to provide access to proposed Lots 2 and 3.

Concurrence was granted by the Director General in this instance for the following reasons:

- The proposed subdivision will allow for the residentially zoned part of the lot to be separated from the rural land; and
- All the rurally zoned land in the Rural 1(a) and Agricultural Protection 1(b2) zones will be retained in a single lot as is presently the case with sufficient land within the proposed lot in the Village zone to provide for access and a dwelling.

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 DA10/0505 for a three (3) lot subdivision at Lot 9 DP 583345; No. 70-76 Reserve Creek Road KIELVALE be approved subject to the following conditions: -

GENERAL

1. **The development shall be completed in accordance with the Statement of Environmental Effects and:
Sheet 1 of 1 Revision D Job No. 21079 (Proposed Subdivision of Lot 9 DP 583345 Reserve Creek Road Kielvale) prepared by Brown and Haan and dated 30 June 2011,
except where varied by the conditions of this consent.** [GEN0005]
2. **The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.** [GEN0125]
3. **Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.** [GEN0135]
4. **Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -**
 - **Construction of a new driveway access for proposed Lots 1, 2 and 3 in accordance with Council's "Driveway Access To Property – Design Specification".**

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

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

- **Road works**
- **Stormwater drainage**
- **Water works**

- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan.

[GENNS01]

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

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Prior to issue of the construction certificate, the applicant is to submit a Habitat Restoration Plan in accordance with Council's draft guidelines attached to this consent detailing additional environmental enhancement planting works and the removal of exotic species along the disturbed drainage channel.

[PCCNS01]

7. A Fisheries Permit is required from the Department of Primary Industries prior to issue of a Construction Certificate.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0985]

9. The Habitat Restoration Plan must be approved to the satisfaction of Council's Director of Planning and Regulation or delegate prior to commencement of works.

[PCWNS01]

DURING CONSTRUCTION

10. 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]

11. 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 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]

- 12. 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]

- 13. 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]

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

[DUR1015]

- 15. 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]

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

[DUR2185]

- 17. Acid sulfate soils shall not be exposed or disturbed. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.**

[DUR2425]

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

[DUR2435]

- 19. All operations must comply with the fauna and flora protection measures as outlined in the Ecological Impact Assessment prepared by Biolink Pty Ltd and dated June 2011. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations, appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate. No further operational works will take place until the Plan(s) of Management is/are approved.**

[DURNS01]

- 20. Tree removal is limited to two (2) individuals as specified in the Ecological Impact Assessment conducted by Biolink Pty Ltd provided with the application, no other trees may be cleared without specific approval of the General Manager or delegate and works will avoid all other individuals.**

[DURNS02]

21. A spotter-catcher is to be present during clearing works to relocate any displaced fauna and attend to any injured fauna.

[DURNS03]

USE

22. Vegetation shall be removed or lopped only as strictly necessary to complete the proposed works. Boundaries of vegetation along the drainage line that are to be retained must be clearly marked in the field with highly visible traffic control barriers prior to the commencement of any clearing operations. No machinery is to traverse beyond the marked boundaries. All tree-felling and vegetation removal must be undertaken so as to avoid damage to remaining native vegetation.

[USENS01]

23. Due to the potential for Koala habitat and thus the high probability of Koalas traversing the vegetation of the 1(a) Rural zone, the keeping of dogs on Lot 3 is prohibited.

[USENS02]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

24. 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]

25. 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 DSP2: 2.4 ET @ \$11571 per ET \$27770.4

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]

26. **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:
13 Trips @ \$1601 per Trips \$20406.28*
(\$1455 base rate + \$146 indexation)
S94 Plan No. 4
Sector10_4
- (b) Open Space (Casual):
2 ET @ \$526 per ET \$1041.48*
(\$502 base rate + \$24 indexation)
S94 Plan No. 5
- (c) Open Space (Structured):
2 ET @ \$602 per ET \$1191.96*
(\$575 base rate + \$27 indexation)
S94 Plan No. 5
- (d) Shirewide Library Facilities:
2 ET @ \$792 per ET \$1568.16*
(\$792 base rate + \$0 indexation)
S94 Plan No. 11
- (e) Bus Shelters:
2 ET @ \$60 per ET \$118.8*
(\$60 base rate + \$0 indexation)
S94 Plan No. 12
- (f) Eviron Cemetery:
2 ET @ \$120 per ET \$237.6*
(\$101 base rate + \$19 indexation)
S94 Plan No. 13

- (g) **Community Facilities (Tweed Coast - North)**
 2 ET @ \$1325 per ET \$2623.5*
 (\$1305.6 base rate + \$19.400000000001 indexation)
 S94 Plan No. 15
- (h) **Extensions to Council Administration Offices
 & Technical Support Facilities**
 2 ET @ \$1772.82 per ET \$3510.18*
 (\$1759.9 base rate + \$12.919999999998 indexation)
 S94 Plan No. 18
- (i) **Regional Open Space (Casual)**
 2 ET @ \$1042 per ET \$2063.16*
 (\$1031 base rate + \$11 indexation)
 S94 Plan No. 26
- (j) **Regional Open Space (Structured):**
 2 ET @ \$3656 per ET \$7238.88*
 (\$3619 base rate + \$37 indexation)
 S94 Plan No. 26

* 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.

27. 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. [PSC0175]

28. 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: [PSC0825]

(a) Easements for water supply and drainage over ALL public services/infrastructure on private property.

(b) Restriction to be created over Lot 2 and Lot 3 stating that all roofwater from houses, buildings or structures shall be discharged to an approved infiltration pit located on the subject property. The infiltration pit shall be approved by the Principle Certifying Authority.

(c) Restriction to be created over Lot 2 and Lot 3 stating that the lots are not connected to a reticulated sewer system, and any dwelling to be constructed on the sites will need to provide on-site sewage management systems.

(d) Restriction as to user regarding no dogs to be kept. Burden: Lot 3. Benefit: Tweed Shire Council.

(e) Restriction as to user regarding the environmental covenant area to be described within the approved Habitat Restoration Plan for the site – this area must be subject to an ecological restoration program where native vegetation is protected. Burden: Each lot. Benefit: Tweed Shire Council.

- (f) Restriction as to user regarding protection of all Koala food tree species on the site of 3m or greater in height. Burden: Each lot on the subject site. Benefit: Tweed Shire Council.

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.

29. 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". [PSC0835]

30. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained. [PSC0845]

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.

31. 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. [PSC0885]

32. Prior to issuing a Subdivision Certificate, reticulated water supply shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval. [PSC0945]

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

- [PSC1115]
33. 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]
34. The production of written evidence from the local electricity supply authority certifying that the reticulation of electricity and energising has been provided to 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]
35. Prior to the issue of a Subdivision Certificate, documentary evidence shall be provided to Council to confirm the registration of a Right of Carriageway 10 wide over proposed Lot 1 and Lot 2, benefiting proposed Lot 2 and Lot 3.
- [PSCNS01]
36. Prior to the issue of a Subdivision Certificate, a 4.0m wide sealed driveway shall be provided within the existing Right Of Carriageway through proposed Lot 1 and Lot 2, to the property boundary of proposed Lot 3. This access must be bitumen sealed from the edge of Reserve Creek Road to the property boundary of proposed Lot 3, in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's "Driveway Access To Property – Part 1 – Design Specification".
- [PSCNS02]
37. Prior to the issue of a Subdivision Certificate, Council must undertake a final inspection of the works and be satisfied that all conditions of consent have been complied with.
- [PSCNS03]
38. Prior to the issue of a Subdivision Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.
- [PSCNS04]
39. Prior to the issue of a Subdivision Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 68 of the Local Government Act 1993.
- [PSCNS05]
40. Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to the release of the subdivision certificate and shall be maintained at all times to the satisfaction of the General Manager or his delegate.
- [PSCNS06]
41. The planted area and/or regenerated area shall be fenced to prevent cattle access until species attain the minimum height for protection by Council's Vegetation Management Order.
- [PSCNS07]

- 42. Fencing shall not restrict the free movement of koalas that may traverse the site from time to time and shall allow a clearance of at least 30cm at the bottom to enable koalas to move under it. If post and wire fencing is used, the bottom strand must not be barbed. Thus, subdivision boundary fences to be erected on the property, shall comply with the following conditions:**
- a. Fences shall be constructed of wire, with the top wire and the bottom two wires consisting of non-electrified plain wire.**
 - b. The bottom fence wire shall be no closer than 40 cm to the ground at any point.**
 - c. The removal of vegetation for fence construction shall be undertaken with hand tools only (e.g. brush cutters, lawn mowers), and shall be limited to a maximum width of 1 m.**

[PSCNS08]

REPORT:

Applicant: Mr P Sochacki
Owner: Mr Peter E Sochacki
Location: Lot 9 DP 583345; No. 70-76 Reserve Creek Road Kielvale
Zoning: Pt 2(d) Village, Pt 1(a) Rural, Pt 1(b2) Agricultural Protection
Cost: \$20000

BACKGROUND:

History

Current Lot 9 in DP 583345 was created in 1976. A previous division dates back to 1965 but the shape of the allotment has remained virtually the same over these years.

Structures on the subject site are lawful:

- D87/0892: erection of a private dwelling house
- D93/0238: construction of an access road / cattle yards
- 1183/87B: building application – dwelling
- 1167/97B: building application – swimming pool.

The Subject Site

The subject property is legally described as Lot 9 DP 583345 and is more commonly known as 70 - 76 Reserve Creek Road, Kielvale. The property has an area of 30.55 hectares and contains an existing residential dwelling, swimming pool and various farm structures and improvements. The allotment was created in 1976. Vehicular access to the site is provided by way of an existing bitumen driveway from Reserve Creek Road to the dwelling and a dirt track through to the farm paddocks at the rear of the site. The majority of the property is a regular rectangular shape being defined by an irregular section with a 94m frontage to Reserve Creek Road.

The site area of the site to be subdivided is generally clear of vegetation other than the location of remnant bushland in the southern portion of the site. Scattered vegetation is also found on adjoining properties, whilst the land to the north is developed for residential use within the Village zoning.

An unformed Crown road reserve is located to the north western tip of the site, of which there is a 26m frontage along the site boundary.

Three drainage lines of intermittent flow run from east to west traversing the site. The site acts as a watershed from adjoining pastoral lands and drains into a tidal section of the Tweed River via Condong Creek.

Areas of Bush Fire Prone vegetation of Category 1 classification and bushfire buffer zones are present on the southern half of the site in the land zoned 1(a) Rural.

A small dam is associated with the existing dwelling on the northern irregular portion of the site.

The Proposed Development

The applicant seeks consent for a three (3) lot residential subdivision. In addition to the proposed subdivision, the applicant seeks approval for the construction of a 560m long, 10m wide dual use driveway serving the building envelopes on Lots 2 and 3. The right-of-way (RoW) will contain a 4m wide sealed driveway and carry essential services to these Lots.

A causeway will be constructed with 2 x 1200m pipe culverts laid underneath to enable crossing of a drainage path. The boundaries of the Lots will be fenced and gated. Provision has also been made on the plan for future access from Lots 2 and 3 to the Crown road reserve should it ever be developed as a functional public road reserve.

Land areas of the proposed lots are as follows:

- Lot 1 = 2.058ha (retention of existing dwelling)
- Lot 2 = 5.737ha
- Lot 3 = 22.78ha

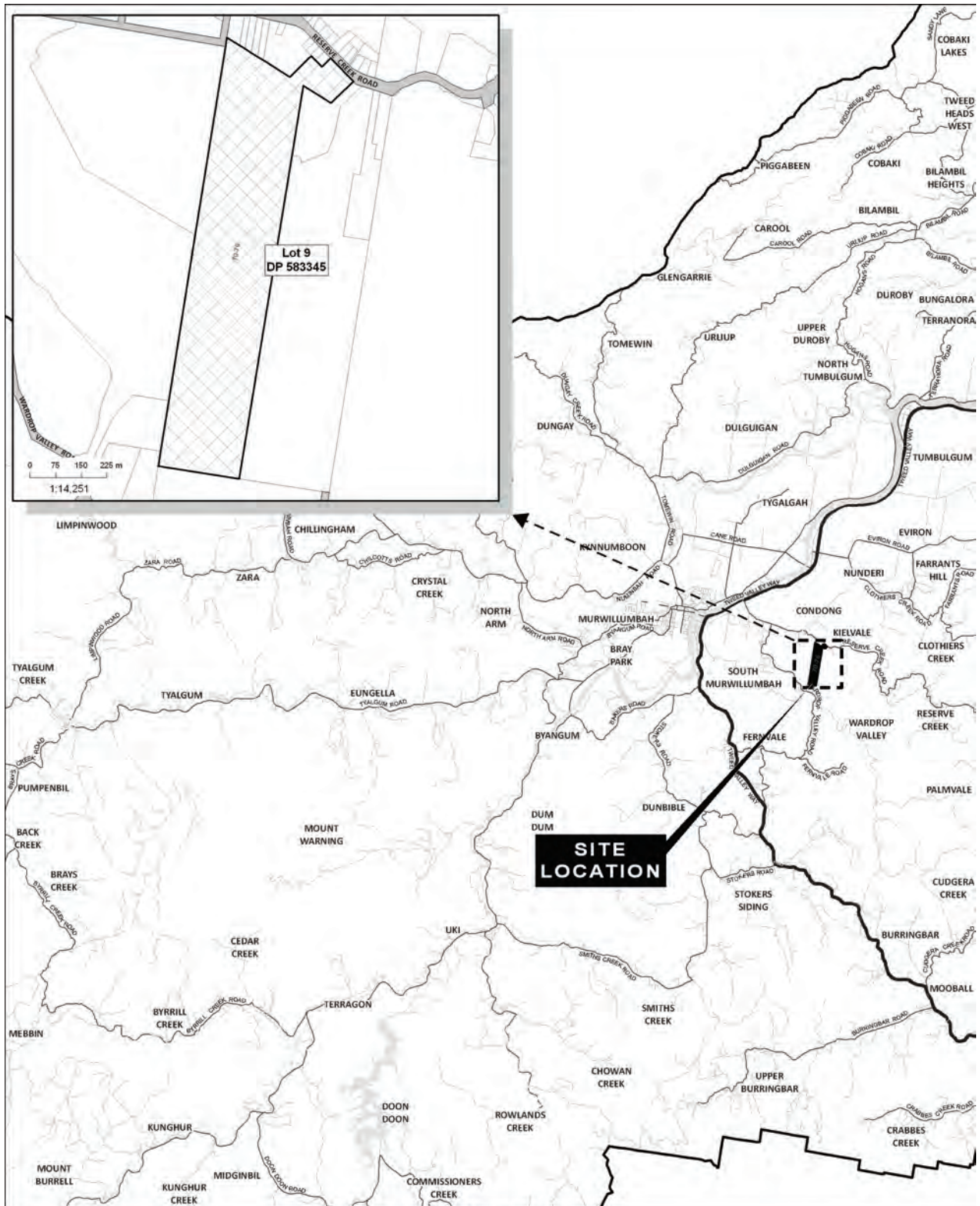
The proposal includes:

- Subdivision of the site into 3 residential lots (Torrens Title)
- Additional provision of Right of Carriageway over the proposed driveway to benefit proposed Lots 2 and 3
- Nomination of a suitable dwelling sites for proposed Lots 2 and 3.

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 three (3) lot subdivision is, on balance, considered suitable for the location and therefore the proposed development is recommended for approval.

SITE DIAGRAM:



Locality Plan

Lot 9 DP 583345
70-76 Reserve Creek Road, Kielvale

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 diagrammatic 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 3100. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastre: 27 September, 2011
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Boundaries shown should be considered approximate only.



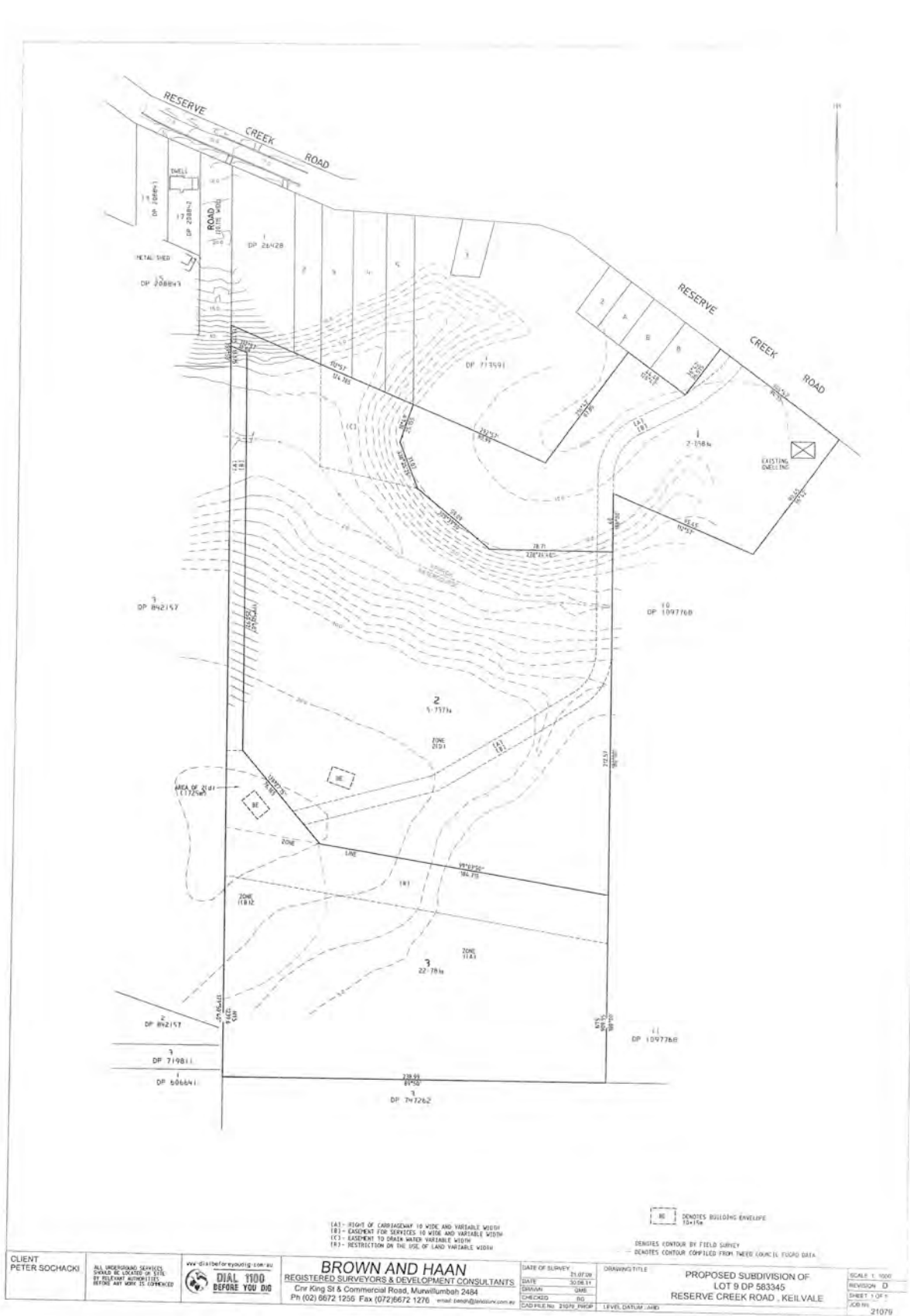
Map Projection: Universal Transverse Mercator
Australian Datum: GDA94
Scale: 1:145,000
GDA

Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484

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



DEVELOPMENT PLANS:



LA1 - EIGHTH OF CORRIAGEWAY 10 WIDE AND VARIABLE WIDTH
 LB1 - EASEMENT FOR SERVICES 10 WIDE AND VARIABLE WIDTH
 LC1 - EASEMENT TO DRAIN WATER VARIABLE WIDTH
 LF1 - RESTRICTION ON THE USE OF LAND VARIABLE WIDTH

1 - BE DENOTES BUILDING ENVELOPE 12x15m

DENOTES CONTOUR BY FIELD SURVEY
 DENOTES CONTOUR COMPILED FROM THEODOLITE/ GPS DATA

CLIENT PETER SOCHACKI	ALL UNDERGROUND SERVICES SHOULD BE LOCATED BY SITE BY BELONGING AUTHORITY BEFORE ANY WORK IS COMMENCED	www.dial1100beforeyoudig.com.au DIAL 1100 BEFORE YOU DIG	BROWN AND HAAN REGISTERED SURVEYORS & DEVELOPMENT CONSULTANTS Cnr King St & Commercial Road, Murwillumbah 2484 Ph (02) 6672 1256 Fax (072) 6672 1276 email: baha@brownandhaan.com.au		DATE OF SURVEY 21.07.09	DRAWING TITLE PROPOSED SUBDIVISION OF LOT 9 DP 583345 RESERVE CREEK ROAD, KEILVALE	SCALE 1:1000
			DATE 20.08.11	DRAWN GMS	CHECKED GMS	CAD FILE NO. 2109_AHP09	LEVEL DATUM AHD

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 2(d) Village, 1(a) Rural & 1(b2) Agricultural Protection as per the Tweed LEP 2000.

2(d) Village Zone

The primary objective for the 2(d) Village zone is:

- *to provide for residential development and a full range of services and facilities traditionally associated with a rural village which is of a design and scale that makes a positive contribution to the character of the village.*

On balance, the proposal satisfies the abovementioned objectives for the 2(d) zone in that:

- the proposal provides for two additional allotments that will have the same range of services and facilities as the existing dwelling within the rural village locality.

1(a) Rural Zone

Primary objectives for the 1(a) Rural zone include:

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

Secondary objectives for the 1(a) Rural zone include:

- *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, and*
- *to provide non-urban breaks between settlements to give a physical and community identity to each settlement.*

On balance, the proposal satisfies the abovementioned objectives for the 1(a) zone in that:

- the proposal retains the current viability of the ongoing agricultural (grazing) use of the land. The proposed development does not interfere with surrounding land that is utilised for agricultural purposes;
- the proposal does not detract from the rural character or amenity of the locality.

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 6100m² portion of land zoned 1(b2) for grazing purposes.

The land is not substantially vegetated and is adjacent to land historically used for grazing to the west. The ongoing grazing land use in association with a rural residential 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 9 (proposed Lot 1). This will be maintained.

Recommended conditions of consent shall require the provision of service for proposed Lots 2 and 3 from Reserve Creek Road to proposed Lots 2 and 3 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

No buildings are proposed as part of this development proposal.

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 (ASS) with smaller areas of Class 3 Acid Sulfate Soils. However, it is not envisaged that any earthworks will be required in these locations and the ground will remain undisturbed. Proposed dwelling sites for Lots 2 and 3 are located within Class 5 ASS areas.

The road access location traverses Class 5 ASS areas only. An assessment letter has been provided by HMC Environmental which indicates that no excavation of low lying land is required and it is unlikely that Acid Sulfate Soils will be disturbed. Conditions have been applied.

Other 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(a) and 1(b2) zoned land if the zoned area of each allotment created is at least 40 hectares. This application proposes to maintain the same 21.744 hectare area of 1(a) zoned land and 6100m² area of 1(b2) zoned land within a parcel with a total land area of 22.78ha.

There is no change to the land zoned 1(a) and 1(b2). The land will be included in proposed Lot 3. No development is proposed on the land zoned 1(a) and 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 34 – Flooding

Council's Enlighten indicates that a section of the existing allotment is flood liable with a Design Flood Level of RL 4.2m AHD. This flood liable area is situated away from the proposed dwelling footprints on proposed Lots 2 and 3 and the existing dwelling on proposed Lot 1.

Clause 39 – Remediation of contaminated land

A contaminated land report was not submitted. The applicant has indicated that the property is used entirely for agricultural purposes (cattle grazing), and states "there has never been any other use of the site since subdivision in the late nineteenth century." It also states that there is no record of scheduled contamination chemicals being stored or released on the site.

A review of Council records indicates the following:

- Topographic map - no small cropping or bananas indicated;
- GIS – Indicates about 1km to the nearest cattle dip site;
- Aerial photography – 1962, 1996, 1987, 1970: all indicate open fenced paddocks with no clearly identified small cropping.

No record of potential contamination of the site has been identified in Council records. The applicant has provided a statutory declaration which indicates that he is not aware of any use or storage of potentially contaminating chemicals on the site.

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 16 November 2010 for consideration and comment, as the subject site has a component of bushfire prone land. A response was received 15 December 2010 and issued without any specific conditions. A formal subdivision plan was referred to the Service on 5 July 2011. Comments returned confirmed that the advice dated 15 December 2010 was current.

Clause 54 – Tree Preservation Order (1990)

The area zoned 2(d) Village is affected by the 1990 Tree Preservation Order. However, there will be no removal of vegetation in association with the proposed subdivision, the internal driveway or the proposed dwelling sites apart from the possible removal of one juvenile Guioa (*Guioa semiglauca*) and a single exotic pine in order to facilitate the widening of the driveway entrance from Reserve

Creek Road. These trees provide little ecological value and are therefore approved for removal.

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 or so indicates that of grazing and residential use. The small portion 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, grazing 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 apart from an internal driveway. 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(a) and 1(b2) zones 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.

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:

Compliance with the development standard would preclude effective development of the site that would not relate to the characteristics of the site. Upholding the objection would be consistent with the aims and objectives of SEPP No. 1.

Compliance with the development standard would hinder attainment of the EP&A Act's object to promote orderly development of land.

Compliance with the development standard is unreasonable and unnecessary as it would undermine the expressed urban release goals of the Tweed LEP without advancing the goals for protection of agricultural land, which the latter would otherwise need to be out of production to allow the urban development to occur.

For the reasons set out above, the proposed minor departure from the lot size development standard is considered to be well founded.

It is submitted that upholding of the objection would be consistent with the aims of State Environmental Planning Policy No. 1 in that strict compliance with the control would unreasonable preclude the appropriate development of the site.

Accordingly, in the circumstances of this case the subject non-compliance with the development standard is well founded and upholding the objection is considered to be in the public interest.

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 compromise 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 two new allotments 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 proposed subdivision will allow for the residentially zoned part of the lot to be separated from the rural land; and
- All the rurally zoned land in the Rural 1(a) and Agricultural Protection 1(b2) zones will be retained in a single lot as is presently the case with sufficient land within the proposed lot in the Village zone to provide for access and a dwelling.

SEPP No. 44 - Koala Habitat Protection

SEPP 44 requires assessment of the presence of potential or core Koala habitat and the impacts of development on that habitat. The basis for determining potential Koala habitat is the presence of certain tree species (listed under Schedule 2 of SEPP 44), as more than 15% of total tree species present on a site.

Review of the NSW NPWS Wildlife Atlas indicates that there are 31 (thirty one) recorded Koala sightings within 5km of the site. The most recent sighting was in 2008 within 30km of the site. The closest sighting is within 10km and occurred in 2005.

A single preferred koala food tree, Swamp Mahogany (*Eucalyptus robusta*) occurs within the 2(d) Village zone. A thorough search for evidence of koala activity conducted by Biolink Pty Ltd indicated that the tree is not used by koalas.

Portions of Koala Secondary Habitat (Class B) are mapped in the 1(a) Rural zone. A detailed assessment of this mapped area was not conducted as it is well south of the proposed development and works will not have a direct impact on this zone.

Sightings suggest that it is probable that koalas may traverse the site from time to time; and therefore the proposed works have been conditioned to ensure the free movement of koalas and other mobile fauna, and that no dogs are allowed on proposed Lot 3.

SEPP No. 55 - Remediation of Land

As stated previously in this report, no record of potential contamination of the site has been identified in Council records. The applicant has provided a statutory declaration which indicates that he is not aware of any use or storage of potentially contaminating chemicals on the site.

As such, the proposal complies with this SEPP.

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 RU5 Village, RU2 Rural Landscape and RU1 Primary Production. The proposed subdivision includes a 21.744ha portion of land draft zoned RU2 and a 0.61ha portion of land draft zoned RU1 that will not be affected by the proposal. Minimum allotment sizes for the draft zones are as follows:

- 450m² (sewered) and 1000m² (unsewered) for RU5
- 40ha for RU1 and RU2.

This is consistent with current zoning provisions. Objectives for the three draft zones are also consistent with current zoning provisions.

Dwelling houses are permissible forms of development in the draft zones. A 'dwelling house' is a form of 'Residential' development' and is permitted with consent at Item 3 in the draft zones.

Clause 4.6 (6) states that consent must not be granted under this clause for a subdivision of land in Zone RU1 and/or RU2 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

A1-Residential and Tourist Development Code

The site for the existing dwelling is not constrained by development controls located within DCP A1. The intended lot on which it will be located does not reconfigure the existing arrangement.

A2-Site Access and Parking Code

Similarly, access to the existing dwelling will not be altered and remains directly from Reserve Creek Road.

Proposed access to the new lots via an extension to the existing dirt track through proposed Lot 1 is in accordance with DCP A2 provisions.

A3-Development of Flood Liable Land

Council's Enlighten indicates that sections of the existing allotment is flood liable with a Design Flood Level of RL 4.2m AHD. This flood liable area is situated away from the proposed dwelling footprints on proposed Lots 2 and 3 and the existing dwelling on proposed Lot 1.

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 current flood levels. Filling land on a floodplain does not form part of this application. The proposed dwelling sites are not located within any natural water course or drainage systems.

The proposed subdivision integrates with the surrounding rural environment and compliments existing scenic rural landscapes. The proposed dwelling sites and additional access for Lots 2 and 3 are considered to be sensitive to the visual amenity of the site and as such are 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 three drainage lines of intermittent flow. The proposal will not change or affect the natural flow paths as the proposed driveway will be raised over the flow paths by a culvert.

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 size outlined in this DCP for unsewered sites within land zoned 2(d).

A5.5.6 Rural Movement Network

The subject land gains access from Reserve Creek Road via an existing bitumen driveway (existing dwelling) and dirt access track (balance of allotment). A Right of Carriageway (ROC) will be provided over proposed Lot 1 which will benefit proposed Lots 2 and 3. Similarly, the ROC over proposed Lot 2 will benefit proposed Lot 3. The 10m width of such complies with the minimum standards as per the DCP. A total of three allotments will share the ROC, which is acceptable to the requirements. The proposed subdivision will not affect the existing situation regarding 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 2 and 3 will be connected to the public reticulated water supply, which enters the site off Reserve 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.

(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

The subject land is not located in any areas affected by coastal zone management plans.

(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

Minimal impacts are expected as a result of the proposed development. Further assessment will take place once dwelling applications are lodged for proposed Lots 2 and 3.

(c) Suitability of the site for the development

Surrounding Land Uses/Development

The lot is surrounded by land zoned 1(a) Rural on the eastern, western and southern boundaries and the village of Kielvale lies to the north.

Flora and Fauna

Ecological values:

Vegetation on site is mapped as Highly Modified/Disturbed in the north and Brush Box Open Forest on Bedrock Substrate in the south under the Tweed Vegetation Management Strategy (TVMS) 2004. The Ecological Status of the site is variable. Areas of vegetation of high ecological value occur in the southern section within the 1(a) Rural zone and a small pocket of vegetation is identified as of low ecological value in the far north-western corner of the site. The remaining vegetation of the site is unclassified.

A detailed flora and fauna assessment has not been conducted for the entire site, rather survey efforts have focussed only on the land in the 2(d) Village zone. The vegetation of this area is identified by TVMS as being substantially cleared. No works are proposed for the land zoned 1(b2) Agricultural Protection or 1(a) Rural zone.

The proposed works lie wholly within the 2(d) Village zone and vegetation comprises essentially of cleared areas and exotic grasses. For this reason the ecological value is considered low. One juvenile Guioa (*Guioa semiglauca*) and a single exotic pine at the driveway entrance are proposed for removal to facilitate the widening of the existing driveway. The driveway circumvents all other vegetation.

Three drainage lines of variable flow provide a moderate habitat for aquatic flora and fauna. The waters of these drainage lines make their way to a tidal section of the Tweed River via Condong Creek. The wetlands and marshy areas associated with these drainage paths provide valuable habitat for native flora and fauna. At the time of the survey conducted by Biolink Pty Ltd, Purple Swampheens (*Porphyrio porphyrio*) and Common Eastern Froglets (*Crinia signifera*) were active in the drainage line.

Rehabilitation and restoration:

The application does not propose any rehabilitation or restoration of the site. The proposed development seeks the construction of a 4m wide, 30m long concrete floodway across a drainage line that provides a valuable habitat for native flora and fauna. Disturbance to localised populations of aquatic species is anticipated and therefore restoration planning and regeneration have been conditioned to improve the viability of the drainage line and associated wetlands and marshy areas for flora and fauna.

Fisheries Management Act 1994:

The drainage lines are third order streams that drain into a tidal section of the Tweed River via Condong Creek. The drainage lines and associated wetlands and marshy areas are considered 'water land' under this Act.

Works to construct a causeway and the installation of pipe culverts is defined as 'reclamation work' under this Act. A Fisheries Permit will therefore be required, which is a recommended condition of consent.

Natural Hazards (Flooding)

The design flood level of the existing site is RL 4.2m AHD. The proposed driveway minimum height is RL 4.50m AHD. The proposed driveway will have a 300mm freeboard from the design flood level.

The probable maximum flood (PMF) level of the existing site is RL 9.20m AHD. The proposed and existing dwelling locations for this subdivision are located higher than the PMF flood level.

Utilities

There is an existing 100mm diameter water main located within Reserve Creek Road. Recommended conditions of consent shall require the provision of service in accordance with Council's standards.

Effluent Disposal

The existing dwelling is serviced by a 2040L septic tank and 2 x 20m traditional absorption trenches. The system is functioning adequately and the owner has a current approval to operate for the system. There is sufficient area within the property boundary of Lot 1 to allow for construction of replacement effluent Land Application Areas (LAA) is required.

There is sufficient area within the property boundaries of proposed Lots 2 and 3 to allow for the installation of On-site Sewage Management Systems (OSMS) including construction of effluent (LAA) if required for dwellings.

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

The application was not required to be notified to the public but was referred, as integrated development to NSW Rural Fire Service for comment. Subsequently, no conditions were 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. Resolve to approve the development application with conditions; or
2. Resolve to refuse the development application with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed three (3) 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.

10 [PR-CM] Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road Hastings Point

ORIGIN:

Building and Environmental Health

FILE NO: DA11/0164 Pt2

SUMMARY OF REPORT:

An application has been received to demolish a large part of the old existing residential flats on 26 Tweed Coast Road and construct a substantial three storey dwelling. The property is a battleaxe block situated on the east side of Tweed Coast Road Hastings Point and is affected by a number of constraints such as coastal hazard erosion lines and bushfire.

The application was notified to adjoining & nearby property owners (45 letters) and seven (7) submissions were received objecting to the proposal. The objectors' main concerns with the proposal were the overbearing bulk of the dwelling, overshadowing, loss of view, possible damage during construction to surrounding property, loss of access to 'right of ways' and non compliance with the Hastings Point Development Control Plan B 23. After consultation with key parties the proposal was modified from the original submission and re-notified with no further submissions being received.

The amended design improved some of the impacts but was likely to still have considerable adverse impact on the amenity of the adjoining property to the south and did not comply with the Hastings Point Development Control Plan B 23. The applicant further modified the design and submitted a final proposal that was notified again to the immediate neighbours and is now the subject of this report.

The proposal is now considered a reasonable development given the specific constraints of the site and while not fully compliant with the Hastings Point Development Control Plan B 23, the extent of non-compliance is not likely to contribute significantly over and above a fully compliant development in regard to adverse effect on the amenity of the surrounding property occupants or to community in general. The proposed building provides a transitional effect across the site between the existing three story units to the north and the lower property to the south.

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

RECOMMENDATION:

That Development Application DA11/0164 for alterations, additions and part demolition of three flats to construct a three storey dwelling at Lot 2 DP557216 26 Tweed Coast Road Hastings Point be approved subject to the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos Johnston EP:01 Issue V, Johnston DA:01 Issue V, Johnston DA:02 Issue V, Johnston DA:03 Issue V, Johnston DA:04 Issue V, Johnston DA:04A Issue V and Johnston DA:05 Issue V prepared by Brian Kenny and dated 29 August 2011, 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. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. The footing design is to incorporate design principles as detailed in the structural design intent certificate by Mark Traucnieks consulting Engineers dated 8th March 2011 to address potential coastal erosion influences. [PCC0945]
5. The existing brick barbeque on the foreshore are east of the site is to be removed. [GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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]
7. A construction certificate application for works that involve any of the following:-
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control workswill not be approved until prior separate approval to do so has been granted by Council under S68 of the Local Government Act.
 - a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

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

[PCC1145]

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

[PCW1065]

9. Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveway are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.

[PCW0775]

10. Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.

[PCW0995]

11. Prior to commencement of any work on the site a construction management plan is to be submitted to and approved by the Principal Certifying Authority. The plan is to detail how the construction will manage deliveries, general construction vehicle movement, concrete deliveries, traffic management, and in particular the minimisation of disruption to the residential units that share the driveway access.

[PCWNS01]

PRIOR TO COMMENCEMENT OF WORK

12. 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]

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

[PCW0245]

14. 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]

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

[PCW0225]

16. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

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

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

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

[PCW0985]

18. Residential building work:

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

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

* in the name and licence number of the principal contractor, and

* the name of the insurer by which the work is insured under Part 6 of that Act,

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

* the name of the owner-builder, and

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

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

[PCW0235]

19. During construction the Principal Certifying Authority is to be provided with a Registered Surveyors' floor level certificate at each floor platform stage and when the roof framework is in place, to confirm that the height of the building is proceeding in accordance with the approved plans.

[DURNS01]

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

[DUR0675]

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

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

[DUR0645]

22. Construction and management of the building shall comply with Section 1.0 of the Bushfire Threat Assessment Report by BCA Check Pty Ltd dated 15th February 2011 and all boundary fences are to be constructed of non-combustible materials.

[DURNS02]

DURING CONSTRUCTION

23. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

- [DUR2705]
24. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.
Please note timber retaining walls are not permitted.
- [DUR0835]
25. 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]
26. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.
- [DUR2185]
27. The development is to be carried out in accordance with the current **BASIX** certificate and schedule of commitments approved in relation to this development consent.
- [DUR0905]
28. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
- [DUR0395]
29. 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]
30. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
- [DUR0415]
31. 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]
32. 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]
33. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.
- [DUR0245]
34. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.
- [DUR2485]
35. **Plumbing**
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR2495]
36. No portion of the structure may be erected over any existing sillage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
37. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
38. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]
39. The finished floor level of the building should finish not less than 225mm above finished ground level.
- [DUR0445]
40. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50°C in all other classes of buildings.

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

- [DUR2555]
41. 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]

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

[POC1045]

43. Upon completion of all works on the site and prior to the issue of an Occupation (including interim) / Subdivision Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current general condition including the structural condition of the adjoining buildings / sites, infrastructure and roads. The dilapidation reports shall take into consideration the findings of the original reports and provide to Council the written acceptance of the adjoining / adjacent owners confirming agreement that no damages have occurred / repairs carried out are acceptable.

[POC0825]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

44. 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]

45. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professionally painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

46. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

USE

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

[USE0175]

48. The building is to be used for single dwelling purposes only.

[USE0505]

REPORT:

Applicant: Mrs K Johnston
Owner: Mrs K Johnston
Location: Lot 2 DP 557216, No. Tweed Coast Road Hastings Point
Zoning: 2(b) Medium Density Residential
Cost: \$975,000

BACKGROUND:

The property is zoned 2(b) Medium Density Residential under Tweed Local Environmental Plan 2000 and is located on the eastern side of Tweed Coast Road Hastings Point in the Peninsula Street & Northern Entry Precinct. The property is a battleaxe block containing three existing small residential units totalling approximately 193m² in floor area.

An application has been received to demolish part of the existing structures and to construct a substantial three (3) storey dwelling on the subject property.

The submitted proposal has been designed to maintain the floors and walls of the existing brick and concrete units at the east end of the site to utilize the existing resource minimising waste and construction costs. An engineer's evaluation of the viability of the existing structure was provided to validate the design brief in this regard.

The application was notified to 45 adjoining & nearby property owners and seven (7) submissions were received objecting to the proposal. The objectors' main concerns with the original proposal were the overbearing bulk of the dwelling, overshadowing, loss of view, possible damage during construction to surrounding property, loss of access to 'right of ways' and non-compliance with the Hastings Point Development Control Plan B 23. After consultation with key parties the proposal was modified from the original submission and re-notified with no submissions being received.

The amended design improved some of the impacts but was likely to still have considerable adverse impact on the amenity of the adjoining property to the south and did not comply with the Hastings Point Development Control Plan B 23. After further consultation with Council's Building Surveyor the applicant further modified the design and submitted a final proposal that was notified again to the immediate neighbours and is now the subject of this report.

The original submitted design has been modified by the applicant in response to the objectors and Council officers concerns by:

- Reducing the overall height by one (1) metre and the southern side wall plate height by 830mm. Achieved by lowering roof pitch, lowering ceiling height on top floor by 300mm and lowering floor level of third storey by 300mm.
- Reduction of the third storey by compressing the floor plan four (4) metres towards the west and realigning 1.5 metres to the north.
- Adjusting the proposed finished ground level adjoining the building and in relation to the existing ground level so as to provide a stable low impact boundary interaction and be able to measure building height more favourably.

These modified plans are now the plans considered in this report and although no submissions were received to the re-notification it is recognised by thorough examination of the modified plans that some of the concerns previously raised in regard to non-compliance with the DCP B23 would remain.

The proposed building provides a transitional effect across the site between the existing three story units to the north and the lower property to the south.

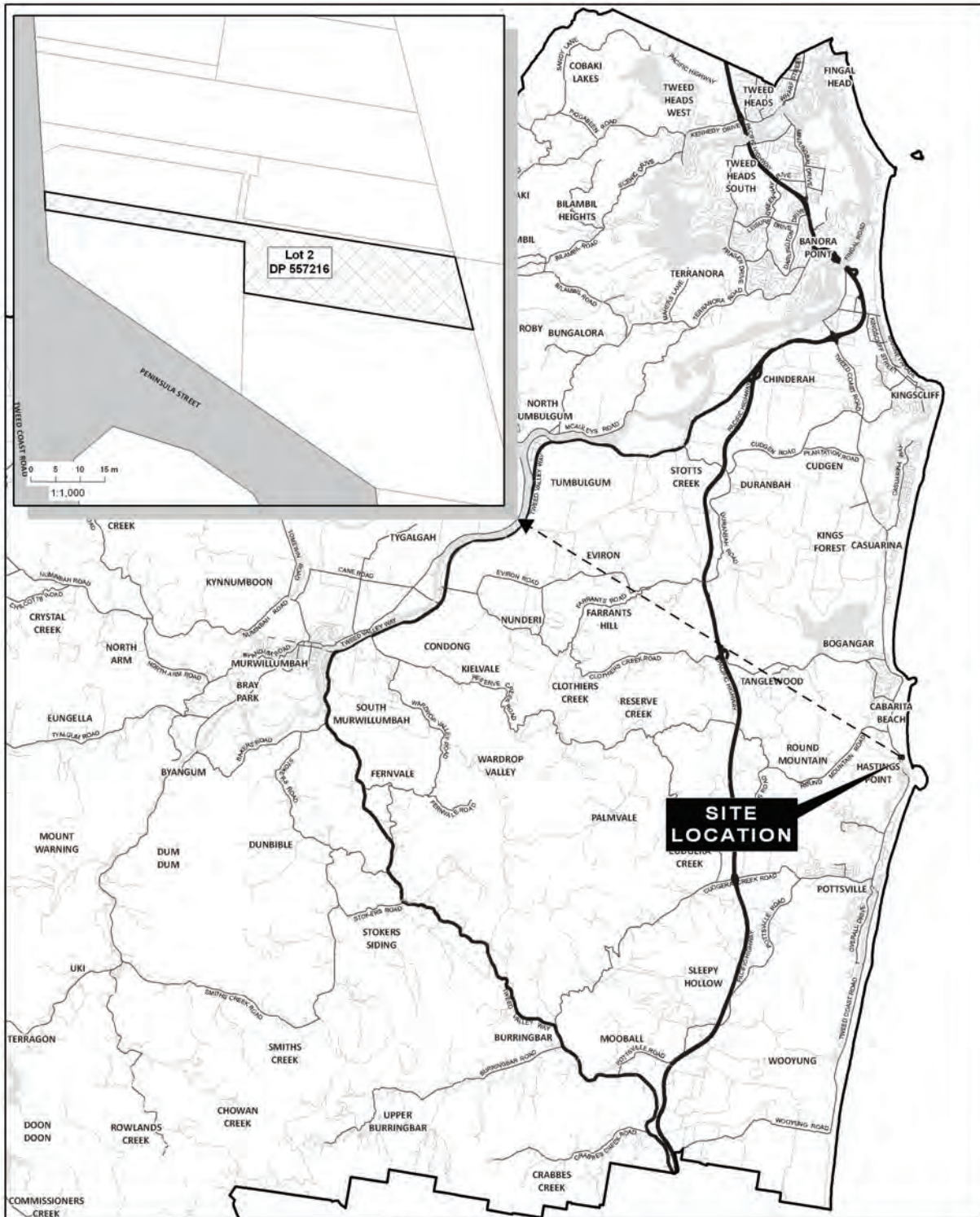
The proposal has one main area of deviation from the Hastings Point Locality Based Development Code - DCP section B 23 in that the height is generally 500mm higher than prescribed.

The proposal also has one main deviation from Council's DCP Part A1 in that the rear boundary setback to the foreshore boundary is 2.5m and not the required 5.0m-8.0m. As an 'addition' variations can be considered and the proposed encroachment allows the landowner to take full advantage of the north easterly ocean/beach views beyond the adjacent three storey building to the north.

In this proposal the extent of works is such that the development could (from Land & Environment Court case history) be determined as new work not additions and therefore could be compelled to comply with all controls.

It seems reasonable however in this proposal to apply the requirements of Council's Development Control Plans as far as practical.

SITE DIAGRAM:



Locality Plan

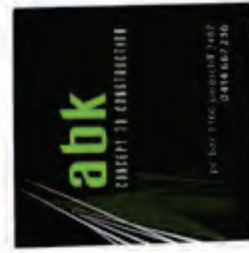
Lot 2 DP 557216
No.26 Tweed Coast Road, Hastings Point

<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 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 does not constitute 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>Cadastre: 26 September, 2011 © Land and Property Management Authority (LPMA) © Tweed Shire Council Boundaries shown should be considered approximate only.</p>	<p>0 1 2 3 Km 1:145,000 @ A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</p> <p>Map Projection: Universal Transverse Mercator Horizontal Datum: Geocentric Datum of Australia 1984 Map of Australia, Zone 56</p>	<p>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484 T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p> 
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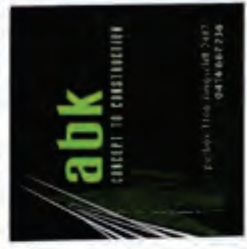
DEVELOPMENT PLANS (including shadow diagrams):



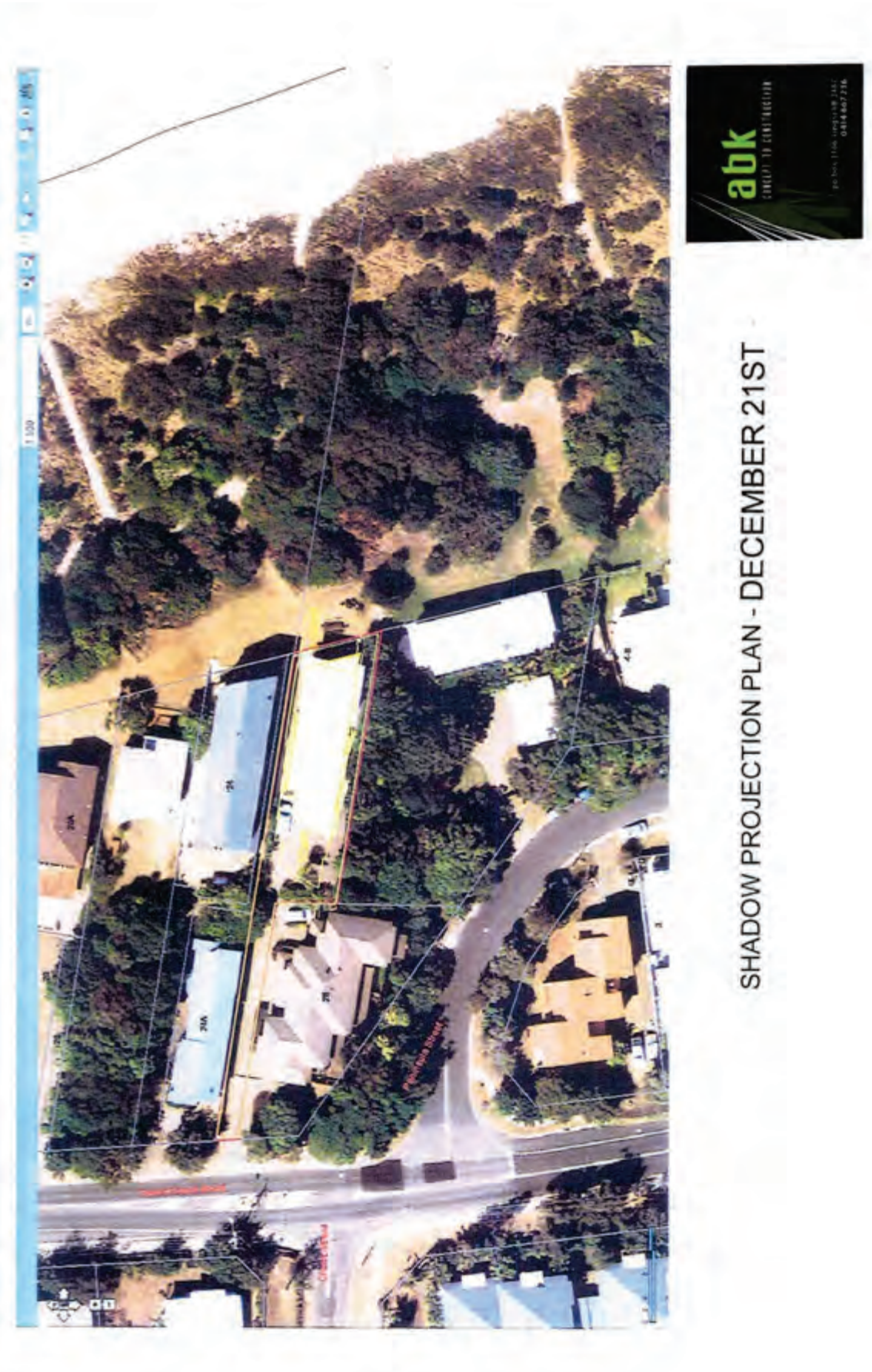
FORESHORE OVERSHADOWING PLAN - DECEMBER 21st - 7pm (DST)



FORESHORE OVERSHADOWING PLAN - JUNE 21st - 4pm



SHADOW PROJECTION PLAN - JUNE 21st



SHADOW PROJECTION PLAN - DECEMBER 21ST

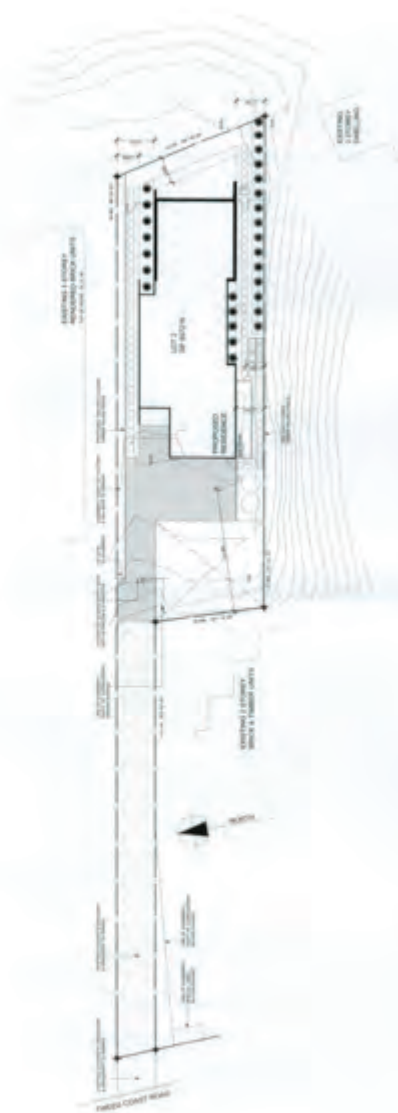


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STORMWATER MANAGEMENT PLAN

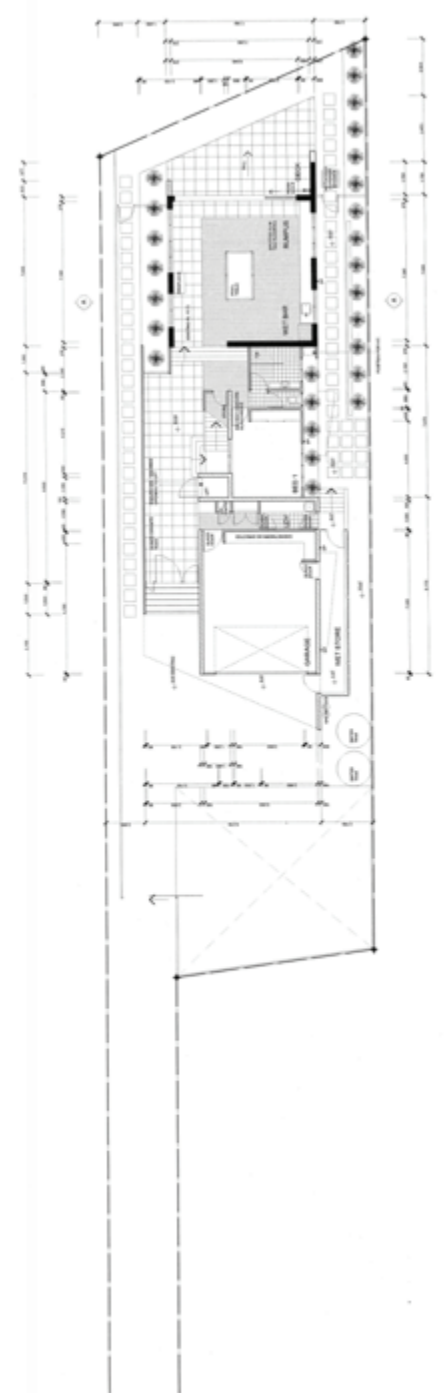


SITE PLAN

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PROPOSED FIRST FLOOR PLAN



PROPOSED GROUND FLOOR PLAN

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PROPOSED ROOF PLAN



PROPOSED SECOND FLOOR PLAN

PLAN ELEMENTS
 1. SITE PLAN
 2. FLOOR PLAN
 3. SECTION
 4. ELEVATION
 5. EXTERIOR FINISHES
 6. MATERIALS
 7. LANDSCAPE ARCHITECTURE
 8. INTERIORS
 9. MECHANICAL, ELECTRICAL & PLUMBING
 10. STRUCTURE
 11. SPECIALTIES
 12. SIGNAGE
 13. SCHEDULES
 14. SPECIFICATIONS
 15. NOTES

PROJECT INFORMATION
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 PROJECT NAME: NEW SOUTH WALLEY
 CLIENT: NEW SOUTH WALLEY
 ARCHITECT: [Firm Name]
 DATE: [Date]

LEGEND

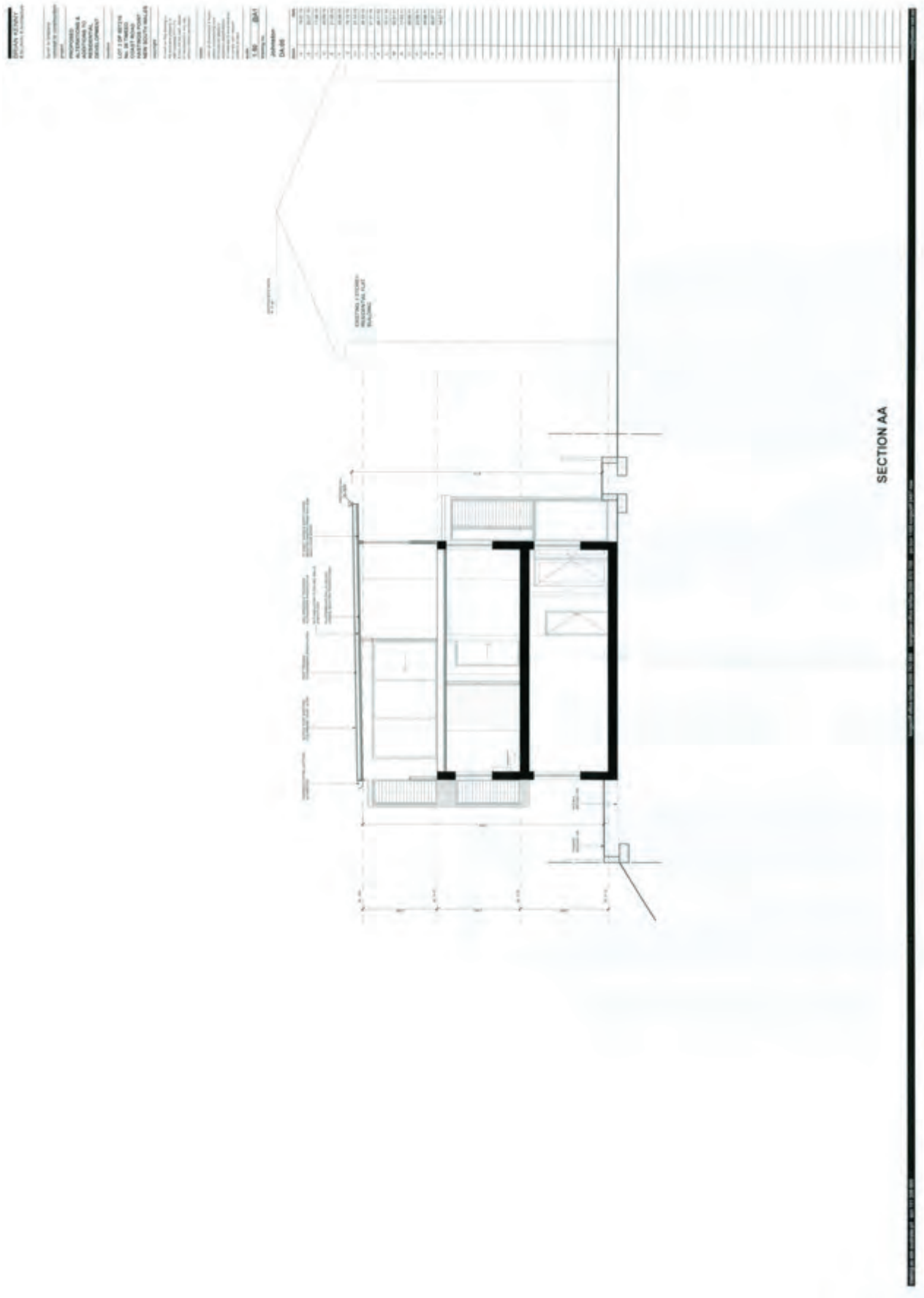
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ARCHITECTURAL ELEVATIONS:

- NORTH ELEVATION:** Shows the front facade of the building with a series of windows and a central entrance.
- WEST ELEVATION:** Shows the side profile of the building, highlighting the roofline and window placement.
- EAST ELEVATION:** Shows the side profile of the building, highlighting the roofline and window placement.
- SOUTH ELEVATION:** Shows the rear facade of the building, featuring a large windowed area and a ramped section.

DETAILS:

- SECTION 1:** A vertical cross-section showing the internal structure, floor levels, and roof profile.
- SECTION 2:** A vertical cross-section showing the internal structure, floor levels, and roof profile.





The following photos are provided of the site taken by Council's assessing officer.



Figure 1- view from headland



Figure 2- view from beach.



Figure 3 –view from beach waterline at low tide



Figure 4-West view of existing units foreground building to be partly retained



Figure 5- view north from dwelling entry of adjoining property to south



Figure 6 – view North West from yard of adjoining property to south



Figure 7-East view- single storey unit, garage and carport to be demolished



Figure 8 View north from main pedestrian path in village



Figure 9 View of adjacent three storey units.

ASSESSMENT:

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

As a part of the assessment process numerous site visits by Council's assessing officer have been undertaken to all of the surrounding properties and viewfields in Hastings Point, involving many hours. Impacts have been discussed by phone with many of the objectors and concerns raised have been discussed in meetings with the owner and her representatives.

The assessment also utilised the expertise of Council Senior Urban Design Planner who gave assistance in gauging the impact of the development in the context of the Hastings Point Locality Based Development Code- DCP Section B 23.

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

Part 1 Clause 4 - Aims of the Plan

The aims or objectives of the plan are not compromised by the proposed development

Clause 5 – Ecologically sustainable development

For the scale of this development compliance with the submitted BASIX certificate achieves the objective of this clause.

Clause 8 Consent considerations

Zone Objectives

The subject site is zoned 2(b) Medium Density Residential. The primary objective of the zone is to encourage development for the purpose of medium density housing that achieves good urban design outcomes. The secondary objectives relate to allowance for non residential and tourist development and to discourage the under-utilization of the land for residential purposes, particularly close to the Tweed Heads sub region area.

The proposed development is not consistent with the primary objective of the zone but it has been argued by the applicant that there are a number of constraints to the site that justify the single dwelling being proposed and is therefore not antipathetic to the objectives of the zone.

The coastal hazard 2050 hazard line is positioned on the eastern boundary and the battleaxe site is bushfire affected to BAL 40 & BAL 29. These constraints alone are reasonable argument to limit the risk exposure to a single occupancy. Also a past development of 4 units to the west was established from the original parcel that the subject site was a part of, so it can be argued that medium density has already been achieved.

Cumulative Impacts

The proposed building at three storeys is consistent with other buildings in the area and is unlikely to be dominant amongst the Peninsula Street & Northern Entry Precinct when viewed from a distance and is within the view field boxes contained in the Visual Settings part of Council's DCP -B23.

There is an argument for cumulative impact on the locality in that the building does not comply with the height restrictions of the Hastings Point Locality Based Development Code- DCP section B 23 or rear setback provisions of DCP – A1. That argument can be countered by the unique considerations of this site as discussed further in the report.

Part 3 Clause 15 - Essential Services

All essential services are available within the area.

Clause 16 - Height of Building

The proposal complies with the three (3) storey control under the TLEP 2000.

Clause 17 - Social Impact Assessment

A social impact assessment is not required given the relatively minor nature of the proposal being satisfied that it is unlikely to have a significant social or economic impact in the locality.

Part 7 Clause 35 - Acid Sulfate Soils

The site is not affected by acid sulfate soils.

Clause 36 - Coastal erosion outside Zone 7(f)

1) Objective

- *to protect land that may be subject to coastal erosion (but not within Zone 7 (f) from inappropriate development.*
- (2) *In determining whether to grant consent to development involving the erection of a building or the carrying out of a work at or above the surface of the ground on land that in the consent authority's opinion may be subject to coastal erosion, the consent authority must:*
 - (a) *consider*
 - (i) *the likelihood of the proposed development adversely affecting the behaviour or being adversely affected by the behaviour of the sea, or of water in an arm of the sea or any other body of water, and*
 - (ii) *the likelihood of the proposed development adversely affecting any beach or dune or the bed, bank, shoreline, foreshore, margin or flood plain of the sea, any arm of the sea or any other body of water, and*
 - (iii) *the likelihood of the proposed development adversely affecting the landscape or scenic quality of the locality, and*
 - (iv) *the potential impacts of climate change including sea level rise.*

The issues requiring consideration in this clause have been discussed further in the report under the heading of 'Any coastal zone management plan' and are considered satisfied.

Clause 39A – Bushfire protection

The issues requiring consideration in this clause have been discussed further in the report under the heading of 'Suitability of the site for the development' and are considered satisfied.

Other Specific Clauses

None apparent

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B – Development Control – coastal lands

This clause controls development which could impede public access to a foreshore or overshadow the foreshore before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

It is recognised throughout all coastal areas that existing urban areas will have some impact in regards to the shadow of the foreshore.

In this case a State Environmental Planning Policy No.1 objection has been included in the application and the facts and argument presented are acceptable.

The extent of the shadow is limited to the vegetated dunal area and does not extend to the beach. In addition, the shadowed areas comprise managed grasslands and are not embellished with playground equipment, picnic facilities, etc and are therefore not used intensively by the public. The shadow diagrams submitted are typical of development along the coastline.

Clause 43 - Development Control- residential development

The proposed development is consistent with the objectives of the North Coast Regional Environmental Plan 1988 Division 2 for Urban Housing requiring broader consideration of roads, access to services, transport, site erosion and of maximising density.

SEPP No 55 – Remediation of Land

There is no evidence or past land use activity that would suggest that the land is contaminated.

SEPP No 71 – Coastal Protection

The development is generally consistent with the specific provisions and intent of Clause 8 of SEPP 71.

NSW Coastal Policy, 1997

The proposed dwelling is not inconsistent with the Coastal Policy

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has provided a BASIX certificate for the proposal which is consistent with the required energy target.

(a) (ii) Any proposed Instruments

Draft Tweed Local Environmental Plan 2011 proposes similar controls to the site as currently exist. The Draft Plan is due to be re-exhibited latter this year and needs no further consideration in the context of the proposed development.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

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

Section A1 of the DCP is divided into two chapters.

Chapter 1 Building Types

The Building Type proposed is 'Housing'.

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

The DCP envisages primarily up to two storeys but does not prohibit three storeys, although it follows, that they demonstrate compliance with the mandatory controls of the DCP and must be permissible by the number of storeys permitted by the Local Environment Plan 2000 for the locality.

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

Objectives

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

Controls

- a. Dwelling houses in existing urban areas must be consistent with the scale and character of surrounding dwelling houses or as envisaged through an adopted concept plan, locality plan, design statement or the like.
- b. In new subdivision areas dwelling houses are to be designed to conserve any natural landscape features of the site and surrounding area.
- c. In new subdivision areas dwellings must be consistent with any design scheme adopted for that subdivision.
- d. Deep soil areas are to be provided to the front and rear of sites in accordance with this Part.
- e. Entrances are to be clearly visible from the street, where the allotment has a street frontage, and there is to be a clear line of access to the building from the street.
- f. Dwelling houses are to meet the controls as set out in this Part A: Site and Building Design Controls.
- g. Dwelling houses on non urban zoned land shall not, for the purpose of this Plan, be restricted to the deep soil zone, setback and carport, garages and outbuildings controls where it is demonstrated that compliance with a particular control would be unreasonable in the circumstances.

The proposed building in its original form attracted many submissions objecting to the proposal particularly relating to the bulk and scale of the proposed dwelling. The final plans the subject of this report have addressed reasonably the concerns and are now considered to satisfy the objectives and controls of chapter 1 above.

More detail is provided in the latter sections of this report.

Chapter 2- Site and Building Design Controls

Design Control 1-Public Domain Amenity

Streetscape and Public Views and Vistas

The proposed development is to be constructed on a battleaxe block and will not be readily visible from the street or other public domain. Because of its location the proposed dwelling will not compromise the objectives of this control.

Design Control 2 -Site Configuration

Deep soil zones (DSZs)

An area of deep soil zone is available at the rear and is considered adequate given the location of the existing building to be retained.

The front deep soil zone is compliant with the controls as applied to a battleaxe block.

Hastings Point Development Control Plan B 23- adjustments

Soft landscaping is required to the rear deep soil zone:

On this site where the existing building is being maintained there is little area available and any significant planting would be in conflict with the Planning for Bushfire Protection objectives for asset protection zones.

Impermeable Site Area

The area of the site is 784m² subsequently the maximum impermeable site area permitted at the completion of the development will be 60%. From the plans submitted the development will create an impermeable area of approximately 58% and will comply with the design control. This will enable water to adequately infiltrate on the site.

External Living Areas

The dwelling makes provision for compliant external living areas in the form of balconies on the second and third level and ground floor deck to the east. These have been designed to gain solar access and views to the north east around the existing three unit building to the north and views to the west.

Hastings Point Development Control Plan B 23- adjustments

Screening is required to the balconies that overlook neighbouring lots:

There is no screening proposed to the sides of the eastern balconies. Northern solar benefits and north easterly views would be greatly impacted if screening was added. It is also typical for screening to be placed on the south side only of a property as screening the north facing elevations would impede solar access.

Landscaping

There is little existing landscaping on the site and some planting is proposed on the north and south elevations of the site but limited so as not to increase bushfire risk or impact on available views and solar access.

Hastings Point Development Control Plan B 23- adjustments

The plan encourages native species landscaping:

Limited opportunity exists due to the bushfire risk and the existence of a pedestrian 'Right of way' along the northern boundary. The front deep soil zone can accommodate an area of indigenous shrubs consistent with the plan.

Topography, Cut and Fill

The property is a generally flat site and the proposed filling and boundary retaining adjustments comply.

Design Control 3 -Setbacks

The proposal is consistent with or in excess of the setback controls of DCP A1 for additions; having a 2.0-3.5 metres northern boundary setback, 11-15 metres western boundary setback, 2.5 metre eastern boundary setback and 1.1-4.2 metres from the southern boundary.

Hastings Point Development Control Plan B 23- adjustments

The 8.0m landscape setback in Fig.4.6 of DCP B-23 does not apply to single dwellings.

The proposal also has one main deviation from Council's DCP Part A1 in that the rear boundary setback to the foreshore boundary is 2.5m and not the required 5.0m-8.0m.

As an 'addition' variations can be considered and the proposed encroachment allows the landowner to take full advantage of the north easterly ocean/beach views.

In this proposal the extent of works is such that the development could (from Land & Environment Court case history) be determined as new work not additions and therefore could be compelled to comply with all controls.

It seems reasonable however in this proposal to apply the requirements of Council's Development Control Plans as far as practical.

The 2.5m rear boundary setback is considered reasonable.

Design Control 4 -Car Parking and Access

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

The proposed dwelling house complies having two off street car parking spaces provided behind Council's building line and vehicle access to these spaces is considered adequate.

Hastings Point Development Control Plan B 23- adjustments

Proposal complies with additional controls.

Design Control 5 -Height

Building Height

The proposal complies with the three (3) storey control under the TLEP 2000.

The development has a proposed nominated overall height of 8.60m above finished ground level(19.0m AHD) and a nominated wall plate height of 7.80m (18.67m AHD).

This is consistent with DCP Part A1 but generally 500mm higher than the Hastings Point DCP B23.

Hastings Point Development Control Plan B 23- adjustments

The proposed dwelling does not comply with the maximum overall building height of 8.0m and maximum wall plate height of 7.5m affecting the subject site under Section B23 of Tweed DCP. It should be noted at this point that had a multi-unit development been proposed as permissible on the site, then the maximum building height allowable would be 10.0m

The owners brief in the design was to maintain most of the existing two storey building and this has meant that the floor levels of the existing building have to a large extent dictated the levels and height of the new design.

The impact will be that the upper level unit of the building to the north may lose a small section of rural view to the south but will maintain the majority of view in all other directions. Importantly the view from the living areas to the headland will

be maintained as the third storey level is setback 6.0m from the eastern boundary.

The impact of the increased wall plate height is offset on the southern boundary by the fact that the third storey wall has been setback 4.2m from the southern boundary. This increased southern boundary setback of the upper storey has been critical in the consultation process.

It is considered that the increased wall plate height has no significant impact on the property to the south greater than a fully compliant building due to the increased boundary setback.

Ceiling Height

The control encourages a minimum ceiling height of 2.7m for habitable rooms. The architectural plans show a ceiling height of 2.4m which was reduced from 2.7m in the original plans so as to reduce the overall building height. The proposal complies with the DCP.

Design Control 6- Building Amenity

Sunlight Access

The dwelling includes private open space by the provision of balconies orientated northeast, east and west and therefore will receive sufficient access to sunlight.

The proposed dwelling will overshadow the adjoining southern side property. The shadow diagrams submitted with the application show the extent of overshadowing of the 2nd redraft design which has not been required to be redrafted on the basis that the reduced building size will lessen the extent of shadow. The shadow diagrams indicate that some over shadowing will occur to different portions of southern property during in the winter months as the sun moves through the sky. Shadowing is more extensive in the late afternoon as is to be expected from most developments. The prescriptive requirement of this control is to ensure for neighbouring properties,

- Sunlight to at least 50% of the principal area of private open space of adjacent properties is not reduced to less than 2 hours between 9 am and 3pm on June 21.
- Windows to living areas must receive at least 3 hours of sunlight between 9am and 3pm on 21 June.

The proposed dwelling complies and exceeds the sunlight requirements above.

Visual Privacy

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

The building has limited windows on the north side and those on the south side are screened by the existing landscaping of the property to the south.

These design features will provide for reasonable protection of visual privacy to the lower properties while at the same time allowing the building owner to take full advantage of the primary ocean views.

Acoustic Privacy

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

View Sharing

The impact will be that the upper level unit of the building to the north may lose a small section of rural view to the south but will maintain the majority of view in all other directions. Importantly the view from the living areas to the headland will be maintained as the third storey level is setback 6.0m from the eastern boundary. The primary views of the upper unit to the north will not be impacted and the principles of view sharing are considered satisfied.

Natural Ventilation

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

Building Orientation

The dwelling has been sited on the property to optimize coastal views and solar access and complies with the objectives of this control.

Building separation

The proposed building has been sited with generous side boundary setbacks with no primary windows/doors of living areas orientating to side boundaries and complies.

Design Control 7 – External Building Elements

Fences and Walls; Front, Side and Rear

The submitted architectural plans indicate some boundary fencing is proposed and complies with the controls of the plan. It is noted that timber paling fencing is proposed which is in conflict with the bushfire requirements and has been conditioned to be constructed of non-combustible materials.

Hastings Point Development Control Plan B 23- adjustments

Proposal complies with the additional controls for fencing.

Roof

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

Hastings Point Development Control Plan B 23- adjustments

The proposed roof complies with additional controls to the extent necessary taking into account the height limits imposed.

The elevations, materials and detailing, colour and form are all consistent with the additional controls and the emerging trends of redevelopment in the area.

Design Control 8 -Building Performance

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

Design Control 9- Outbuildings

There are no outbuildings proposed as part of this application.

Design Control 10- Swimming pools and spas

There is no pool proposed as a part of this application

Design Control 11- Tennis Courts

There is no tennis court proposed as part of this application

Design Control 12 - Floor Space Ratio (FSR)

Under Tweed DCP A1 the maximum FSR applicable for this proposal is 0.65:1 for the dwelling as the site has an area of 784m² and the site coverage is less than 50%. The proposed FSR for the dwelling is 0.64:1.

Hastings Point Development Control Plan B 23

Part 05 Visual Setting

The building complies with this section of the plan.

The proposed building has a maximum roof height of 19.0m AHD which is approximately equal to the eave level of the three storey building to the north. The proposed building will present as a 1-2 storey building from the beach.

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

Clause 92(a) Government Coastal Policy

The proposal is consistent with the goals and objectives outlined within the policy

Clause 94 Consent authority may require buildings to be upgraded.

The proposed building will comply with the Building Code of Australia and therefore clause 94 is considered satisfied.

(a) (v) **Any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*)**

The proposed building is consistent with the Tweed Coastline Management Plan 2005 which suggests any redevelopment within the maximum 100year hazard line should require deep pile foundations or similar.

Engineers detail with the application show that the building will be provided with deep pile footings.

Council's Draft DCP B25 has also been taken into account in this application. The deep pile footings in the engineers design statement are consistent with the requirements for development within the 100year hazard line.

Revised Coastal hazard lines show the 50 year line approximately at the rear eastern boundary of the property and the 100 year line just westward of the proposed building. . These revised lines are not yet adopted but the available building envelope of the site is seaward of the existing and revised 100 year lines.

In addition the proposal with the deep pile foundations appears to satisfy as far as practical without sterilising the site, the planning criteria contained in Section 4.2 of the NSW Coastal Planning Guideline: Adapting to Sea Level Rise.

In the future there is potential for the proposed building to collapse under wave action if the hazard line predictions are realised and the building is not further protected or demolished beforehand. This is the same potential for all the development along this particular coastal strip and should collapse occur the beach would be impacted by building debris.

It is likely that cease use and demolition orders would precede such an outcome.

The owner has provided the following signed statement to address the potential for coastal erosion of the site.

Sep 19 11 10:47a

Ian Johnston

+61733956644

p.1

ATTENTION: BARRY STEGEMAN

Risk acknowledgement -- Coastal Erosion

As the owner /owners of the property at Lot 2, Sec.....

DP 551216 ROC (DP 268604)

Address 26 TWEED COAST RD, HASTINGS POINT 2489

I/we acknowledge Council's draft DCP25 "Coastal Hazard" and the NSW Department of Planning "NSW Coastal Planning Guideline Adapting to Sea Level Rise" August 2010.

Having regard to the above documents I/we understand that future coastal erosion has the potential to affect our property and I/we accept all risk and responsibility associated with the proposed development, including the extent to which we will engineer and construct the building to mitigate any future erosion effect.

Owners; Name & Signature

- 1. KAY JOHNSTON [Signature]
2. 115 WYNDHAM RD
3.

Stamp: TWEED SHIRE COUNCIL, FILE No: DA11/0164 Pt 2, REC'D: 19 SEP 2011, ASSIGNED TO: Stegeman B, HARD COPY [checked] IMAGE []

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

Context and Setting

The property is redevelopment within an established residential subdivision which has been specifically created for residential development. The proposed development is of a design generally in keeping with the architectural style and residential character of the area taking into account the redevelopment occurring overall in the area.

Access, Transport and Traffic

Minimal impact is envisaged, the proposal is a single residence within an approved residential subdivision.

Flora and Fauna

Minimal impact is envisaged; the site has no significant plantings and is part of an existing urban environment.

Natural hazards

The site is mapped as being impacted by possible coastal erosion. These impacts have been assessed in the earlier section of this report under the heading of coastal management plan and are not considered to be sufficient to prevent the proposed development from proceeding. Future consideration may be necessary to deal with possible retreat in the event that coastal erosion is not prevented.

Site design and Internal design

The building is considered to be of reasonable design taking into account the relationship with the adjacent building to the north. The external finishing is mixed and provides good architectural merit.

The proposal provides for a transition between the large building to the north and the property to the south.

(c) Suitability of the site for the development

Surrounding Land uses/Development

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

Site Orientation

The living areas of the dwelling have been mainly orientated to the northeast east and west to optimise ocean/rural views and breezes and solar access to the north.

Bushfire

The site is affected by bushfire and can be accommodated by constructing the home in accordance with the provisions of Planning for Bushfire Protection. A Bushfire Threat Assessment Report has been submitted with the application and is supported.

Landscaping is to be strictly in accordance with the report so as to not contribute to the bushfire risks.

A condition has been included to require the building to be constructed in accordance with section 1.0 of that report.

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

The application was notified to surrounding properties when first received and again after the first amendment as the application did not address the initial concerns of Council's assessing officer or those of the objectors. A second and then third amendment was then received which made numerous changes to address the concerns. During the initial notification, seven (7) written submissions were received. The main issues raised have been summarised below:

Issue	Objection Comment	Assessment
Bulk and scale is excessive	The building is too large for the site and will impact adversely on amenity of the property to the south and create overbearing dominance.	The building was reduced in height and the upper story was reduced and moved to 4.2m from the southern boundary. Boundary fence/retaining adjustments were also made.

Issue	Objection Comment	Assessment
Loss of views	The proposal will obstruct views to the south from the upper level unit of the adjacent building to the north.	The building has been reduced in height to 19.0m AHD to be no higher than the eaves of the adjacent three storey building to the north. The impact will be that the upper level unit of the building to the north may lose a small section of rural view to the south but will maintain the majority of view in all other directions. Importantly the view from the living areas to the headland will be maintained as the third storey level is stepped back and achieves a 6.0m setback from the eastern boundary. The primary views of the upper unit to the north will not be impacted and the principles of view sharing are considered satisfied.
Height and setback non compliant	Height and rear setbacks do not Comply with DCP B23	Impacts of height and setback have been addressed adequately in the modified plans by reducing the height and adjusting the size and setbacks of the upper floor. The proposal is consistent with the visual setting requirements of DCP B23.
Possible damage to adjacent building during construction	Construction traffic and methods may damage adjacent building and driveways	Conditions have been proposed to require dilapidation reports before commencing and to require construction techniques to address concerns.
Existing right of ways may be obstructed	Existing legal access may be obstructed	Plans have been adjusted to clearly show ready defined access to Right of footway and carriageway.
Shadowing of foreshore and property to south	The proposal will shadow the foreshore and property to the south	The building has been reduced to the extent that the projected shadows will be reasonable in relation to permissible development adjoining foreshores and reasonable allowance for shadowing of adjoining properties as described in DCP A1.
Visual settings not observed	The Visual setting requirements of DCP B23 are not being observed	The reduction of the height of the building complies with the Visual setting requirements of the DCP.

(e) Public interest

The proposed development raised no major implications in terms of the public's interest.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

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

The possible future legal or financial implications of development affected by Coastal Hazard lines are unknown.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

11 [PR-CM] Development Application DA11/0278 for a Shed at Lot 6 DP 777940; No. 1282 Tyalgum Road Tyalgum

ORIGIN:

Building and Environmental Health

FILE NO: DA11/0278 Pt1

SUMMARY OF REPORT:

A proposed rural shed 7m x15m is proposed to be constructed within the 30m Designated Road building line of *Tyalgum Road* and therefore does not meet the requirements of clause 24 of Tweed Local Environmental Plan (TLEP) 2000. The applicant has provided a written statement requesting relaxation to allow a 6m setback under SEPP 1 guidelines. The applicant has included an objection letter to the planning controls as permitted under SEPP1. Due to the significant flood constraints to the site and previous Council approval for a house and shed building pad (*DA08/1137*) the variation to a 6m front setback for the shed is considered reasonable and consistent with past Council resolutions which endorsed minimal setback for the site, with adequate screening provided along the site frontage by existing vegetation. It is therefore recommended that Council support the approval of this DA, subject to conditions.

RECOMMENDATION:

That Development Application DA11/0278 for a shed at Lot 6 DP 777940; No. 1282 Tyalgum Road Tyalgum be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
- 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.**

[GEN0015]

[GEN0115]

[GEN0300]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- 4. Prior to issue of a construction certificate evidence must be provided to the Principal Certifying Authority and Council that the site earthworks comply with drawing No A3 -109 - C01 by Tweed Coast Consulting Engineers Pty Ltd dated as approved with development consent DA08/1137.**

[PCCNS01]

5. A certificate from a registered Geotechnical Engineer must be provided to the Principal Certifying Authority and Council that the filling operations for the approved house and shed pads comply with AS 3798 as required in condition No 7 of DA08/1137 prior to the issue of a construction certificate. [PCCNS02]
6. Prior to the issue of a construction certificate the 600mm high rock scour protection along the bottom of the fill pad batter as advised by Tweed Coast Consulting Engineers as part of DA 08/1137 must be completed. [PCCNS03]
7. Prior to the issue of a construction certificate the proposed shed design must be certified by a practising structural engineer that its construction specifications will be capable of withstanding expected flood flow rates in the area during a flood event. [PCCNS04]

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.
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. [PCW0215]
10. Residential building work:
 - (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information: [PCW0225]

- (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

11. 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]

12. All roof waters are to be disposed of through properly jointed pipes to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

DURING CONSTRUCTION

13. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.
14. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

[DUR0005]

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]

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

[DUR0245]

16. 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]

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

[DUR0395]

18. 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]

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

[DUR0415]

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

[DUR2185]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

21. 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]

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

[POC1055]

USE

23. 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]

24. The shed must not be used for human habitation or occupation.

[USE0475]

REPORT:

Applicant: Mr A Mishtler
Owner: Mr Avraham Mishtler & Ms Zehavit Mishtler
Location: Lot 6 DP 777940; No. 1282 Tyalgum Road TYALGUM
Zoning: 1(a) Rural
Cost: \$9000.00

BACKGROUND:

An application has been lodged for a proposed 7m x 12m shed with a 3m wide open attached carport bay to be located on a Council approved fill area (*ref DA08/1137*) with a 6m front building setback to Tyalgum road in the south western corner of the property. As Tyalgum Road is classified as a designated road, Tweed Local Environmental Plan (TLEP) 2000 Clause 24 prescribes a 30m front building setback. The applicant has provided a SEPP 1 objection letter detailing the reasons for a request to vary the 30m front setback requirement.

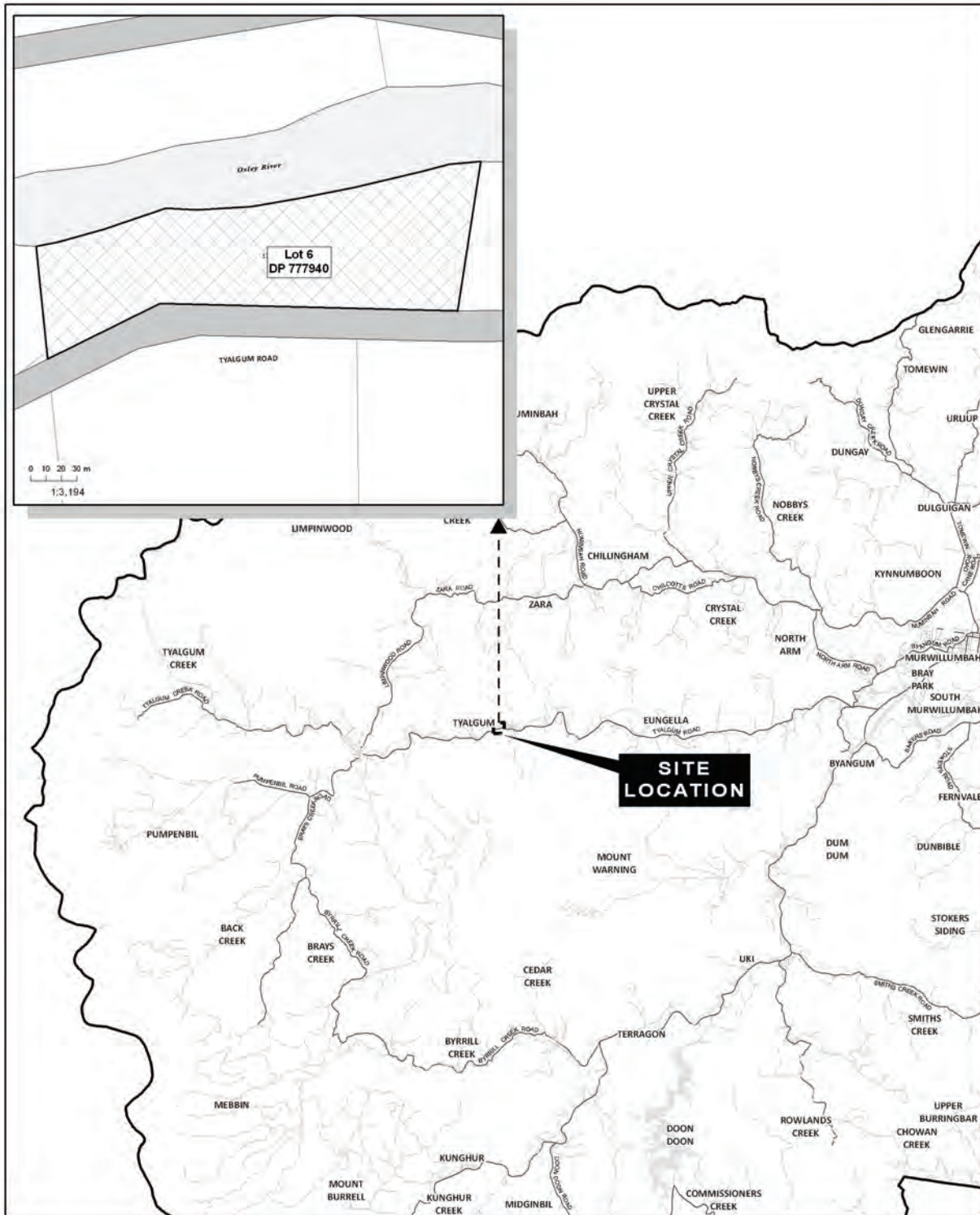
Council records show the property is low lying and can be significantly affected by flooding. Previous Council determinations regarding development on the property and historical records of the site indicates that the south western corner of the property is the only suitable location for built structures due to the flood risk.

The previously approved shed pad level is RL 47.50 (*40.9AHD*) which indicates that the proposed shed is likely to be impacted by peak flood flows. A condition has been placed on the development to ensure that the construction and shed specifications is capable of withstanding expected flood flow rates as the allotment is adjacent to the Oxley River and the property is also burdened with a back channel flood corridor and flood overflow area.

The size of the shed is comparable to existing farm sheds in the area and will not adversely affect the amenity of the local environment, the streetscape or public domain of Tyalgum Road, and will generally be screened by existing vegetation along the site's frontage.

Perusal of DA08/1137 which was for the provision of the filled pads has also indicated that a 600mm high rock scour protection is to be provided along the fill pad batter and the fill earthworks must be monitored by a registered Geotechnical testing consultant who must provide a certificate to Council confirming that the filling operations comply with AS3798 (Guidelines for earthworks for commercial and residential developments). It is proposed to include a condition to ensure these requirements are completed prior to the issue of a construction certificate.

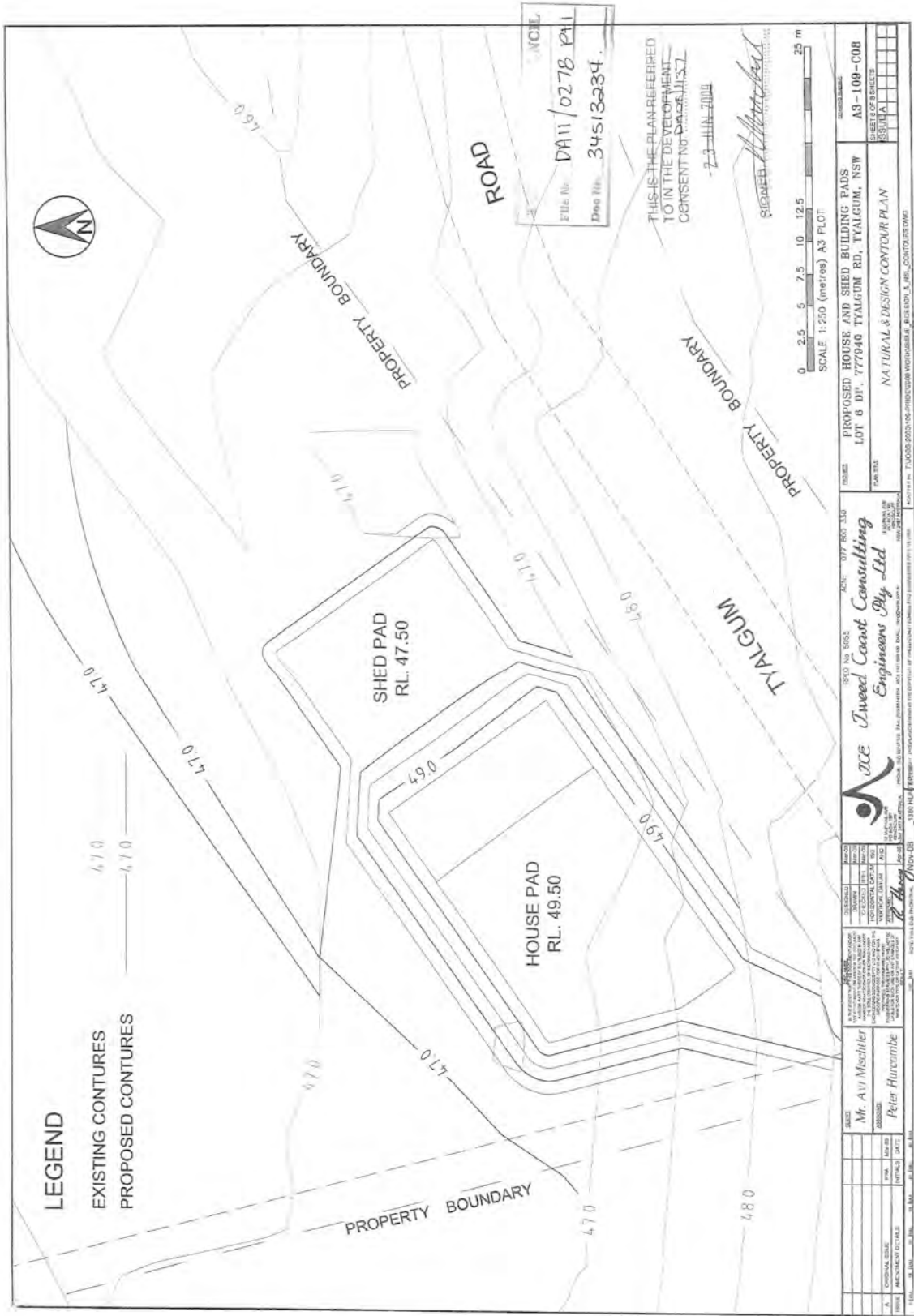
SITE DIAGRAM:

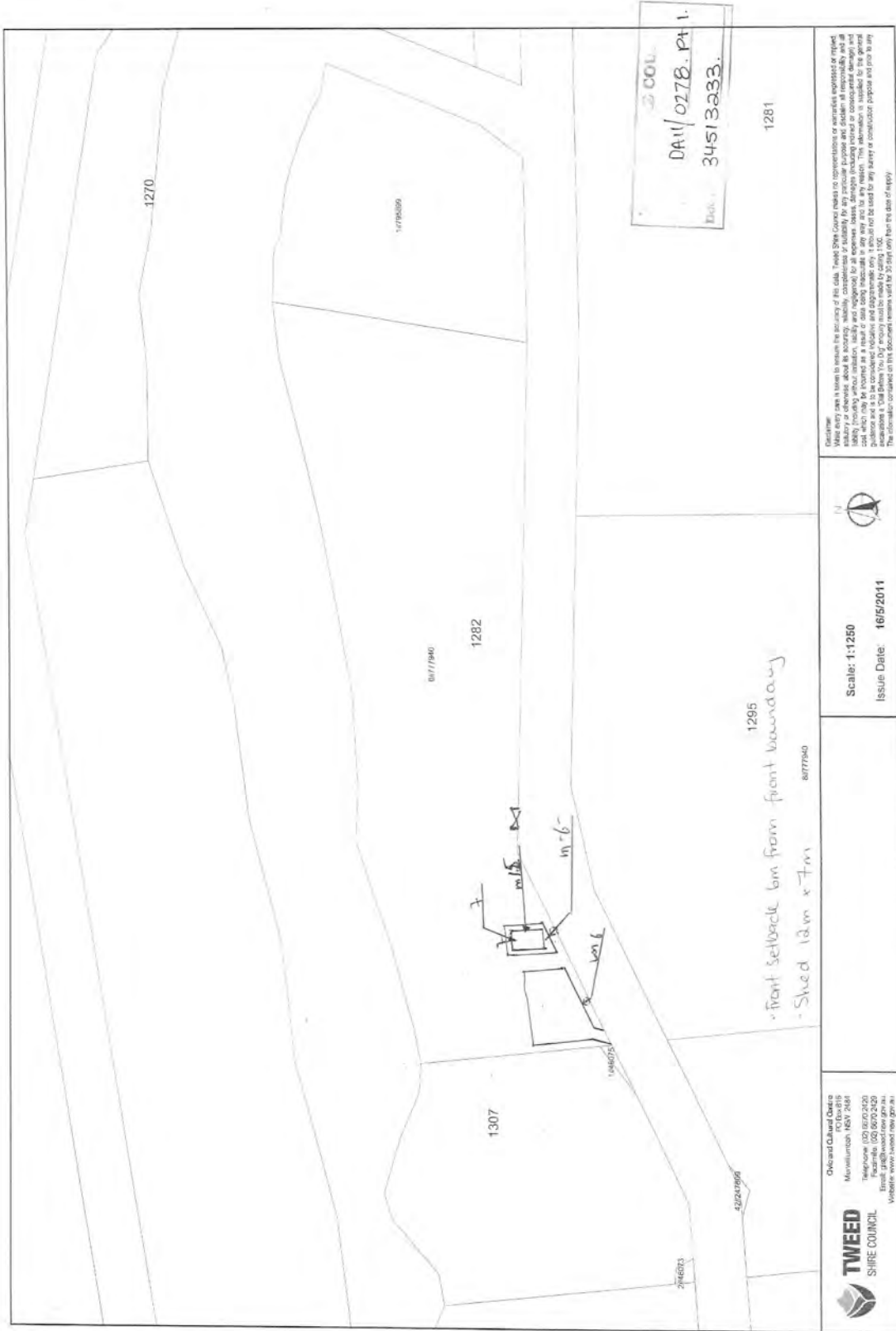


Locality Plan
 Lot 6 DP 777940
 No. 1282 Tyalgum Road, Tyalgum

<p>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 diagrammatic only. It should not be used for any 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.</p>	<p>Cadastral: 26 September, 2011 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</p> <p>0 1 2 3 Km 1:145,000 @ A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</p> <p>Map Projection: Universal Transverse Mercator Horizontal Datum: Geocentric Datum of Australia 1984 Map of Australia, Zone 56</p>	<p>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484</p> <p>TWEED SHIRE COUNCIL</p> <p>T (02) 8670 2400 1300 292 872 F (02) 8670 2428 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p>
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DEVELOPMENT/ELEVATION PLANS:





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Rural Shed (Drawn to 1:100)

Rural Shed (Drawn to 1:100)

Rural Shed (Drawn to 1:100)

Rural Shed (Drawn to 1:100)

Supplied By: Seismic Sheds Pty Ltd
 Phone 07 55 448 700 Fax TBA
 110 Walker Drive, Kooralbyn, Qld 4205.

Customer: Avi Mishler
 The Bio Organic Farm, Lot 6 DP 777945, Tyalgum Rd, Tyalgum NSW

Capital Steel Buildings Australia
 PO Box 54, Narellan 2567
 Email: info@capitalsteelbuildings.com.au

ASSESSMENT:

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

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

Development complies with the aims of the TLEP 2000

Clause 5 - Ecologically Sustainable Development

Development is ecologically sustainable; the shed is a rural area and it meets the four principles of ecologically sustainable development as listed in clause 5.

Clause 8 - Zone objectives

Consistent with the zone objectives and clause 8 of TLEP 2000, Council is satisfied that the development would not have an unacceptable cumulative impact on the community and the immediate locality.

Clause 15 - Essential Services

All essential services are provided and appear adequate

Clause 16 - Height of Building

The proposed shed complies with height restrictions permissible in the area.

Clause 17 - Social Impact Assessment

Normal residential/rural influences are anticipated with the proposed shed being a permitted landuse in the area.

Clause 35 - Acid Sulfate Soils

Council records show the house pad is not located in ASS area. ASS management plan not required.

Other Specific Clauses

Clause-34 Flooding:

Flood heights were assessed during approval DA08/1137 which was for filled building pad.

The proposal has also been discussed with Council's Planning and Infrastructure Engineer who raised no objections subject to the conditions provided.

Clause 39A: Bushfire prone land:

The property is mapped as bushfire prone but due to the structure being non habitable no requirements apply.

Clause 24 Designated roads:

Refer to background of report above.

State Environmental Planning Policies

SEPP.1 - Development Standards.

A SEPP.1 objection has been received from the applicant in relation to the 30m setback to Tyalgum road, (*a designated road*). A 30m setback is required by clause 24 of the TLEP 2000. The proposed front building line setback requested is 6m.

The objectives of Clause 22 are:

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

The applicant contends that compliance with this standard is unreasonable and unnecessary for the following reasons:

1. Previous Council approval DA08/1137 for a house pad RL 49.50 and a shed pad RL 47.50 was granted and expectation was that any future development associated with the pads would be considered for approval.
2. It is assumed the fill was approved in the south western corner of the allotment as it was the most favourable location for any built structures due to the property being flood affected and this area would not negatively impact on flood flow rates during a flood event.
3. Observation of the surrounding area and adjacent properties show existing dwellings and sheds located within the 30m front building setback. The development is on a 6m front setback as required by Tweed Development Control Plan A1 Residential and Tourist Code.

Comment:

It is considered that the reasons put forward could be supported and a check with Council's Design Unit identified that no objection is raised to the proposed 6 metre setback.

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

The shed will support agricultural activities

Clause 81: Development adjacent to the ocean or a waterway

Development is for agricultural purposes, the shed is approx 60m to the Oxley River.

SEPP No. 1 - Development Standards

Refer to above report

SEPP (Rural Lands) 2008

The development meets the aims and rural planning principles of the above SEPP

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

N/A

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

Shed generally meets the requirements of A1

A2-Site Access and Parking Code

Site access approved as part of DA 08/1137

A3-Development of Flood Liable Land

DA08/1137 has approved building pads for a shed RL 47.50 and house RL 49.50

A11-Public Notification of Development Proposals

The original housing and shed pad DA was notified (DA08/1137). One submission was received relating to potential flooding impacts. There is no requirement under the current DCP to notify the current shed proposal.

A13-Socio-Economic Impact Assessment

The development will not negatively impact upon the Socio Economics of the area.

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

Nil

(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

N/A

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

There are no significant impacts envisaged

Context and Setting

Complies

Access, Transport and Traffic

Access approved as part of DA08/1137

(c) Suitability of the site for the development

Surrounding Landuses/Development

Will not impact significantly on existing surrounding development and landuse

Natural Hazards – Flooding

The site is affected by flooding and the proposed location of the shed is accepted as the preferred location to minimise impact of flooding.

Flora and Fauna

No significant impacts.

Topography

Shed to be constructed on approved building pad.

Site Orientation

The location within the front south western corner will reduce impact to flood flow rates during flood event.

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

Nil

(e) Public interest

Will not be prejudicial to the public interest

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed location and size of the shed is consistent with the objectives of clause 22 of the TLEP 2000 and the primary and secondary objectives of TLEP 2000 1(a) rural zone. Site inspection and perusal of Council records confirms the validity of the SEPP 1 objection to vary the sheds front building line to 6m from Tyalgum Road so as to minimise the impact of flooding.

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.

12 [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/refused.

RECOMMENDATION:

That Council notes the September 2011 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

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

In accordance with that Planning Circular, no Development Applications have been supported where a variation in standards under SEPP1 has occurred.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

13 [CNR-CM] Request for Additional Once Off Contribution - Arts Northern Rivers

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

At a recent board meeting of Arts Northern Rivers it was agreed that it would move into the former Barratt Galleries space at 2/5 Bruxner Highway, Alstonville, which recently became vacant.

Ballina Council has offered Arts Northern Rivers a generous concession on rental for this space, making it available for \$200 per week (pending Crown Trustee approval).

RECOMMENDATION:

That:

- 1. Council agrees to contribute \$1,375 to support Arts Northern Rivers in its relocation to the Barratt Galleries in Alstonville.**
- 2. The \$1,375 contribution be included in the September Quarterly Review.**

REPORT:

At a recent board meeting of Arts Northern Rivers it was agreed that it would move into the former Barratt Galleries space at 2/5 Bruxner Highway, Alstonville, which recently became vacant.

Ballina Council has offered Arts Northern Rivers a generous concession on rental for this space, making it available for \$200 per week (pending Crown Trustee approval).

This represents an annual increase of \$5,900 in rent, 85% of which will be covered by an agreement recently made with Accessible Arts NSW, to house its new North Coast Accessible Arts Officer.

In making the move to the new premises, Arts Northern Rivers will incur re-establishment costs, including a small amount of maintenance and repairs, electrical fit out and installation of air conditioning/heating. These costs are estimated at \$5,000.

The Board also agreed at the recent meeting that in conjunction with the move Arts Northern Rivers should upgrade its communications system, network and furniture. The estimated cost for these additional items is \$13,000 (comprising \$4,000 for a communications system upgrade, \$2,000 for network upgrade, and \$7,000 for furniture/fit out).

Ballina Council has again offered very generous support by way of a grant of \$3,250 towards building maintenance, repairs and improvements.

The Board agreed at the recent meeting that it would be appropriate to ask the other six contributing Councils to also make a once off contribution towards setting up Arts Northern Rivers in their new space.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

It was determined by the Board that it would be fairer, and potentially more realistic, to request a contribution per Council based upon the percentage contribution it currently make to Arts Northern Rivers' core operations.

A spreadsheet with a breakdown of proposed contributions based on this percentage system is reproduced below. Note the final column indicates the amount requested per Council.

If \$6,000 can be raised by this method the total Council contribution towards costs will be \$9250, with the balance of \$8,750 to be covered from Arts Northern Rivers' reserves.

Council contributions, with Ballina excluded from calculations

	Core	%	As part of \$6,000	Requested \$ (Rounded)
Byron	14630.23	14.29	857.4	860
Lismore	23408.37	22.86	1371.6	1375
Richmond Valley	11703.87	11.43	685.8	690
Tweed	23408.37	22.86	1371.6	1375
Clarence Valley	23375.85	22.83	1369.8	1370
Kyogle	5852.09	5.72	343.2	345
	102378.78	99.99	5999.4	6015
Ballina	17556.24			
	119935.02			

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

ORIGIN:

Water

SUMMARY OF REPORT:

Council has made an application for funding of the Burringbar/Mooball Sewerage Scheme under the New South Wales Government Country Towns Water Supply and Sewerage Scheme.

In a letter received 12 September 2011 the Minister for Primary Industries and Small Business provided an offer of a fixed grant amount of \$3,555,000 (excluding GST) for the Burringbar/Mooball Sewerage Scheme under the Country Towns Water Supply and Sewerage Program. This funding would not be available before July 2013. This letter included an agreement detailing the conditions of grant funding. These proposed conditions for funding have been reviewed and are acceptable.

RECOMMENDATION:

That Council:

- 1. Accepts grant funding of \$3,555,000 (excluding GST) for the Burringbar/Mooball Sewerage Scheme as provided in letter received 12 September 2011 from the Minister for Primary Industries and Small Business and votes the income.**
- 2. Executives all necessary agreements under the Common Seal of Council.**

REPORT:

The Burringbar/Mooball Sewerage Scheme is a project that will construct a new centralised sewerage reticulation system and wastewater treatment plant to service the villages of Burringbar and Mooball.

At the Council meeting of 15 March 2011 it was resolved to delay award of contracts EC2010-069 and EC2010-062 for construction of the Burringbar/Mooball Sewerage Scheme until 19 July 2011 at which time assessment of the Country Towns Water Supply and Sewerage Program funding application will be complete and availability of funding would be known.

Subsequently Council issued a letter and application to the Minister for Primary Industries and Small Business notifying the Minister of Council's decision to delay the project and requesting funding under the Town and Country Water Supply and Sewerage Program.

In a letter received 28 July 2011 the Minister for Primary Industries and Small Business advised that Council may proceed with the award of contracts and that deferred funding would be available for the project but would not be available before July 2013.

At the Council meeting of 21 June 2011 it was resolved to award contracts for EC2010-062 Construction of Burringbar/Mooball Reticulation Scheme and EC2010-069 Burringbar/Mooball Wastewater Treatment Plant Design, Construction, Testing and Commissioning.

In a letter received 12 September 2011 the Minister for Primary Industries and Small Business provided an offer of a fixed grant amount of \$3,555,000 (excluding GST) for the Burringbar/Mooball Sewerage Scheme under the Country Towns Water Supply and Sewerage Program. This funding would not be available before July 2013. This letter included an agreement detailing the conditions of grant funding. These proposed conditions for funding have been reviewed and are considered acceptable.



The Hon Katrina Hodgkinson MP

Minister for Primary Industries
Minister for Small Business

WASTEWATER TREATMENT PLANT - BARR.
SEWERAGE MANAGEMENT - PLANNING

TWEED SHIRE COUNCIL
 FILE No. DATE No.
 SEWERAGE TREATMENT - BARRINGBAR
 RECD: 1221 SEPT 2011
 ASSIGNED TO: Mike Reynold
 MARKED BY: IMAGE 57

WS11/618

Councillor Kevin Skinner
Mayor
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

GREAT. K.S.

Dear Councillor Skinner *Kevin*, 35001646 36664705

I refer to Council's application dated 23 June 2011 and my letter dated 26 July 2011 for the construction of the Burringbar-Mooball Sewerage Scheme.

I am pleased to offer Council financial assistance under the Country Towns Water Supply & Sewerage Program of a fixed grant amount of \$3,555,000 (excluding GST) towards the construction the Burringbar-Mooball Sewerage Scheme. A schedule of costs is attached for Council's information.

Under the Program rules, there are no provisions for revised estimates or additional costs. The upper limit of financial assistance for this phase of the work is \$3,555,000.

As explained in my letter of 26 July 2011, payments cannot be made before July 2013 for the construction of the Burringbar-Mooball Sewerage Scheme. While I appreciate that Council may incur additional financing costs due to this deferred payments arrangement, it will benefit from lower construction costs associated with the earlier commencement of the project. Please note that no compensation is payable from the Program for any additional financing costs incurred by Council.

The standard conditions that will apply to this financial assistance are attached in duplicate. Council is requested to return a signed original of these conditions to Mr Colin McLean, Executive Director, Urban Water, NSW Office of Water, GPO Box 3889, Sydney NSW 2001. The attached conditions for the use of Government funds for the construction of water supply and sewerage scheme supersede all previously issued conditions.

In particular, I draw Council's attention to the condition for timely completion of the works. This financial assistance is contingent on completion of the project within three years from the date of this offer. Project delays within Council's control may result in financial assistance being reduced or withdrawn.

DATE RECORDED
Date 16/9/11 .../page 2
Time 10.25 am.

Councillor Kevin Skinner

Minister for Primary Industries

I also note that Council has achieved full compliance with the *Best Practice Management of Water Supply and Sewerage Guidelines*. I would like to congratulate Council on this achievement.

Please contact Mr Chris Hennessy, Principal Urban Water Manager, NSW Office of Water, Alstonville, on telephone (02) 6627 0113, regarding management of the project and processes to ensure eligibility of funding.

Yours sincerely



Katrina Hodgkinson MP
Minister for Primary Industries

Encl

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The total overall project budget for the Burringbar and Mooball Sewerage Scheme is \$9.0M.

External loan funding has been provided for \$9.0M (capital) and funds allocated in Council's proposed 2011/2012 and 2012/2013 sewer fund budgets.

Delayed grant funding payment of \$3,555,000 (excluding GST) will be received after July 2013.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

15 [CNR-CM] Quarterly Variation Report for Contract EC2009-068 - Banora Point Wastewater Treatment Plant Upgrade construction: April 2011 to September 2011

ORIGIN:

Water

SUMMARY OF REPORT:

At the Council Meeting of 20 July 2010, a tender was accepted from Tenix Australia Pty Ltd for the augmentation of the Banora Point Wastewater Treatment Plant. The project will upgrade the wastewater treatment plant from 15ML/day to 18ML/day. The accepted lump sum tender price was \$28,074,144.20 inclusive of GST. This amount did not include payment of Rise and Fall which is payable under the Contract.

Contract works commenced in September 2010 and are predicted to be finished by March 2012.

The Council decision delegated authority to the General Manager to approve variations totalling up to 10% of the contract sum, (ie. \$2,807,414.42 inclusive of GST). The total value of approved variations to the end of September 2011 is **\$1,002,643.65** inclusive of GST. This takes the current contract sum to the end of September 2011 to **\$29,076,787.85** inclusive of GST. This is well within the current limit of delegated authority of 10% of the original contract sum. Note this report covers the period from April 2011 to September 2011. The previous quarterly report showed the total value of variations approved to the end of March 2011 was **\$417,930.13**. The variations that were the subject of that report are not included here.

In addition to the variations detailed in this report, there are variations that are currently being reviewed by Council's project management team. Details of these variations are provided in **CONFIDENTIAL ATTACHMENT A**.

RECOMMENDATION:

That Council notes and endorses the total value of variations to date of \$1,002,643.65 inclusive of GST, for Contract EC2009-068 Banora Point Wastewater Treatment Plant Upgrade, including the following variations not previously reported:

- **Variation No.31 – Supply and install additional 225 diameter stormwater pipe and two pits to drain low areas adjacent to the Balance Tank. (\$13,689.54 GST Incl.)**
- **Variation No.32 – Costs to reduce aperture size of RAS screen to 3mm (\$7,733.47 GST Incl.)**
- **Variation No.33 – Materials for and construction of a swale drain and stormwater pit adjacent to Road 4 to prevent ponding (\$5,058.52 GST Incl.)**

- **Variation No. 34 – Additional car parking spaces adjacent to the Laboratory (\$14,693.14 GST Incl.)**
- **Variation No. 35 – Labour and material for the re-design of Road 4 to give a constant grade and improve drainage. (\$11,067.02 GST Incl.)**
- **Variation No. 36 – March Quarter CPI adjustment to the contract sum. (\$61,571.24 GST Incl.)**
- **Variation No. 37 – Supply of materials for redesign of clarifier expansion joints (\$12,161.86 GST Incl.)**
- **Variation No. 38 – Labour and materials for the redesign of the entrance culvert widening. (\$7,486.71 GST Incl.)**
- **Variation No. 39 – June Quarter CPI adjustment to the contract sum. (\$152,219.38 GST Incl.)**
- **Variation No. 40 – adjustment to the contract price due to the increase in quantities over the contract scheduled quantities (\$299,032.65 GST Incl.)**

REPORT:

At the Council meeting of 20 July 2010, a tender was accepted from Tenix Australia Pty Ltd for the augmentation of the Banora Point Wastewater Treatment Plant. The project will upgrade the wastewater treatment plant from 15ML/day to 18ML/day. The accepted lump sum tender price was \$28,074,144.20 inclusive of GST. This amount did not include payment of Rise and Fall which is payable under the Contract.

Contract works commenced in September 2010 and are predicted to be finished by March 2012.

The Council decision delegated authority to the General Manager to approve variations totalling up to 10% of the contract sum, (ie. \$2,807,414.42 inclusive of GST). The total value of approved variations to the end of September 2011 is **\$1,002,643.65** inclusive of GST. This takes the current contract sum to the end of September 2011 to **\$29,076,787.85** inclusive of GST. This is well within the current limit of delegated authority of 10% of the original contract sum.

In addition to the variations detailed in this report, there are variations that are currently being reviewed by Council's project management team.

The major variations covered by this report have been a consequence of either:

- Cost adjustment to the contract sum based on CPI amounts
- Redesign to provide a better outcome.

Details of the variations approved during the period April to September 2011 are provided below for the information of Council, as follows:

Variation No.	Description	Amount (incl GST)	Status
	Amount previously reported.	\$417,930.13	
31	Following the close of tender and initial clearing of the site was carried out; the project management team reviewed the drawings and concluded there would be some low spots produced by the works. From this review it was agreed to include some additional stormwater drainage. This resulted in two changes to the scope of works. This variation deals with the supply and installation of additional 225mm diameter stormwater pipe and two new stormwater pits to drain a low spot adjacent to the Balance Tank. Variation 33 deals with another similar variation.	\$13,689.54	Approved

Variation No.	Description	Amount (incl GST)	Status
32	<p>The original aperture size for the RAS screen was specified as 5mm. The contractor offered a 3mm aperture screen for an additional cost of \$7,733.47. This was agreed to be beneficial to the overall treatment process.</p> <p>Following this change it was decided to put the specified RAS screen with the smaller aperture in the inlet works. Originally one new screen was specified to supplement the existing screen already in place. By making this change two new screens would be installed in the inlet works (the more critical area for screening) and the existing screen relocated to the RAS channel.</p>	\$7,733.46	Approved
33	This variation is similar to Variation 31. This variation deals with the supply and installation of a swale drain and one new stormwater pit to drain a low spot adjacent to the new Road 4 to the laboratory.	\$5,058.52	Approved
34	When road works were commenced on the new road to the laboratory, it was thought that for minimal additional cost, additional car spaces could be easily incorporated into the works. An instruction was issued to the contractor and additional car parking provided. Council's Works engineers were consulted on the price submitted and concurred with the quantum.	\$14,693.14	Approved
35	When the road pavement for Road 04 was set out the levels were reviewed by the project team. The design levels did not facilitate adequate drainage of the road to the adjacent creek. It was agreed to raise the road in one area to maintain a constant grade to the drainage points near the stormwater outlet. This variation was for the supply and installation of additional materials to achieve this.	\$11,067.02	Approved
36	The contract included quarterly Rise and Fall adjustments due to its duration. This adjustment is for the March rise and fall payment.	\$61,571.24	Approved
37	The supplier of the material specified for the expansion and contraction of joints in the clarifier floor changed the recommended installation requirements after the award of the contract. This meant the joints changed from 12mm wide to 20mm wide. As this was a new requirement it was a valid variation under the contract. Material warranty was protected as a result.	\$12,161.86	Approved
38	The entrance road culvert was specified to be widened under the contract. Upon excavation, a clash with an incoming rising main was discovered. This resulted in a redesign. The variation covers the additional costs related to this redesign.	\$7,486.71	Approved

Variation No.	Description	Amount (incl GST)	Status
39	The contract included quarterly Rise and Fall adjustments due to its duration. This adjustment is for the June rise and fall payment.	\$152,219.38	Approved
40	Schedule quantities were provided for three items of work under the contract. In each of the three items, these quantities were exceeded during the works. Rates remained as per the tendered rates. Whilst this is not a change to the scope of works, it is an adjustment to the contract price and is reported here. The items were: <ul style="list-style-type: none"> • Treatment of acid sulphate soils in Area A • Treatment of acid sulphate soils in Area B • Removal from site of excess spoil. 	\$299,032.65	Approved
	TOTAL	\$1,002,643.65	

The above approved variations have been or will be incorporated into the works.

The original project budget contingency is \$2,807,414.42(GST Incl.).

Therefore the current project budget contingency is \$1,804,770.77 (GST Incl.).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The subject variations are within the contract budget and the total project budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. **Confidential Attachment A** - Notice of Potential Variations: Quarterly Variation Report for Contract EC2009-068 - Banora Point Wastewater Treatment Plant Upgrade Construction: April 2011 to September 2011 (ECM 40111834)

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16 [CNR-CM] Lease to Tweed Valley Respite Service Inc - Turnock Street Kingscliff

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

At a meeting of the Operations Committee held on 16 December 2008 it was resolved to activate approved loan monies to Tweed Valley Respite Services Inc in the sum \$495,000 to construct extensions to their aged care service facilities at Turnock Street Kingscliff.

The loan is to be repaid by annual payments over a 20 year period as a rent equivalent under a lease agreement.

The lease has been prepared and the terms and conditions have been approved. It is now necessary for Council to approve entering into the lease and to execute same under the Common Seal of Council.

RECOMMENDATION:

That:

- 1. Council approves entering into a lease agreement for a term of 20 years as a vehicle for the repayment of loan monies over part of Lot 2 in DP 1041750 at Turnock Street, Kingscliff.**
- 2. All documentation be executed under the Common Seal of Council.**

REPORT:

At a meeting of the Operations Committee held on 16 December 2008 it was resolved to activate approved loan monies to Tweed Valley Respite Services Inc in the sum \$495,000 to construct extensions to their aged care service facilities at Turnock Street Kingscliff.

The loan is to be repaid by annual payments over a 20 year period as a rent equivalent under a lease agreement.

The report and resolution of 16 December 2008 are attached as background information to this report.

The lease has been prepared and the terms and conditions have been approved by both parties. It is now necessary for Council to approve entering into the lease and to execute same under the Common Seal of Council.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As per 16 December 2008 report.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Council Report dated 16 December 2008 (ECM 1948842)
 2. Council resolution dated 16 December 2008 (ECM 1953952)
-

17 [CNR-CM] EC2011-188 Manufacture Supply and Delivery of DN 375mm and 450mm Diameter Pressure Pipe, Fittings and Valves

ORIGIN:

Contracts/Water

SUMMARY OF REPORT:

Tenders closing 12 October 2011 have been called for the Manufacture, Supply and Delivery of DN 375 and 450mm Diameter Pressure Pipe, Fittings and Valves. The materials are to be used in the upgrading of the water trunk mains to service the to be constructed Walmsleys Road reservoir.

The report detailing the evaluation and recommendation for the outcome of this tender will be tabled at the meeting as a late report.

RECOMMENDATION:

That the interim report regarding tender EC2011-188 Manufacture Supply and Delivery of DN 375mm and 450mm Diameter Pressure Pipe, Fittings and Values be received and noted.

REPORT:

Tenders closing 12 October 2011 have been called for the Manufacture, Supply and Delivery of DN 375mm and 450mm Diameter Pressure Pipe, Fittings and Valves. The materials are to be used in the upgrading of the water trunk mains to service the to be constructed Walmsleys Road reservoir.

Due to the tender closing date clashing with the deadline for the preparation of reports for inclusion in the meeting of 18 October 2011 business paper, the tender evaluation was unable to be completed and reported.

The pipeline project is scheduled to commence mid November 2011 and to enable orders to be placed to secure sufficient quantities of pipes to commence the project, a late report detailing the tender evaluation and supplier recommendation will be tabled at the meeting.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

18 [CNR-CM] EC2011-168 Operation of Quirks Quarry

ORIGIN:

Waste Management

SUMMARY OF REPORT:

Council resolved on 16 August 2011 to invite tender submissions for four suitably qualified contractors following an expression of interest process (EC2011-114). An invited Tender was commenced on 7 September 2011 for the operation of Quirks Quarry, located on Council land holdings off Eviron Road (Lot 602 DP 1001049). One submission was received by the advertised close date of 28 September 2011.

The objective of the tender was to seek a nominated royalty payable to Council and further assess capability of the market to operate Quirks Quarry, including, but not limited to, drilling, blasting, crushing, screening, stockpiling, loading, weighing, recording and marketing the material in an efficient and timely manner.

Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation Report included in **CONFIDENTIAL ATTACHMENT A**. A summary of the Selection Criteria is also included in the body of this report. It is recommended that Council accepts the tender of SEE Civil Pty Ltd for EC2011-168 Operation of Quirks Quarry.

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 EC2011-168 Operation of Quirks Quarry to SEE Civil Pty Ltd for at the royalty schedule nominated in Schedule 1 of the tender submission.**

2. **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**

REPORT:

Quirks Quarry is located of land holdings off Eviron Road (Lot 602 DP 1001049) owned by Council's Waste Fund. An expression of interest concluded with Council resolving to invite four contractors to tender on the Operation of Quirks Quarry.

The residual in situ quarry resource is approximately 69,000 cubic metres. Based on current production rates, a life span exists of up to two years. Once the quarry resource has been exhausted the site is to become a landfill subject to NSW Department of Planning approval of the current Project and Concept Application. The same application seeks approval for additional quarry infrastructure on the west and north valleys within the land holdings.

The objective of the tender was to seek a nominated royalty payable to Council for materials won from the quarry, and to assess capability of the market to operate Quirks Quarry, including, but not limited to, drilling, blasting, crushing, screening, stockpiling, loading, weighing, recording and marketing the material in an efficient and timely manner while ensuring compliance with the Quarry Plan of Management and Environmental Protection Licence conditions.

One submission was received by the advertised close date of 28 September 2011.

SEE Civil Pty Ltd

Hazell Bros Group Pty Ltd withdrew from the tender process by email on Tuesday 27 September 2011 without providing reasoning. OnTrax Crushing withdrew from the tender process on 28 September 2011 by letter explaining that commitments to the Central Queensland Coalfields precluded a competitive tender. No correspondence was received from M&M Crushing Pty Ltd.

The submission was reviewed by a staff panel against the criteria set out in the EOI document being;

Schedule
Quantities and Prices
Tenderers Experience & Capability
Methodology & Service Program
Proposed Contractors Key Personnel
Proposed Site Specific Details
Occupational Health & Safety Management
Proposed Subcontractors
Insurance Details
Conditions of Tendering

Tender Evaluation

The Tender Evaluation was conducted by Council's Tender Evaluation Panel. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

The submission demonstrated capability and provided detailed documentation for each of the criteria. The tender evaluation panel deemed SEE Civil Pty Ltd to be capable to perform the works. A complete tender evaluation report from the panel is provided in Confidential Attachment A.

This report provides a recommendation of a preferred contractor to operate Quirks Quarry

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council's Waste Fund will receive the royalty payments to be allocated to reserves for future quarry and landfill establishment at the Eviron land holdings.

POLICY IMPLICATIONS:

The tender process complies with Council policies and NSW legislation.

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** - Tender Evaluation EC2011-168 Operation Quirks Quarry (ECM 40046383)
-

19 [CNR-CM] Easement for Underground and Overhead Powerlines within Council Land - Quirks Quarry Eviron

ORIGIN:

Design

SUMMARY OF REPORT:

Council has engaged NJ Constructions to supply a certified electricity supply design plan over three parcels of Council land at Eviron. The electricity supply to these parcels will be provided with both underground and overhead lines.

The affected parcels are Lot 1 in DP 34555 (easement required), Lot 1 in DP 1159352 (easement required) and Lot 602 in DP 1001049 (supply terminates with transformer, no easement required).

All of these parcels are classified as operational land, there is no statutory restraint to create the easements of them.

Essential Energy require the creation of easements over the power corridor to secure their assets.

As Council is seeking the supply to these parcels, there will be no compensation payable.

It is recommended that Council approve the creation of these easements for the benefit of Essential Energy and to resolve to sign all necessary documents to facilitate the registration of the easements over Council land.

RECOMMENDATION:

That :

- 1 Council approves the creation of easements for underground and overhead powerlines within Lot 1 DP 34555 and Lot 1 DP 1159352 for the benefit of Essential Energy.**
- 2. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

A continuous electricity supply is required at Council land holdings earmarked for future landfill and quarry infrastructure and the botanic gardens. Application is currently submitted to the NSW Department of Planning for three landfills, two quarries and associated infrastructure to be developed at these land holdings. Presently, electricity is supplied to service the existing Quirks Quarry operations by a combination of solar and generators. The current supply provided for Quirks Quarry operations is not deemed suitable to service the escalating infrastructure earmarked for these land holdings over the next 25 to 40 years.

Council has engaged NJ Constructions to supply a certified electricity supply design plan over three parcels of Council land at Eviron. The electricity supply to these parcels will be provided with both underground and overhead lines.

The affected parcels are Lot 1 in DP 34555 (easement required), Lot 1 in DP 1159352 (easement required) and Lot 602 in DP 1001049 (supply terminates with transformer, no easement required).

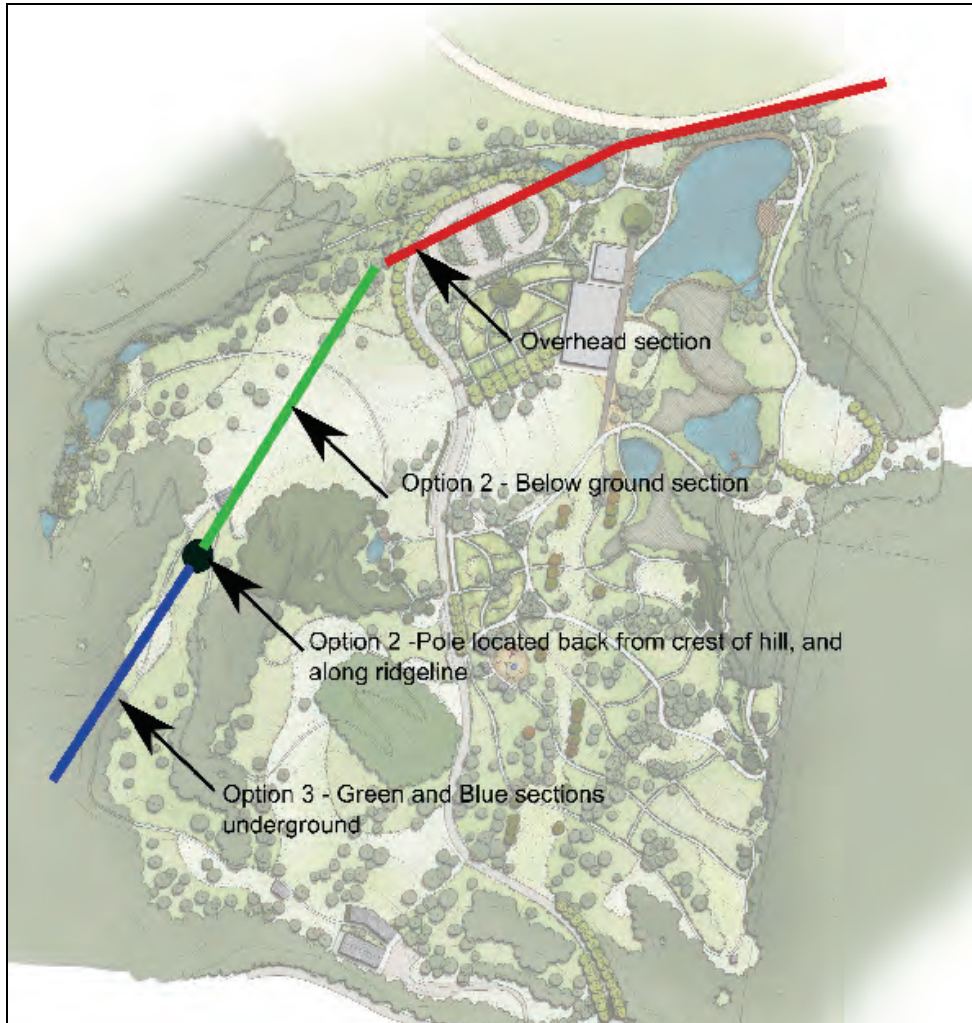
All of these parcels are classified as operational land, there is no statutory restraint to create the easements of them.

Essential Energy require the creation of easements over the power corridor to secure their assets.

As Council is seeking the supply to these parcels, there will be no compensation payable.

It is recommended that Council approve the creation of these easements for the benefit of Essential Energy and to resolve to sign all necessary documents to facilitate the registration of the easements over Council land.

The illustration below shows the proposed easement corridor. The attached plan shows the exact design alignment.



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The electricity supply design and eventual infrastructure to be funded by Waste Management. Recreation Services Unit have provided a commitment to consider funding partial costs of the underground supply as it has been specifically designed to improve the aesthetic of the Botanic Gardens Stage 1.

POLICY IMPLICATIONS:

The electricity supply is required to implement key waste and quarry infrastructure.

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. Electricity Supply Design Plan (ECM 39964770)

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20 [CNR-CM] Amended Fees and Charges Stotts Creek Resource Recovery Centre (Electronic Waste and Compact Fluorescent Lighting/Fluoro Recycling - Commercial Customers)

ORIGIN:

Waste Management

SUMMARY OF REPORT:

Domestic loads of electronic waste (e-waste) and Compact Fluorescent Lighting/Fluoro tube lighting (CFL/Fluoro) are currently accepted at Stotts Creek Resource Recovery Centre (SCRRC) free of charge. Commercial loads of e-waste and CFL/Fluoro are currently accepted at a general waste fee that does not reflect a true representation of the cost to Council to provide the service.

It is proposed that a charge be introduced at SCRRC for commercial customers presenting e-waste and/or CFL/Fluoro.

RECOMMENDATION:

That Council exhibits for twenty-eight (28) days the following fees and charges for electronic waste and Compact Fluorescent Lighting/Fluoro tube lighting disposal at Stotts Creek Resource Recovery Centre:

Product	Fee
Domestic e-waste	No charge
Domestic CLF/Fluoro	No charge
Commercial e-waste	\$0.85 per kilogram
Commercial CFL/Fluoro	\$3.30 per kilogram

REPORT:

Council currently provides a free electronic waste (e-waste) and Compact Fluorescent Lighting/Fluorescent tube lighting (CFL/Fluoro) recycling service to residents of Tweed Shire. Household quantities of e-waste and CFL/Fluoro can be delivered to the Stotts Creek Resource Recovery Centre (SCRRC) during opening hours.

E-waste is sent from SCRRC to Sims E-Recycling Pty Ltd in Banyo, Queensland, where components such as the metals, plastics, circuit boards, cables, CRT glass, toner cartridges, batteries etc are stripped, separated and recovered for reuse. In the 2010/2011 financial year Council recycled 49.76 tonne of e-waste at a cost of \$41,558.84 (*not including staff hours at SCRRC*), which is equivalent to \$0.84 per kilogram.

CFL/Fluoro lighting is sent to BCD Technologies Waste Facility, Narangba, where it is processed through lamp recycling plant to recover glass, aluminium components and phosphor containing mercury for recycling. In 2010/2011 financial year SCRRC recycled 871 kilograms of CFL/Fluoro lighting at a rate of \$3.30 per kilogram.

There is an increasing demand at SCRRC to accept commercial quantities of e-waste and CFL/Fluoro for recycling. Commercial customers are currently charged a general waste fee for loads of e-waste and CFL/Fluoro. The general waste fee does not reflect the true cost associated with recycling e-waste or CFL/Fluoro lighting.

In order to avoid a loss of income resulting from accepting commercial quantities of e-waste and CFL/Fluoro at SCRRC the true cost of the service needs to be applied to commercial customers.

It is proposed that e-waste and CFL/Fluoro recycling initiatives continue to be a free service offered to residents for household quantities, funded by the Waste Management Budget and the Waste and Sustainability Improvement Payments (WaSIP).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The cost associated with domestic e-waste and CFL/Fluoro recycling at SCRRC continues to be funded by the Waste Management Budget and the Waste and Sustainability Improvement Payments (WaSIP).

The cost associated with commercial e-waste and CFL/Fluoro recycling at SCRRC be funded by the user.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

21 [CNR-CM] Biodiversity Grant Program Implementation 2010/2011 Financial Year

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.

The purpose of this report is to seek Council's approval to fund the private landowner as listed in the report, 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 92 applications have been submitted for the Biodiversity Grant Program, 87 private properties, three community groups and two research projects.

The purpose of this report is to seek Council's approval to fund the private landowner visited since the August 2011 Council meeting as listed below, in accordance with the provisions of the Biodiversity Grant Program.

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
McInnes	Chillingham	2160	Follow-up on previous work to ensure protection of high biodiversity values of the property on riparian zone of the Rous River.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding for this project is to be sourced from the existing Biodiversity Program budget.

POLICY IMPLICATIONS:

This program is consistent with the adopted Tweed Vegetation Management Strategy 2004 and the Council resolution of 27 January 2009 which established the Biodiversity Grant Program.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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22 [CNR-CM] River Health Grant Program Implementation 2010/2011 Financial Year

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

This report provides Council with details of proposed investment in river and riparian management, through implementation of the River Health Grants Program. The goal of this project is to improve the quality of Tweed Waterways by subsidising works on private stream banks, for example by revegetation, weed control and provision of off stream water for cattle. The source of funding for this program is the Water Unit mandatory dividend for water and sewerage.

Projects included for endorsement through this report are located on the Oxley River.

RECOMMENDATION:

That the proposed River Health Grants included within this report be endorsed.

REPORT:

Since June 2006 Council's Waterways Program Leader has worked with landholders in the Upper and Mid-Tweed and Oxley River catchments to initiate riparian projects which serve to protect and improve water quality. The program was expanded in 2008 to include properties in the catchment of Cobaki and Terranora Broadwaters. The goal of this program is to enhance the environmental condition of Tweed River and its Catchment, leading to improved water quality and aquatic ecosystem health.

The River Health Grants Program has been successful in attracting a diverse range of landholders, from traditional farmers to rural lifestyle property owners. Projects included for endorsement through this report will provide positive outcomes in the restoration of tributaries to the Oxley and Tweed Rivers.

In each case of funding, an agreement with land holders will be signed that details Council's contribution to a project and the commitments and responsibilities of the land holder. Each grant is based on the agreement that the landholder will contribute significantly to the project, in most cases by undertaking agreed works, with materials supplied by Council.

The River Health Grants program has been very well received by the community and has made an immediate improvement in the riparian conditions of some areas by removing cattle from waterways.

It is proposed to support landholders with additional River Health Grants as detailed below.

Owner	Waterway	Objective	Council Contribution	Cost
Hynes	Oxley River	Remove weeds, predominantly exotic grasses, to prepare riparian site for planting.	6 days bush regeneration contractor; 600 plants.	\$2040
Edwards	Oxley River	Remove weeds, predominantly Cats Claw and Camphor laurel from riparian zone	16 days bush regeneration contractor	\$5440
Total				\$7480

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding for this project is to be sourced from the existing Water Unit mandatory dividend for water and sewerage.

POLICY IMPLICATIONS:

This program is supported by the Water Supply Catchment Stream Bank Protection Policy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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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23 [CNR-CM] Contract EC2011-123 Construction of the New Murwillumbah Community Centre

ORIGIN:

Community and Cultural Services

SUMMARY OF REPORT:

This report outlines the tender for EC2011-123 Construction of the New Murwillumbah Community Centre 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 Multi Span Australia Pty Ltd for EC2011-123 Construction of New Murwillumbah Community Centre.

RECOMMENDATION:

That:

1. Council accepts the tender from Multi Span Australia Pty Ltd for the amount of \$2,888,754.40 including GST, for Contract EC2011-123 Construction of the New Murwillumbah Community Centre.
2. The General Manager be given delegated authority to approve variations up to a total value of \$150,000.
3. **Council approves the contribution of \$150,000 to this project from the sale of the Wollumbin Street property.**
4. **The General Manager be given delegated authority to negotiate with Crown Lands on agreed amount and conditions for lease or licence of the land on which the community centre is to be constructed, prior to reporting back to Council.**
5. **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

Tweed Shire Council realised the need for more Community support in the Murwillumbah area as detailed in the Council resolutions of October 2000 and September 2003. An existing Community Centre building is located in Knox Park, Nullum Street adjacent to the proposed site of the new Community Centre. Concept design approval for the new Community Centre was provided by Council resolution dated 24 January 2004.

Detailed design of the building was commenced in 2007 but was placed on hold until funding was secured. During 2010 the tender process for the construction was commenced with an open Expression of Interest period which resulted in pre selecting four preferred tenderers from 14 submissions. This was approved by a Council resolution on 18 May 2010 which selected four preferred tenderers and allowed detailed tender process to occur.

The objectives of this new building are to:

- Provide more office spaces for Tweed and Non Government Organisations (NGO's) involved in community work
- Provide a one stop shop for wide range of community services.
- Provide a youth area for training and groups.
- Provide range of integrated and coordinated core community services to family, children, youth and disabled persons.

Tenders

Tenders were called following an Expression of Interest (EOI) and Early Contractor Involvement processes in 2010 for the Construction of the new Murwillumbah Community Centre. During the EOI process, 14 submissions were reduced to four preferred tenderers based on the non priced criteria set out in the EOI.

The tender period commenced on 28 June 2011. A total of four full tenders were received in the tender box by the closing date of 3 August 2011.

Conforming tenders were received as follows:

Tenderer
Condev Constructions
Lahey Constructions
Multi Span Australia Pty Ltd
Ware Building

Tender Evaluation

Tenders were evaluated against the following criteria to determine the best value for money offer:

Criteria	Weighting
Benefits to the Local Community/Economy	10%
Improvements in the Construction Program	5%
Price	85%

All tenders were assessed against these criteria.

The tender evaluation was conducted by Council's Tender Evaluation Panel, consisting of Council's Contract Engineer, Community Service Coordinator and the NSW Public Works Project Manager for the project. A summary of the tender evaluation process is included in CONFIDENTIAL ATTACHMENT 1.

Based on price and non-price considerations, it is recommended that Multi Span Australia Pty Ltd be nominated for the award of EC2011-123 Construction of the New Murwillumbah Community Centre.

Note that on the design drawings it was proposed that an external screen/fence would be installed around the existing MCC to match the new building. This screen/fence was not structurally designed hence, a provisional sum of \$55,000 inclusive of GST for this screen/fence was allowed for in the tenders. It is proposed not to accept this provisional sum.

An independent financial assessment has been performed on the proposed tenderer.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The total estimated project cost for Construction of the New Murwillumbah Community Centre is \$3.1M excluding GST but including contingency. Approximately \$0.4 M has been spent to date (up to the end of August 2011).

Council will be accepting loan funding of \$1.5M under the Federal funding grant from the Department of Regional Australia, Regional Development and Local Government. This grant has been processed by the Federal department and accepted at Council's September 2011 meeting. Additional funding for this project will be provided through another Federal department grant, a combination of community group donations, sale of other Council assets and Section 94 contributions. The table below illustrates expected budget and funding sources.

Item	Cost (GST exclusive)	Funding(GST exclusive)
Concept Design, Survey, preliminaries	34,360	
Detailed Design Documentation	205,000	
Council Costs (Sect 96, CC, etc)	211,500	
Project Management	88,000	
Construction Costs	2,626,140	
Federal Funding		1,500,000
Sale Of TSC Assets		611,681
Other Federal Funding Grant -RLCIP		551,000
Other Fundings - NGO		300,000
Section 94 Funds CP96		71,838
Contribution from Nullum St sale		150,000
Contingency		19,519
TOTALS	\$3,165,000	\$3,165,000

A contribution of \$150,000 is proposed from the recent sale of Wollumbin Street property and this will contribute towards the cost of car parking and other associated work.

Post contract award, it is proposed to enter negotiations to review alternatives without compromising the quality or intent of the building. It is envisaged that at least \$150,000 could be saved from the contract award price. Refer to CONFIDENTIAL ATTACHMENT 2 for break down.

The resulting savings from accepting these alternatives will be used as additional project contingency.

License to Construct/Operating Lease

The proposed area where the new Community Centre is to be constructed is managed by Tweed Shire Council on behalf of Crown Lands. Crown Lands have previously provided a license to allow construction to occur.

Council has received preliminary advice from Crown Lands on the quantum of the lease which would be no more than \$7,600 per year.

OTHER RISKS:

Other risks are present as part of this project. These are highlighted below:

- Construction Certificate has been submitted to Council's building department and approval is expected in early November. The Construction Certificate may list additional conditions which need to be passed on to the contractor as a variation.
- Part J Assessment – a Part J assessment was performed on the building as designed. If changes are required to building to meet the Part J assessment, these will be passed on to contractor as a variation.
- Fire rating – the building is designed as two separate buildings. However the installation of additional fire doors may be required. The conditions of the construction certificate will advise.
- Foundations – A geotechnical report was performed on the site. This consisted of three bore holes in different locations and forms the basis of foundation design. If an area of poor ground is encountered then this is classed as a latent condition under the contract and Council will have to pay for costs associated with design changes, delays and any additional foundation works (for example; piers, poor ground removal, ground rehabilitation, etc).

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** - Tender Recommendation for Contract EC2011-123 - NSW Public Works Tender Recommendation (ECM 40254217)
 2. **Confidential Attachment B** - Tender Summary and proposed alternatives (ECM 40254336)
-

24 [CNR-CM] Water Demand Management Strategy - Implementation Update

ORIGIN:

Water

SUMMARY OF REPORT:

The purpose of this report is to bring Council up to date with the progress of the key components of the Demand Management Strategy currently under way; namely the following:

- Water Saving Rebate for residential households.
- Tweed Shire's top 20 water saving program and funding for non-residential water customers.
- Commencement of the Water Education Officer.
- Rainwater Tank program.

RECOMMENDATION:

That Council:

- 1. Notes the progress of the implementation of the Demand Management Strategy.**
- 2. Proceeds with offering of rebates to the top 20 water users in the Shire.**

REPORT:

Water Saving Rebate

The residential Water Saving Rebate was launched on 1 July 2011.

The rebate provides 50% of the combined cost of showerheads, aerators, faucets and associated installation costs up to a maximum rebate of \$70. The showerhead/s must be 3-star WELS rated, the aerator/s must be 3-star WELS rated and the replacement faucets or mixers must be 4-star WELS rated. Any combination of showerheads/aerators/faucets is eligible for the rebate but applicants can only claim one rebate per household. They can claim for a maximum of two (2) of any individual product.

As at 30 September 2011, a total of 86 rebates have been provided at a total cost of \$4,930, averaging \$57 per rebate.

Based on the performance of showerhead retrofit/replacement programs in other places (eg. Sydney Water, Rous Water) a water saving of about 15kL/annum can be expected per household if one or two showerheads are replaced. For the installation of aerators and/or the replacement of faucets, a water saving of 5kL/annum has been assumed. Based on these conservative estimates, the total water saving created by the rebate to date is about 780kL/annum.

As part of the promotion for the campaign and to maximise take up, articles and advertisements have appeared in the Tweed Link and officers have been present at shopping centres with displays and information.

Council will continue to be given quarterly updates about participation in the residential Water Saving Rebate, the predicted water savings and funding implications.

Tweed's Top 20

Tweed Shire Council is launching a new program to work with high water use businesses in the shire and help them adopt more efficient water use practices. Businesses that have been identified as one of the top 20 non-residential water users in the shire are being invited to participate in the Tweed's Top 20 program, which aims to reduce business water use. Participating businesses will receive assistance to implement a water saving project, including a free water assessment, support, promotion opportunities and financial assistance.

A total of up to \$5,000 is available to each business to design, construct and install water saving changes at their business. Any additional costs will be borne by the business.

The Tweed's Top 20 identified from water consumption figures during the 2010/11 financial year are listed in the confidential attachment and are summarised below.

Tweeds Top 20	Total Annual Consumption 2010-2011 (kL)
1	63,201
2	62,804
3	47,454
4	41,058
5	37,336
6	32,834
7	32,152
8	31,784
9	27,798
10	25,915
11	22,633
12	20,481
13	20,149
14	18,483
15	18,350
16	16,860
17	16,342
18	16,231
19	14,780
20	13,286

Note that the Tweed's Top 20 does not include Council's properties such as buildings, parks and gardens, or Council managed caravan parks, as these will be the focus of future demand management projects.

It is envisaged that the Tweed's Top 20 will begin in October 2011, with a formal launch during Water Week (16-22 October). A full communications plan has been drawn up to maximise take up of the promotion by businesses.

Council will contact each business identified in the top 20 and invite them to participate in the program. There will be an initial visit of each interested business, followed by a free walk-through water assessment, looking at water fixtures like toilets, taps and showers and current water using practices. The assessment team will make suggestions about ways to cut back on water use and together with the business, a plan of action or project will be drawn up for each business, identifying possible measures to reduce water use. At this point in the process, businesses can either decide to participate by agreeing to the water saving changes, or opt out.

Once the business agrees to participate, a detailed plan will be forwarded to the Water Unit for acceptance. The plan will specify the exact works that will be carried out and what will be eligible for funding. Money is then released in stages and is available for six months, from the day that the business agrees to participate.

Once the customer agrees to make some water saving changes, 50 per cent of the financial assistance (up to \$2,500) is available immediately to get the project started, and can be paid once invoices for the works are received. A further 25 per cent (up to \$1,250) is released

after the agreed works have been completed and inspected by Council. Council will revisit the business again three months later and offer further support, including the final 25% (up to \$1,250). After a further 12 months, Council will revisit the business to offer additional support and ensure that the water saving features are still installed and operating effectively. Businesses may be required to refund the rebate if the agreed works are no longer installed or operating. Council may promote the project to other businesses and the wider community through newsletters, case study stories or the media.

Any project that Council agrees can reduce water use is eligible for assistance. When one of the Tweed's Top 20 hosts a water visit, they will be offered a water assessment or check-up that will help find ways to save water. If the proposed project is replacing town water with recycled water, rainwater or grey-water, this water must be treated to a standard that meets all current guidelines and legislative requirements.

The project must also be:

- cost effective, with clear, ongoing and sustainable outcomes.
- directly related to the efficient use of town water.
- capable of completion within six months.
- resourced sufficiently to ensure that the identified savings will be ongoing, addressing issues such as ongoing maintenance and staff time.

Funding is only available to each business for the six-month period after they agree to participate. After that time, the funding will be offered to the business with the next highest water use, to allow others to participate and for Council to meet its water saving targets.

Council will be given quarterly updates about participation by the Tweed's Top 20, the predicted water savings and funding implications.

Water Education Officer

The majority of programs that make up Council's Demand Management and Integrated Water Cycle Management Strategies incorporate an important education component. In August 2011, Council engaged Ms Jude Mason as a full-time Water Education Officer to assist with the development and implementation of education and training resources to support these programs. Ms Mason will also be providing educational support to Council's Water Unit as a whole.

Rainwater Tank Program

In September 2011, Council adopted a revised policy for rainwater tanks installed on residential properties in urban areas of the Tweed Shire that are connected to the reticulated water. The next step in the rainwater tank program is to develop educational resources to promote the new policy, including website content and to run information sessions for interested members of the community and other stakeholders. It is envisaged that these resources will be ready by the end of 2011.

In response to Council's resolution at its meeting on 16 August 2011, a separate and new policy for rainwater tanks in commercial and industrial precincts will also be investigated. This investigation will also consider retrofitting possibilities in existing commercial and industrial precincts and any rebates that may be implemented. A further report regarding rainwater tanks for non-residential water users will be submitted to Council once feedback

from the Tweed's Top 20 water audits is available, so that this information can be factored into the scope of the proposed policy.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The three year Implementation Plan for the Demand Management Strategy, including resources and budget, was adopted by Council at its meeting on 17 May 2011.

POLICY IMPLICATIONS:

Council adopted the revised policy entitled "Rainwater Tanks in Urban Areas" at its meeting on 20 September 2011.

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:** Tweed's Top 20 Non-Residential Water Users (ECM 40012885)
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25 [CNR-CM] Proposed Youth Facility - Les Burger Field Tweed Coast Road Bogangar

ORIGIN:

Community and Cultural Services

SUMMARY OF REPORT:

This report advocates that Council submits an Expression of Interest (Eol) to the Police and Community Youth Clubs (PCYC) to establish a new PCYC on Les Burger Field to service the Tweed Coast area. Funding for the establishment of PCYC facilities was announced by the Minister for Police on 8 August 2011 with submissions due by 31 October 2011.

Council has planned for a youth facility along the Tweed Coast at Bogangar and has considered a number of alternative sites.

This Eol presents an opportunity to develop a multi-purpose activity centre for young people living along the Tweed Coast between Pottsville and Kingscliff. The proposed model is based on a PCYC facility, but is distinct from the existing PCYC organisation in Tweed Heads.

RECOMMENDATION:

That Council endorses the concept of a new youth facility at Les Burger Field, Bogangar and supports the Expression of Interest process for Police and Community Youth Clubs funding.

REPORT:

Youth Policy Development:

There is an urgent need for youth facilities on the Tweed Coast which is not adequately served by the PCYC at Tweed Heads. This need was identified in the Tweed Youth Needs Analysis in 2006, which recommended Council improve its facility management capability before building a facility. Council now has a fulltime Youth Development Officer, and a State Government funded PCYC would come with two to three permanently funded staff positions so would not entail Council management or running costs.

The whole of the Shire's Cultural and Community Facilities Plan by SGS Consultants 2007, identified a need for a youth facility on the Coast in the period 2007-2024. It recommended this be a component of a multi-purpose community centre, should include an indoor sports hall, and be integrated with open space and recreation facilities to maximise delivery of youth programs. It did not specify a location. A PCYC, though not part of a multi-purpose centre, would fulfil all the other requirements of this facility.

In 2008 the "Building New Ways" report commissioned by Council documented the harm being caused by illicit drugs and alcohol to young people under 18 years in Tweed Shire communities. The report recommended Council participate with other stakeholders in providing a Youth AOD Facility with appropriate services. A PCYC would be such a facility, and the same AOD, youth, health, employment, juvenile justice, education, counselling and youth welfare stakeholders would be enabled to provide strategic programs and outreach services from it.

Site:

Les Burger Field is a 6.87ha Council sports facility developed on Council managed Crown Land, and on Community Land, immediately adjoining the southern edge of Cabarita. It comprises one sports field and a skate park, with provision for a further field. It is supported by a clubhouse with canteen, toilets, change rooms, and club rooms for individual clubs. There is also a Council Depot on the site.

Proposal:

Preliminary investigation of the Standard PCYC Base Club Design, which may be either single storey or two storey, indicates that a standard building (1,314m² sports court, plus 1,314m² Club module containing activity rooms, office/reception, kitchen, storage and amenities) could:

- replace the existing building on Les Burger Field; or
- missing components of the Base Design could be added to the existing building; or
- a separate new building could be erected on the site.

The last option is preferred and is illustrated on the attached Concept Plan.

Zoning:

In Tweed LEP 2000 the site is zoned 6(b), Recreation (In draft LEP 2010 it is zoned RE1, Public Recreation).

- **Adjacent Development:** Adjoining land to the north is zoned and mostly developed for low-density housing. Land to the south is bushland nature reserve, and to the east across the Coast Road is coastal bushland zoned as open space. Nearby bushland is proposed to be further developed for housing and a tourist accommodation park by LPMA and the Tweed Coast Reserves Trust.
- **Location:** Cabarita is a village of 3,000 people on the rapidly-urbanising Tweed Coast, 20kms south of Tweed Heads; Pottsville (5,000), Casuarina (2,000) and Kingscliff (8,000) are other coastal settlements. The environment comprises coastal bushland along a sandy beachfront, with bush-covered hills. There are large numbers of seasonal visitors and tourists in the area, in addition to the permanent population of families and retirees.

Projected Population:

Shire population is expected to grow by 45,044 (54.2%) in the 25 years from 2006 to 2031. Projected growth for Tweed Coast over the same period is 13,980 (73.5%):

Youth at Risk:

In 2008, Tweed Shire Council commissioned a shire wide Youth, Alcohol and Other Drugs Needs Analysis entitled 'Building New Ways'. As part of this report, 649 youth surveys were completed by Tweed residents under the age of 18 years. The outcomes reported 60.6% young people have used alcohol with the majority having their first drink aged between 13-14 years; 14.9% reported to have used a drug with the majority commencing usage between 15-16 years:

- The report noted the connection between young people not engaged in regular positive social and recreational activities in their own community and the increased risk of alcohol and drug usage. The report identified two locations in the Cabarita Beach area known as popular youth "hang-outs" as areas of significant concern. Currently in the Tweed Coast area, there are limited opportunities for young people to engage in activities outside of organised sporting clubs. There is also a general lack of infrastructure which specifically caters for young people's recreational, social and leisure needs. In order for young people to achieve healthy development milestones, they need the opportunity to engage in a range of positive activities. From these experiences, young people develop a sense of self, social connections with peers and the wider community.

Social Profile:

The social profile for Cabarita-Bogangar confirms this area has experienced rapid population growth, high levels of unemployment, increased cost of living and significant demographic changes, as confirmed in the 2006 census report:

- Unemployment Cabarita – Bogangar 7.1%; NSW – 5.9%
- Single Parent Family Cabarita-Bogangar 22.8%; NSW 15.8%

Following are Bureau of Crime Statistics and Research (BOCSAR) youth crime statistics, being Tweed LGA 2010 - Age and gender of alleged offenders proceeded against by NSW Police for selected offences.

NSW Recorded Crime Statistics 2010

Age and gender of alleged offenders proceeded against by NSW Police for incidents of selected offences

Tweed Local Government Area

Alleged offender's gender	Alleged offender's age	Assault - domestic violence related	Assault - non-domestic violence related	Robbery	Break and enter dwelling#	Break and enter non-dwelling#	Motor vehicle theft#	Steal from motor vehicle	Steal from retail store	Steal from person#	Malicious damage to property
Male	10 - 17	11	28	6	32	11	9	9	32	1	16
	18 - 19	5	9	0	0	0	2	1	6	0	11
	20 - 29	42	12	6	7	7	6	16	13	0	25
	30 - 39	60	8	4	23	2	2	18	8	1	18
	40 +	60	15	0	2	1	1	3	15	0	15
	Missing / unknown	0	1	0	0	0	0	0	0	0	1
	Total	178	73	16	64	21	20	47	74	2	86
Female	10 - 17	11	7	0	0	0	2	0	56	0	4
	18 - 19	4	1	0	0	0	0	0	12	0	1
	20 - 29	2	8	0	1	0	1	0	18	0	7
	30 - 39	6	6	0	1	1	0	0	13	0	1
	40 +	14	6	0	0	0	0	0	9	0	6
	Missing / unknown	0	0	0	0	0	0	0	0	0	0
	Total	37	28	0	2	1	3	0	108	0	19
Unknown	10 - 17	0	0	0	0	0	0	0	0	0	0
	18 - 19	0	0	0	0	0	0	0	0	0	0
	20 - 29	0	0	0	0	0	0	0	0	0	0
	30 - 39	0	0	0	0	0	0	0	0	0	0
	40 +	0	0	0	0	0	0	0	0	0	0
	Missing / unknown	0	0	0	0	0	0	0	0	0	0
	Total	0	0	0	0	0	0	0	0	0	0
Total	10 - 17	22	35	6	32	11	11	9	88	1	20
	18 - 19	9	10	0	0	0	2	1	18	0	12
	20 - 29	44	20	6	8	7	7	16	31	0	32
	30 - 39	66	14	4	24	3	2	18	21	1	19
	40 +	74	21	0	2	1	1	3	24	0	21
	Missing / unknown	0	1	0	0	0	0	0	0	0	1
	Total	215	101	16	66	22	23	47	182	2	105

* This table does not give a count of unique individuals.
 # Characteristics of the alleged offenders should be treated cautiously for offence types that have low clear-up rates.

Source: NSW Bureau of Crime Statistics and Research, www.bocsar.nsw.gov.au

Please refer queries to bcsr@agd.nsw.gov.au

Transport:

For young people public transport fares are expensive, and lack of services, particularly in the evening and weekend period, has an impact on their ability to access activities outside their local area. The site is also crossed by the Tweed Coast Cycleway extending 25kms from Tweed Heads to Pottsville. The Pacific Highway passes 3kms inland, with access from Cabarita.

PCYC Benefits:

The PCYC aims to engage with young people using positive and constructive activities in a safe, supportive and supervised environment. Outcomes for young people include a reduction in anti-social behaviour and engaging in risk taking activities; along with an increase in their sense of belonging and connectedness to their community.

PCYC has a long history of managing youth facilities, and the establishment of such a Club on the Tweed Coast would provide a much needed youth-specific organisation that can deliver recreational and social activities.

The PCYC Mission is to:

- Get young people active in life
- Work with young people to develop their skills, character and leadership
- Prevent and reduce crime by and against young people

The PCYC model also provides a centralised point to work with other service providers (a 'youth hub') to deliver a broad range of education, counselling, work assistance programs and essential support services, to address young people's holistic needs, strengthen their sense of connectedness to their local community, and significantly improve the sense of public safety for the wider community.

Community Strategic Plan

The Tweed Shire Council, 2011-2015 Community Strategic Plan identifies the following actions regarding youth:

2.1.3.2: Provide accessible recreational spaces for young people

Action 2.1.3.2.1: Enhance existing infrastructure for youth recreation for example skate parks.

2.5.2.2: Plan for and provide new community buildings in line with population growth

Action 2.5.2.2.6: Assist Cabarita Beach Business Association identify suitable temporary facilities for location of Cabarita Youth Service and map long-term arrangements.

Action 2.5.2.2.7: Investigate and identify land suitable for a youth facility in Cabarita/Bogangar

Budget:

The NSW government is providing funding in financial years 2011-2012 to 2014-2015 to support the establishment of a new Club in up to eight (8) locations, including the allocation of two Police Officers and one Manager to each Club. Five allocations of \$250,000 and two allocations of \$2.5 million are now available to PCYC to assist in establishing seven new facilities. The capital allocations will be provided by the NSW Government to assist with facility development or expansion, if deemed appropriate, in locations selected.

There is no Council funding currently identified specifically for this project, as it is a new opportunity. Additional external funding will be required to realise the full 2628.4m² facility. A staged approach to construction may be possible if the EOI is lodged and successful.

CP15 - Community Facilities Shire Wide S94 Plan contains proposals for a Bogangar/Tanglewood unspecified community facility. This provides for 292m² floor space costed at \$1,008,272 for buildings and \$161,396 for land, and is given a high priority (second after Pottsville Neighbourhood Centre extension). At 30 July 2011 this Plan had an account balance of \$703,761, but most of these funds (at least \$500,000) are allocated to the completion of the Pottsville Neighbourhood Centre extension.

As a result Council has little capital funds available to match any potential State Government grant without a major change to the adopted Long Term Financial Plan.

It is also unclear the amount of ongoing operational and maintenance costs that Council would be obliged to fund. It would appear that the State Government is attempting to reduce its funding responsibilities in relation to PCYC's.

Recreation Services Program

The site is currently at design stage for an additional playing field in line with the site's Master Plan. During this process, several endangered flora and fauna species have been identified and may severely restrict available land for development under the current Sports Field Master Plan.

The site also supports the Recreational Services Coastal Depot and Works Precinct Team. These services will require additional space as the coastal strip from Kingscliff to Pottsville develops to maintain service levels.

The current Sporting facility on the site services three clubs, Junior Rugby League, Senior Rugby League and Touch football. The facility also provides a large hall for community functions and use and a small office facility that together generates income to supplement the building maintenance costs of the facility.

Existing sports club users are experiencing significant pressure due lack of available field space and are strongly requesting Council to increase available field space in line with the Master Plan. The clubs are very well patronised and have a high usage of the fields for the cooler eight to nine months of the year and a lower usage over the summer period when only Touch use the facilities. The site also supports a small skate park that is well patronised by local youth.

While Junior league has strong synergy with the PCYC, Touch has a lesser synergy and the Senior League has a low synergy capacity due to the age groups involved and the sale of alcohol. For this reason, it is considered that the option of incorporating the PCYC with the existing facility would not be appropriate.

The option of a separate PCYC building on the site is the only possible option to accommodate the full needs of this site. A possible location for this would be at the south eastern corner of the site between the existing sports field and skate park. It is important to note that while this option is conceivable, considerable further confirmation is required to ensure the arrangement can be fully accommodated. Issues to be resolved include:

- The required expansion to the sporting field can be accommodated within the available site. It is important that these sport field development plans, which still require detailed design, are not compromised.

- Endangered flora and fauna species can be suitably addressed without further compromising site usage and development.
- The planned skate park expansion will be affected and will require redesign.
- The proposed PCYC location is currently used as car parking on game days and other high use times. Additional parking must be identified to accommodate the area lost to the PCYC footprint, and the requirements generated by the PCYC operations
- Site access upgrades, including vehicular and pedestrian, may be required.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council would be the owner of the facility, and as set out in the Expression of Interest would be expected to lease the premises to the PCYC at a peppercorn rent. Ongoing staff and operational costs would be funded by PCYC.

A Crown Land licence would be required for this development. Council already pays an annual lease fee for use of this Crown Land.

PCYC EOI re Operational Costs:

PCYC responsibilities:

All outgoing costs incurred as a result of "day to day" operations ie. electricity; gas; rates; phone; insurance coverage for Industrial Specific Risk, Contents, Public Liability, Director's Insurance, Motor Vehicle; general repairs incurred, ie. broken windows etc.

Council responsibilities:

Maintenance of building would include general "wear and tear", ie. flooring. Replacement costs for air-conditioning system would be negotiated between lessor and lessee. Insurance coverage for building, ie. "bricks and mortar".

Although not 100% standard practice, some PCYC clubs have established "sinking funds". Contributions are set aside by both parties to cover long term replacement costs, ie. air-conditioning systems etc.

The cost of a proposed toilet block in the vicinity of the skate park may be a saving to Council.

POLICY IMPLICATIONS:

Expressions of interest were called on 8 August 2011 by the Minister for Police & Emergency Services inviting Councils who wish to establish a new PCYC in their local government area. A PCYC project would be fully compatible with, and would significantly advance, Council's 2011-2015 Community Strategic Plan youth needs objectives for the Tweed Coast area and the Facility Plan 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. Concept Plan of PCYC Base Club Design Building on Les Burger Field (ECM 40103510)
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REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

26 [EO-CM] Donation of Park Bench by Residents of Bupa Care Services

ORIGIN:

Works

SUMMARY OF REPORT:

A request has been submitted to Council by the residents of Bupa Care Services to donate a park bench with a plaque reading "donated by the residents of Bupa Care Services".

Bupa Care is located at Ballymore Court, Tweed Heads South and it has been proposed that the bench would be placed within Lot 51 DP 881261 which is Council Operational Land at the end of Ballymore Court.

It is recommended that Council accept the donation of the park bench and plaque from the residents of Bupa Care Services and install same within Lot 51 DP 881261.

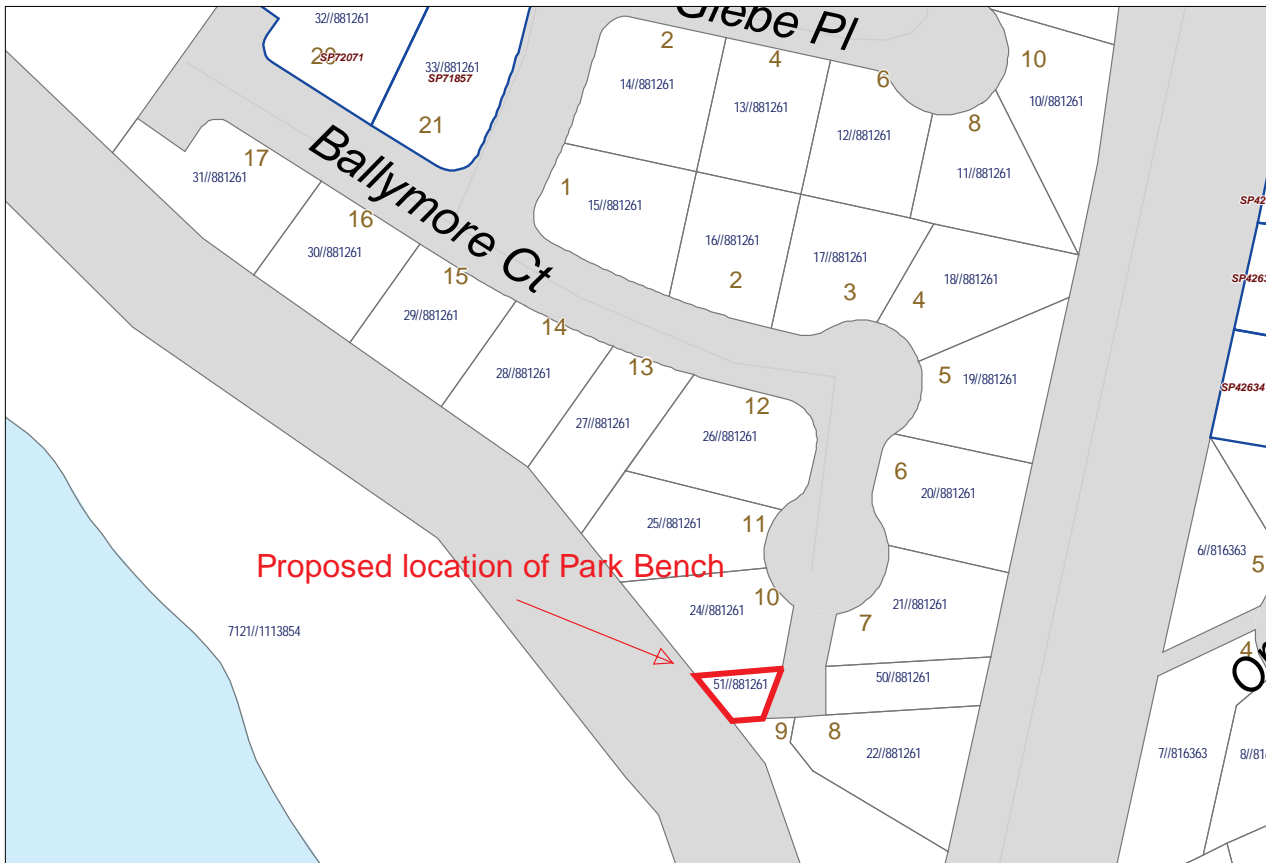
RECOMMENDATION:

That Council accepts the donation of the park bench and plaque from the residents of Bupa Care Services and installs same within Lot 51 DP 881261.

REPORT:

A request has been submitted to Council by the residents of Bupa Care Services to donate a park bench with a plaque reading “donated by the residents of Bupa Care Services”.

Bupa Care is located at Ballymore Court, Tweed Heads South and it has been proposed that the bench would be placed within Lot 51 DP 881261 which is Council Operational Land at the end of Ballymore Court as shown below. Lot 51 is a designated drainage reserve.



The staff at the facility advise that as part of the daily exercise routine for the physically impaired and mobile residents is to walk them to the end of Ballymore Court. It would be highly beneficial to the residents to have a place to rest at this point before walking back to the facility.

It is recommended that Council accepts the donation of the park bench and plaque from the residents of Bupa Care Services and installs same within Lot 51 DP 881261.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Letter from Bupa Care Services (ECM 30139375).
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27 [EO-CM] Transfer of Sewer Pump Station - Lot 409 DP 1162588 - Seaside City, Kingscliff

ORIGIN:

Design

FILE NO: DA05/1464

SUMMARY OF REPORT:

Council has received transfer documentation for a sewer pump station at Seaside City.

The transfer relates to consent condition 3.125 of a Land and Environment Court determination which requires to owner to dedicate the sewer pump station site to Council. It is now necessary to resolve to approve the transfer and execute the documentation under the Common Seal of Council.

RECOMMENDATION:

That:

- 1. Council approves the transfer of Lot 409 DP 1162588 for sewer pump station; and**
- 2. Executes all documentation under the Common Seal of Council.**

REPORT:

Council has received transfer documentation for a sewer pump station at Seaside City.

The transfer arises from a consent condition imposed by the Land and Environment Court following Council's refusal of an application for subdivision.

Following is a brief history of the Seaside development, provided in a report received by Council on 21 September 2010 regarding the development.

Seaside City History

Seaside City comprises a 32 hectare parcel of land. Seaside City was approved for subdivision in the 1920s and comprises 205 titled lots (including the area between Cudgen Creek and the development). Richtech Ltd owned approximately 85% of the lots with the remainder individually owned. Cudgen Creek forms the western edge to the study area and the Pacific Ocean to the east.

The site was never serviced and accordingly development of the site was problematic, specifically given the multiple landowners. The revitalisation of the site occurred when Richtech (the primary land owner) instigated a series of DA's to enable the servicing of the site.

Accordingly, in 2005 Council received and considered three Development Applications (DA05/0775, DA05/0793 and DA05/1464) which all sought approval for the carrying out of works for the purposes of land clearing, earthworks, construction of roads and other services in preparation of the further development of the existing lots.

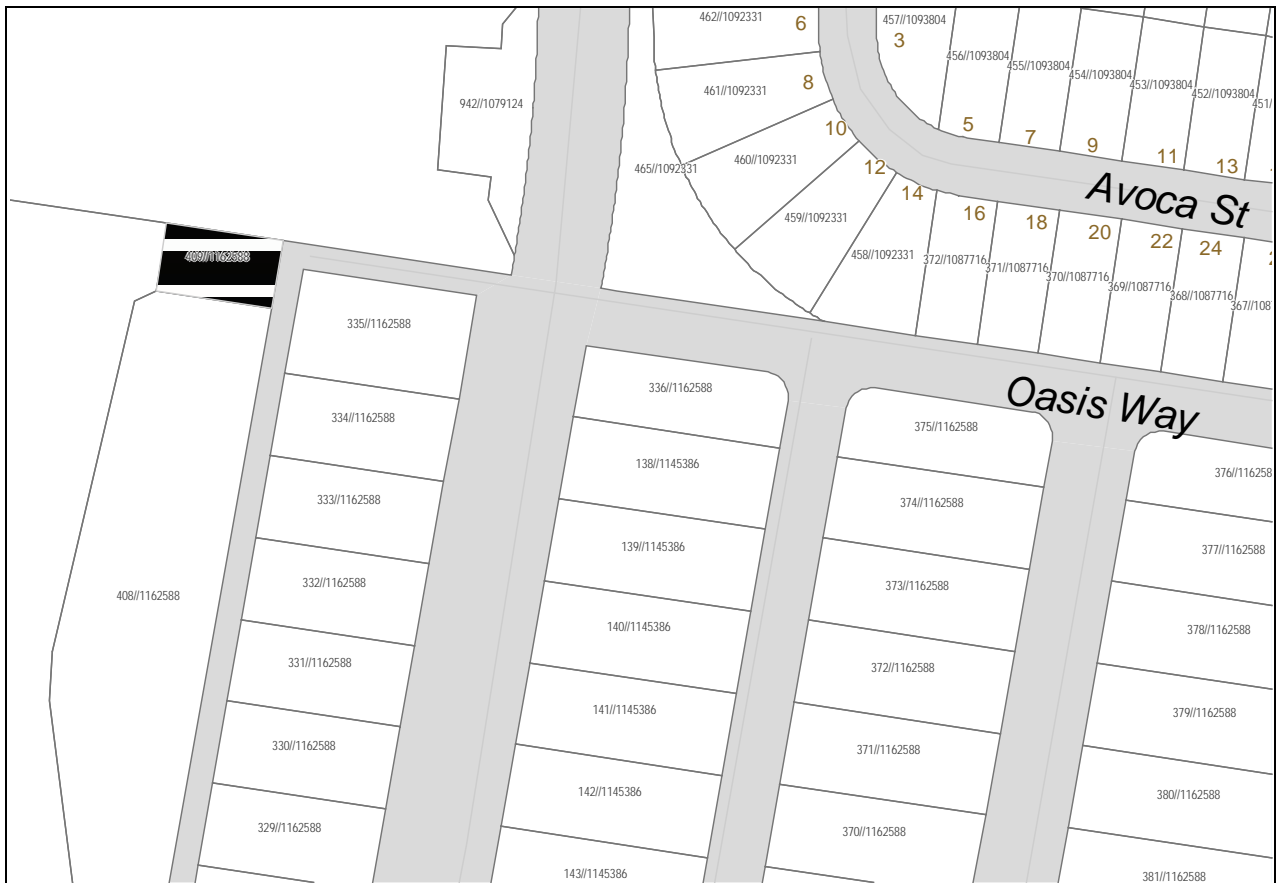
DA05/1464 was considered and ultimately determined by the NSW Land & Environment Court, while DA05/0775 and DA05/0793 were consequently approved by Council.

As part of the approvals a site specific Development Control Plan (Tweed DCP Section B11) and site specific S94 Plan (Tweed S94 Plan No. 28) was created in relation to the Seaside City Development. Additionally a specific Planning Agreement was created between Tweed Shire Council and Richtech Pty Ltd to allow Tweed Shire Council to collect funds on behalf of Richtech from non Richtech owned land to contribute to the cost of the bulk earthworks and servicing across the site.

Since approval of DA05/1464 the applicant has received the relevant Construction Certificates to act on the development consents issued to date. These Construction Certificates service the site with all the essential services (water, sewer, roads, telecommunications, power etc) thus enabling applications like this to be considered on its merits.

The transfer documentation refers to consent condition 3.125 of the Land and Environment Court determination which requires the owner to dedicate the sewer pump station site to Council. It is now necessary to resolve to approve the transfer and execute the documentation under the Common Seal of Council.

The plan below shows the location of the pump station, hatched, in the north-western corner of the development:



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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28 [EO-CM] Acquisition of Proposed Easement for Underground Powerlines Variable Width within Lot 34 DP 260432 - Shearwater Parade, Tweed Heads South

ORIGIN:

Design

SUMMARY OF REPORT:

Council has received a request from the legal representatives of Essential Energy, formerly Country Energy, for concurrence to the acquisition of a proposed Easement for Underground Powerlines within Lot 34 DP 260432, Togo Reserve on Shearwater Parade at Tweed Heads South.

Lot 34 is a public reserve and classified as community land, there is no Council infrastructure within the easement corridor.

The *Local Government Act 1993*, enables Council to approve the creation of easements within community land pursuant to section 46(1)(a), whereby Council can grant an estate in the land, for the provision of public utilities and works associated with or ancillary to public utilities.

An “estate or interest” in this context is an “interest, right or encumbrance”. An easement, by definition is a “right enjoyed by the owner of one piece of land to carry out some limited activity (short of taking possession) on another piece of land”.

A valuation determining compensation to be paid to Council was also provided to Council, showing the sum of \$3,000, and this is acceptable due to the lack of impact on the Reserve.

It is recommended that Council approve the acquisition of the easement and execute all documentation under the Common Seal of Council.

RECOMMENDATION:

That Council:

- 1. Approves the acquisition of Easement for Underground Powerlines Variable Width within Lot 34 DP 260432 at Shearwater Parade, Tweed Heads South by Essential Energy;**
- 2. Approves the quantum of compensation payable for the acquisition from Council;**
- 3. Executes all documentation under the Common Seal of Council.**

Lot 34 is a public reserve and classified as community land, there is no Council infrastructure, that is, stormwater, sewer or water reticulation or within the easement corridor. There are no trees or vegetation in the proposed easement corridor.

The *Local Government Act 1993*, enables Council to approve the creation of easements within community land pursuant to section 46(1)(a), whereby Council can grant an estate in the land, for the provision of public utilities and works associated with or ancillary to public utilities.

An “estate or interest” in this context is an “interest, right or encumbrance”. An easement, by definition is a “right enjoyed by the owner of one piece of land to carry out some limited activity (short of taking possession) on another piece of land”.

A valuation determining compensation to be paid to Council was also provided to Council, showing the sum of \$3,000, and this is acceptable due to the lack of impact on the Reserve.

It is recommended that Council approve the acquisition of the easement and execute all documentation under the Common Seal of Council.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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29 [EO-CM] EC2011-183 Supply and Delivery of Bitumen Emulsion

ORIGIN:

Contracts

FILE NO: EC2011-183

SUMMARY OF REPORT:

This report outlines the tender for the Supply and Delivery of C170 Bitumen Emulsion to Council's bulk storage tanks located at the Murwillumbah and Tweed Heads Depots. The Bitumen Emulsion product is used in Council's Jet Patcher machines for maintenance pot holing and sealing activities across the Shire's road network.

The supply contract will be for a two (2) year period from 1 November 2011 until 31 October 2013. Recommendations have been formulated based on the Selection Criteria and Pricing Report included in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the tender of Downer EDI Works for the Supply and Delivery of Bitumen Emulsion for a two (2) year period from 1 November 2011 until 31 October 2013.

Attachment A is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

RECOMMENDATION:

That:

- 1. The tender from Downer EDI Works be accepted for the Supply and Delivery of Bitumen Emulsion for a two (2) year period from 1 November 2011 until 31 October 2013. Supply rates are subject to rise and fall and linked to the General Market Price for C170 bitumen ex Shell (Qld : Pinkenba) list price currently at \$930 / tonne (GST Excl)**

2. The ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

REPORT:

Background

Council Tender EC2011-183 invited submissions for the Supply and Delivery of Bitumen Emulsion to Councils bulk storage tanks located at the Murwillumbah and Tweed Heads Depots. The supply contract will be for a two (2) year period from 1 November 2011 until 31 October 2013.

The Bitumen Emulsion product is used in Council's Jet Patcher machines for maintenance pot holing and sealing activities across the Shire's road network.

Suppliers were required to provide a rate per litre for C170 bitumen delivered to either of Council's storage points.

Tenders Received

A total of three (3) responses were received for tender EC2011-183 Supply and Delivery of Bitumen Emulsion.

Tender submissions were received from:

Downer EDI Works Pty Ltd
Boral Resources (Qld) Pty Ltd
Fulton Hogan Industries Pty Ltd

Tender Evaluation

The Tender Evaluation was conducted by Council's Manager Works and Engineering Admin Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

Based on pricing and proven performance, it is recommended that Tenderer Downer EDI Works be awarded the contract for the Supply and Delivery of Bitumen Emulsion.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding is provided within the 2011/2012 Budget for EC 2011 183 supply and Delivery of Bitumen Emulsion.

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** - EC2011-183 Supply and Delivery of Bitumen Emulsion (ECM 40005469).
-

30 [EO-CM] EC2011-132 tender for the supply of Two (2) Tracked Excavator Units CCF Class 20: 20,000Kg>25,000Kg

ORIGIN:

Works

SUMMARY OF REPORT:

This report outlines the tender for the supply of Two (2) Tracked Excavator Units for Council operations.

Council advertised tenders EC2011-132 on 23 July 2011 for the Supply of Two (2) Tracked Excavators with a closing date of 4pm 17 August 2011.

The tender was advertised in the following media groups:

**Sydney Morning Herald
Brisbane Courier Mail
Gold Coast Bulletin
Tweed Link
Councils Web Site.**

The recommendation has been formulated based on the Selection Criteria which is contained in Confidential Attachment A.

CONFIDENTIAL ATTACHMENT A

Attachment A is **CONFIDENTIAL** in accordance Section 10A (2) (d) of the Local Government Act 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

RECOMMENDATION:

That:

- 1. The Tender from CJD Equipment Pty Ltd for the supply of Two (2) Tracked Excavators be accepted to the value of \$505,000 exclusive of GST.**

2. **ATTACHMENT A** be treated as **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

REPORT:

Background

Council Tender EC2011-132 used the open tender process to invite responses for the Supply of Two (2) Tracked Excavator Units- CCF Class 20: 20,000Kg>25,000Kg.

The following assessment criteria were used in the equipment evaluation process:

1. **NPV** – Price, Whole of Life - parts and fuel costs.
2. **Operational evaluation** – Safety, build quality, emissions and environmental considerations, fuel consumption, operational ability, historic equipment issues, product backup and innovation, machine and power train warranty.
3. **Maintenance evaluation** – Ease and speed of maintenance, service and parts accessibility on machine, technician's safety when servicing, parts availability from supplier, after sales service on previous machines, breakables, and innovation in engineering.
4. **Operator evaluation** – Ergonomics in cab and controls, safety, power, comfort, operation of hydraulics, visibility under operation and daily maintenance checks.

Tenders Received

A total of Fourteen (14) responses were received for tender EC2011-217 - Supply of Two (2) Tracked Excavators for Council operations.

After an evaluation against tender requirements, the following five machines/suppliers were shortlisted:

- | | | |
|----|------------------------|--|
| 1. | CJD Equipment | - Volvo EC210CL |
| 2. | Chesterfield Australia | - Kobelco SK210 LC-8 |
| 3. | Komatsu Australia | - Komatsu PC200LC-8 and Komatsu HB215LC-1 (Hybrid) |
| 4. | WesTrac | - Caterpillar 320DL |
| 5. | BT Equipment | - Sumitomo SH210LC-5 |

Tender Evaluation

The Tender and product evaluation was conducted by Council's Evaluation Panel, consisting of the Plant and Materials Coordinator, Maintenance Technician and Two Equipment Operators. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

The following table shows the Tenderer's and their products, against each of the assessment criteria.

Two (2) Tracked Excavator Units CCF Class 20: 20,000Kg<25,000Kg

	Assessment rating	40%	30%	15%	15%	Total
Tenderer	Make and Model	NPV (Whole of Life)	Operational Assessment	Maintenance Evaluation	Operator Evaluation	
WesTrac	CAT 320DL	27.0%	24.7%	11.1%	14.3%	77.1%
Komatsu Australia	Komatsu PC200LC-8	38.2%	24.7%	6.5%	10.7%	80.1%
Komatsu Australia	Komatsu HB215LC-1 (Hybrid)	40.0%	22.6%	6.5%	10.7%	79.8%
CJD Equipment	Volvo EC210-CL	34.6%	24.7%	12.9%	13.3%	85.4%
BT Equipment	Sumitomo SH210LC-5	25.4%	19.8%	9.2%	6.6%	61.0%
Chesterfield Australia	Kobelco SK210LC-8	33.5%	24.4%	11.1%	7.2%	76.1%

After product analysis, product evaluation and criteria weighting, it is recommended that:-

- **CJD Equipment** be nominated for EC2011-132 for the supply of Two (2) Tracked Excavator Units to Tweed Shire Council.

Details of Tenderer's relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Evaluation Committee.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding is provided within the 2011/2012 Budget for the supply of Two (2) Tracked Excavator Units for Council operations.

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 – EC2011-132 for the supply of Two (2) Tracked Excavator Units. (ECM 40003395)**
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31 [EO-CM] Draft Section 94 Contributions Plan No31 – Terranora Area E

ORIGIN:

Planning and Infrastructure

SUMMARY OF REPORT:

At the 19 July 2011 Council meeting, draft Development Control Plan Section B24 – Area E Urban Release Development Code (DCP-B24) was placed on public exhibition. Area E cannot function without the provision of essential services and access, therefore a draft Section 94 Developer Contribution Plan has been prepared as a means of providing the necessary public infrastructure works.

Concurrently with the DCP and S94 Contributions process, the NSW Department of Planning and Infrastructure is considering a Part 3A application over the eastern part of Area E called by the proponents "Altitude Aspire". It is understood that the Department is anxious for Council to speedily resolve the DCP/CP process so they can proceed with determination of the Part 3A application within a settled strategic planning and contributions framework.

The infrastructure proposed to be provided under this plan is:

- Acquisition of a road corridor and construction of the Broadwater Parkway
- Upgrading of Mahers Lane
- Acquisition of land, earthworks and embellishment of three structured public open space sporting fields
- Acquisition of land and embellishment of various casual public open space areas throughout the development
- Acquisition of Council easements over existing an existing flood levee and two drainage channels through private environmental zoned land to the north of the urban area adjacent to Trutes Bay.
- Capping of the levee and installation of new stormwater outlets to service the development
- Provision of a tidal floodgate at the existing flow control structure in the levee for mosquito control.

The proposed contributions under the draft plan are \$34,777 per dwelling or subdivision lot, however when combined with other contributions plans current and under review, the aggregate contribution is likely to be \$56,064. Section 64 water supply and sewerage headworks contribution are not included in the Section 94 Plan and are subject to separate additional payment.

The resolution of the Contributions Plan may be prolonged because under the terms of the Minister for Planning S94E Direction of 3 March 2011, Council cannot apply a contribution of more than \$30,000 per lot/dwelling without the approval of the minister.

After exhibition of this contributions plan and consideration of submissions, a report and recommendations on the final form of the contributions plan is expected to be submitted concurrently to Council with the submissions report on the Area E DCP. The report on the contributions plan will amongst other matters be likely to recommend that the draft contributions plan be forwarded to the Department of Infrastructure and Planning for their assistance on a process for obtaining the Minister for Planning's approval for the plan and its exceedence of the \$30,000 cap.

RECOMMENDATION:

That

- 1. Council adopts Draft S94 Plan No 31 – Terranora Area E Version 1.0 as a basis for exhibition and community discussion/consultation.**
- 2. Draft S94 Plan No 31 – Terranora Area E Version 1.0 is exhibited as required by the Environmental Planning and Assessment Regulations.**

REPORT:

1. Background

At the 19 July 2011 Council meeting, draft Development Control Plan Section B24 – Area E Urban Release Development Code (DCP-B24) was placed on public exhibition by Council. Area E cannot function without the provision of essential services and access, therefore a draft Section 94 Developer Contribution Plan has been prepared as a means of providing the necessary public infrastructure works. The draft plan is called Contribution Plan No.31 – Terranora Area E (CP31) and applies only to land within the Area E urban release area. The infrastructure to be provided in CP31 has been deduced from the draft DCP, except for minor variations that have arisen during the strategic design and estimating process that has enabled the works program for CP31 to be compiled.

Area E consists of steep land, sloping downwards to the flat lands bordering Trutes Bay. Most of the site is not served by services or access from surrounding urban area. The cost of servicing Area E is therefore very high and this is reflected in the level of contributions in the draft plan. The level of necessary contributions is well above the NSW Government's contribution cap.

Concurrently with the DCP, S94 Contributions process, the NSW Department of Planning and Infrastructure is considering a Part 3A application over the eastern part of Area E called by the proponents "Altitude Aspire". It is understood that the Department is anxious for Council to speedily resolve the DCP/CP process so they can proceed with determination of the Part 3A application within a settled strategic planning and contributions framework.

The resolution of the Contributions Plan will be prolonged because under the terms of the Minister for Planning S94E Direction of 3 March 2011, Council cannot apply a contribution of more than \$30,000 per lot/dwelling without the approval of the minister.

There seem to be two alternative processes for gaining such approval:

1. The applicant gives written agreement to the higher contribution (difficult in Area E where there are over 30 landowners) or
2. Council can submit the proposed S94 Contributions Plan to the Independent Pricing and Regulatory Tribunal (IPART). IPART reviews the Plan and will give advice and make recommendations to the minister for Planning and Council regarding the Plan. This process is supposed (see various Department of Planning Circulars and Practice Notes) to take place before the draft contributions plan is exhibited.

There is also a NSW Department of Planning Circular (PS 10-22, 16 September 2010) directing that they review all draft contributions plans before they are placed on public exhibition. However there is contrary advice that the circulars do not have any legislative power and are not enforceable.

At this time, notwithstanding the directions of various NSW Department of Planning Circulars and Practice notes, it is proposed to place draft Section 94 Plan No.31 Area E on public exhibition for the following reasons:

- The exhibited Area E DCP presents an incomplete picture of the strategic planning of Area E without the accompanying draft contributions to advise on the cost of necessary infrastructure

- The Area E Landowners and the public need to be informed of both the way Area E is to developed (the DCP) and the accompanying infrastructure cost (the Contributions Plan) so they can make meaningful submissions on the Area E Plans.
- The proponents of the Altitude Aspire Part 3A application need to consider the draft contributions plan so they can decide whether they support the contributions proposed per lot/dwelling which are above the Government's cap. And to decide whether they will advise the NSW Department of Planning and Infrastructure that they are agreeable to have the Part 3A application determined within the Contributions Plan No.31 framework.
- The Part 3A application determining authority (The NSW Department of Planning and Infrastructure) need to have the Contributions Plan progressed so they can determine the Altitude Aspire application, having some confidence that there is in place a mechanism to provide the necessary infrastructure for both Altitude Aspire and the remainder of Area E.
- Placing Draft CP31 on exhibition now will give all stakeholders a mechanism to review and make submissions on the proposed infrastructure and associated contributions.

It is further proposed that after exhibition and consideration of submissions, that a report and recommendations on the final form of the contributions plan be submitted concurrently to Council with the submissions report on the Area E DCP. The report on the contributions plan will amongst other matters likely is to recommend that the draft contributions plan be forwarded to the Department of Planning and Infrastructure for their assistance on a process for obtaining the Minister for Planning's approval for the plan and its exceedence of the \$30,000 cap.

Draft CP31 identifies the need to provide the following infrastructure works due to the new development, apportioned at 100% to the Area E development:

- Acquisition of a road corridor and construction of the Broadwater Parkway
- Upgrading of Mahers Lane
- Acquisition of land, earthworks and embellishment of three structured public open space sporting fields
- Acquisition of land and embellishment of various casual public open space areas throughout the development
- Acquisition of Council easements over existing an existing flood levee and two drainage channels through private environmental zoned land to the north of the urban area adjacent to Trutes Bay.
- Capping of the levee and installation of new stormwater outlets to service the development
- Provision of a tidal floodgate at the existing flow control structure in the levee for mosquito control.

Draft CP31 does not provide for the collection of developer contributions to fund

- External arterial road network
- Libraries
- Bus shelters
- Cemeteries
- Community facilities
- Council administration offices,
- Cycleways

- Regional open space

These facilities are the subject of shire wide contributions plans that also apply to Area E.

Draft CP31 does not provide for internal subdivision infrastructure that is required by DCP A5 - Subdivision Manual, nor does it provide for Water supply and sewerage, S64 headworks charges.

Draft CP31 does not provide for the collection of developer contributions to fund the acquisition and rehabilitation of environmental land. In accordance with the NSW Department of Planning's *Draft Development Guidelines 2009*, the acquisition and rehabilitation of environmental land is not considered to be an eligible public amenity or services, and as such cannot be funded by developer contributions. According to the Guidelines, planning agreements and other funding sources such as government grants should be pursued in order to undertake environmental works.

It had been expected that Draft CP31 would provide for acquisition and environmental rehabilitation of Lot 227. For the preceding reasons and because it is not possible to establish a reasonable nexus between this activity and the development of Area E, Draft CP31 does not provide for acquisition and environmental rehabilitation of Lot 227 DP755740.

2. Works Program

2.1 Broadwater Parkway and Mahers Lane

Broadwater Parkway is the major connector road proposed to service the Area E Urban Release Area, connecting to Fraser Drive to the east, and Mahers Lane / Terranora Road to the west. Mahers Lane is an existing road with a varying cross section. The carriageway requires upgrading and realignment in order to service the traffic demands of the development.

Broadwater Parkway and Mahers Lane were previously included as Local Area Contributions in Contribution Plan No.4 – Tweed Road Contribution Plan (TRCP). The Local Area Contributions are to be deleted from the TRCP as part of a review in 2011 (Version 6) to be submitted to Council in November 2011, in order for it to be included in CP31. The eastern portion of Broadwater Parkway, adjacent to and including the intersection with Fraser Drive has been retained in the TRCP, within the general works program. This intersection is located just south of Amaroo Drive and will require acquisition of privately owned land.

Broadwater Parkway is 2.16 km in length and is to be constructed to Connector Road standard, being 13.4m kerb to kerb width from Fraser Drive to the Area E Town Centre and 11m kerb to kerb width from the Town Centre to Mahers Lane. It includes three bridges to accommodate north flowing water courses originating upstream towards Terranora Road. The largest bridge is 40m long and located immediately west of the Town Centre. A signalised intersection has been provided at the Town Centre. The cost estimate allows for acquisition of land for road, construction of road, off road cycleway, lighting, bridges and intersections.

The upgrade of Mahers Lane is 1.38km long and is 11m wide kerb to kerb Connector Road standard. The upgrade will be on the existing road reserve so there are no acquisition costs. The cost estimate allows for construction of the road, off road cycleway and lighting.

Estimated Cost

Broadwater Parkway	\$19,634,388
Mahers Lane	\$1,906,443
Total	\$21,540,830

The above roadworks are currently in Contributions Plan No.4 (TRCP), as a specific Area E, Local Area Contribution (LAC). As the works are now to be in CP31, the Local area contribution for area E will be deleted from the TRCP.

2.1 Open Space

For the purposes of deriving the area of land set aside for public open space Council has adopted the commonly used standard of 2.83 hectares per 1000 persons. This standard has generally been adopted by the Land and Environment Court for developing areas (Department of Planning 1992).

Public open space shall be provided in the following proportions:

- 1.7 hectares (60%) "structured" open space (sports fields) per 1000 persons);
- 1.13 hectares (40%) "casual" open space (neighbourhood parks, etc) per 1000 persons.

Estimated Population of Area E as per Exhibited Draft DCP, 3,782 persons			
	Open Space Areas required (ha) in accordance with above formula	Open Space Proposed in exhibited draft DCP	Open Space provided in this Contributions Plan
Structured	6.4294	6.81	6.11
Casual	4.2737	5.2143	4.211

Whilst there is a small variance between the areas required by formula and actual areas provided in this plan the variations are small and deemed acceptable.

2.11 Structured Open Public Space

The following table summarises the estimated cost for the provision of structured public open space in Area E:

Structured summary	OS		Gross Area (ha)	Net Area Structured OS (ha)
Field 1		Village Centre	4.17	3.00
Field 2		Mahers Lane	2.89	1.46
Field 3		Central	2.09	1.65
Total			9.15	6.11

Assumed land value \$850,000 per ha

Structured OS summary		Net Area (m2)	Cost	Comment
Field 1	Village Centre	30,000	\$8,842,720	1 AFL/cricket field & infrastructure. An additional 7,000m2 allocated to casual open space (see Sport field No. 1 park)
Field 2	Mahers Lane	14,600	\$5,987,431	1 rectangle field & infrastructure. An additional 10,400m2 allocated to casual open space (see Sport field No.2 park)
Field 3	Central	16,500	\$6,325,496	1 rectangle field & infrastructure & 1,900m2 used as unallocated sports field space
Total		61,100	\$21,155,612	

2.12 Casual Open Public Space Costings

The following table summarises the provision of casual public open space in Area E:

Casual OS summary		Area (m2)	Cost	Comment
Park 1	Altitude Aspire North	5,500	\$1,170,217	
Park 2	Altitude Aspire South	5,570	\$1,181,524	
Park 3	Altitude Aspire Central	0	\$0	Does not meet DCP-A5 subdivision standards, so not included in casual OS calculations
Park 4	Parkes Lane	3,640	\$853,885	
Park 5	Central East	4,500	\$1,138,976	
Park 6	Central West	5,500	\$1,439,950	
Sport field no.1 park	Village Centre	7,000	\$1,228,338	
Sport field no.2 park	Mahers Lane	10,400	\$1,692,586	Same land parcel as Sports field 2
Public toilet			\$201,858	4 WC, location to be decided
Total		42,110	\$8,907,333	

Costings are as follows:

Field Number	1. Altitude Aspire North	2. Altitude Aspire South	3. Altitude Aspire Central – does not comply with DCP-A5 requirements	4. Parkes Lane
Land Acquisition	\$467,500	\$484,500	NA	\$309,400
Earthworks	\$113,750	\$168,000	NA	\$62,500
Road Access	\$109,500	\$98,550	NA	\$140,160
Embellishment and services	\$326,830	\$276,362	NA	\$230,449
Contingency (15%)	\$152,637	\$154,112	NA	\$111,376
TOTAL	\$1,170,217	\$1,181,524	NA	\$853,885
Field Number	5. Central East	6. Central West	Sports field 1 Casual Park	Sports field 2 Casual Park
Land Acquisition	\$382,500	\$467,500	\$595,000	\$884,000
Earthworks	\$102,000	\$175,000	\$0	\$0
Road Access	\$240,900	\$284,700	\$0	\$0
Embellishment and services	\$265,014	\$324,930	\$473,120	\$587,814
Contingency (15%)	\$148,562	\$187,820	\$160,218	\$220,772
TOTAL	\$1,138,976	\$1,439,950	\$1,228,338	\$1,692,586
Public Toilet	4 x Unisex WCs	Location to be confirmed	TOTAL	\$201,858
TOTAL STRUCTURED OPEN SPACE				\$8,907,333

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?

The timing of provision of the public infrastructure will be dependent on the cash flow from developer contributions which is dependent on the rate of development of Area E. This is not within Council's power to control. However as contributions are paid, infrastructure will be provided incrementally as the contribution cash flow permits. The full provision of infrastructure will not be completed until all of Area E is developed and all contributions have been collected. This timing is considered reasonable.

(b) What will be the impact of the proposed development contribution on the affordability of the proposed development?

The development contributions required are considerable and will have a negative impact on affordability. This is inevitable as the physical constraints of the land are such that provision of necessary infrastructure is very expensive.

(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?

Yes. 100% is apportioned to the new demand as none of this infrastructure is needed for existing demand.

(d) Is the proposed development contribution based on a reasonable estimate of the cost of proposed public infrastructure?

Yes. Estimates are based on the latest available concept plans, current market rates for construction and contingencies based on the principles in the NSW RTA publication "Project Estimating" 31 March 2008.

(e) Are the estimates of demand for each item of public infrastructure to which the proposed development contribution relates reasonable?

Yes. Demand for open space is based on standard provision of 2.83ha per 1,000 populations. The road provision is based on a single collector standard road with connections to Fraser Drive in the east and Terranora Road in the south west.

4. Calculation

Summary works program:

Road Works	\$21,540,830
Structured Open Space	\$21,155,612
Casual Open Space	\$8,907,333
Stormwater and Flooding Facilities	\$588,724
TOTAL	\$52,192,499

Applying the revised works program cost to the current population estimate (3,782 people) based on the development yield forecast by DCP-B24 (1799 allotments), the plan results in the following contribution rates:

	Persons	Road Works Base Rate	Structured Open Space Base Rate	Casual Open Space Base Rate	Stormwater / Flooding Facilities Base Rate	TOTAL
Per person	1	\$5,980	\$5,873	\$2,473	\$163	\$14,490
Per Lot/ET	2.4	\$14,353	\$14,096	\$5,935	\$392	\$34,777
Detached dwelling	2.4	\$14,353	\$14,096	\$5,935	\$392	\$34,777
1 bedroom unit	1.3	\$7,775	\$7,635	\$3,215	\$212	\$18,837
2 bedroom unit	1.7	\$10,167	\$9,985	\$4,204	\$278	\$24,633
3 bedroom unit	2.1	\$12,559	\$12,334	\$5,193	\$343	\$30,430
4+ bedroom unit	2.4	\$14,353	\$14,096	\$5,935	\$392	\$34,777

5. How this Plan Relates to Other Contribution Plans

5.1 Plans Applying to Area E

The following contributions plans apply now, prior to adoption of CP31:

S94-04 Tweed Road Contribution Plan	9,926.00
S94-04 TRCP, Local area charge, Area E	3,601.00
S94-05 Casual Open Space	526.00
S94-05 Structured Open Space	602.00
S94-11 Libraries	792.00
S94-12 Bus Shelters	60.00
S94-13 Cemeteries	120.00
S94-15 Community Facilities	1,325.00
S94-18 Council Administration building & depots	1,772.82
S94-22 Cycleways	451.00
S94-26 Regional Casual Open Space	1,042.00
S94-26 Regional Structured Open Space	3,656.00
S94 contribution per lot including indexation	\$ 23,873.82

As advised elsewhere in this report, the local area charge for Area E units to be removed from the TRCP and placed in CP31.

Including draft CP31 into this mix results in the following aggregate S94 charges:

S94-04 Tweed Road Contribution Plan	9,926.00
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S94-04 TRCP, Local area charge, Area E	0.00
S94-11 Libraries	792.00
S94-12 Bus Shelters	60.00
S94-13 Cemeteries	120.00
S94-15 Community Facilities	1,325.00
S94-18 Council Administration building & depots	1,772.82
S94-22 Cycleways	451.00
S94-26 Regional Casual Open Space	1,042.00
S94-26 Regional Structured Open Space	3,656.00
S94-31 Terranora Area E	34,777
S94 contribution per lot including indexation	\$ 53,921.82

There are also amendments to the TRCP (CP4) and CP15 (Community facilities) that are likely to be submitted to Council for approval to exhibit by the end of 2011.

The affect of these further amendments on Area E Section 94 Contributions is as follows:

S94-04 Tweed Road Contribution Plan	11,902
S94-04 TRCP, Local area charge, Area E	0
S94-11 Libraries	792
S94-12 Bus Shelters	60
S94-13 Cemeteries	120
S94-15 Community Facilities	1,491.00
S94-18 Council Administration building & depots	1,772.82
S94-22 Cycleways	451
S94-26 Regional Casual Open Space	1,042
S94-26 Regional Structured Open Space	3,656
S94-31 Terranora Area E	34,777
S94 contribution per lot including indexation	\$ 56,064

Clearly the aggregate contribution for a subdivision lot or dwelling at Area E will exceed the NSW Government's cap by a considerable amount and will need the Ministers approval if CP31 is to proceed to be applied to development approval conditions.

6. Issues with the Contributions Cap

6.1 Section 94E Direction, 3 March 2011

Clause 6(3) of Section 94E Direction dated 3 March 2011 issued by the Minister for Planning Tony Kelly limits the contributions per dwelling or allotment at Area E Terranora to \$30,000 per dwelling or subdivision lot.

Clause 6(4) advises that "A council (or planning panel) may, in a particular case, require, as a condition of development consent, the payment of a monetary contribution that exceeds the maximum amount of the contribution calculated in accordance with subclause (2) or (3), but only with both the written agreement of the applicant for the consent and the written approval of the Minister, given before the condition is imposed."

The applicant for Altitude Aspire has verbally indicated that such approval is likely to be given for their application, however there are more than 30 other landowners at Area E and securing agreement from them all could be difficult.

Council is bound by this direction; however the direction can be replaced by the current Minister.

6.2 NSW Department of Planning Circular PS 10-022, 16 September 2011

Amongst other matters this circular advises:

"Preparing new Contributions Plans

Before a draft contributions plans is publicly notified a council must seek approval from the Department to publicly exhibit the draft plan.

What if a developer agrees to make a contribution over the cap?

Where an applicant wishes to pay a contribution, identified in a contributions plan, that exceeds the determined cap the Minister may, on the application of a council and support of the developer, approve a higher contribution amount than is authorised under the Direction.

A council will need to make an application to the Minister.

This application is to:

- *be accompanied a by letter from the applicant agreeing to pay more than the maximum amount and that this is agreed to voluntarily*

provide the following detail:

- *the relevant Development Application (DA) or area, and what the DA will authorise*
- *the number of dwelling/or lots and the land to which the application relates*
- *the maximum contribution under the cap*
- *the name of the relevant contributions plan*
- *the rate per/dwelling or per lot under the contributions plan*
- *the public amenities and public services that are being levied for (compared against the essential works list)*
- *the details of any security*
- *provide justification for an increase above the cap*
- *identify the total value of the contribution payable."*

.....
"The role of IPART

Under the new regime, the Independent Pricing and Regulatory Tribunal (IPART) will be involved for the first time in the implementation of the development contributions system.

IPART's role will include reviewing:

- *new contributions plans above the relevant cap*
- *development contributions plans above the relevant cap for those councils that are seeking priority infrastructure funding, and*
- *development contributions plan above the relevant cap for those councils that are seeking a special rate variation.*

In addition, IPART will be responsible for developing and calculating annually a Local Government Cost Index and a productivity factor for council rates and reviewing councils' applications for special variations under the Local Government Act 1993."

6.3 Local Development Contributions Practice Note - For the Assessment of Local Contributions Plans by IPART - November 2010

This is a 13 page practice note that fleshes out the requirements of submissions to IPART.

6.4 The Way Forward

Discussions with the representatives of NSW Department of Planning and Infrastructure, who are assessing the "Altitude Aspire" Part 3A Application, indicate that they are uncertain of how the section 94 cap matter will be resolved. They have undertaken to seek further internal advice within the Department of how the matter may be progressed.

It is considered that delaying public exhibition will not serve the process of reaching resolution of Area E strategic planning and infrastructure funding. It is therefore proposed, notwithstanding the contrary directions of Department of Planning Circulars to proceed with public exhibition of the contributions plan and concurrently negotiate with the Department on the means to process the approval to exceed the contributions cap of \$30,000.

The Draft Plan (copy attached) is attached to this report and is recommended for exhibition.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The adoption of Draft *Section 94 Plan No 31 – Terranora Area E* will enable Council to collect developer contributions for the provision of road infrastructure, embellished structured and casual public open space areas and stormwater and flood management facilities in the Area E Urban Release Area. If the Draft Plan is not adopted, the development of Area E cannot proceed as Council would not be able to fund and provide the infrastructure necessary for Area E to proceed.

The process for approval of draft CP31 is uncertain as it is caught up with the previous NSW Government's attempts to place a cap on developer contributions on dwelling or residential lot. There are various processes suggested in Department of Planning Circulars and Practice Note to resolve the matter and further advice will be sought.

POLICY IMPLICATIONS:

Contributions are required so that Council is able to provide the road infrastructure, embellished structured and casual public open space areas and stormwater and flood management facilities identified by DCP-B24 as being required as a result of development.

UNDER SEPARATE COVER:

1. Draft Developer Contribution Plan No.31 – Terranora Area E Version 1.0 (DW 40250959)
 2. Section 94E Direction, 3 March 2011 (DW 40252006)
 3. NSW Department of Planning Circular PS 10-022, 16 September 2011 (DW 40250991)
 4. Local Development Contributions Practice Note - For the Assessment of Local Contributions Plans by IPART - November 2010 (DW 40252000)
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REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

32 [TCS-CM] Budget Review - 2010/11 Carry Over Works

ORIGIN:

Financial Services

SUMMARY OF REPORT:

This report provides details of the funds to be carried forward from 2010/11 to the 2011/12 budget.

RECOMMENDATION:

That:-

- 1. The Budget Review - 2010/11 Carry Over Works be adopted.**
- 2. The expenditure and income, as detailed within the report, be voted for the year ending 30 June 2012.**

REPORT:

Budget Review – 2010/11 Carry Over Works

This report provides details of the funds to be carried forward from 2010/11 to the 2011/12 budget.

The carried forward works represent those projects/services that could not be completed in 2010/11 for a variety of reasons. The funding of these works fall into the following categories:

- Unexpended Loans
- Reserves Funds
- Grants
- Section 94
- Sales

Within these funding sources, the carry over works from the 7 year works and services plan, and the 2004/05 rate variation, have been separately identified.

In/Ex	Description	Carry over amount
General Expenses		
Ex	Tweed Heads Auditorium	12,139
Ex	City of the Arts Expenditure	11,737
Ex	Cultural Development Fund	16,231
Ex	Goorimahbah Public Art	39,200
Ex	Seniors officer	18,523
Ex	Access Funding	28,717
Ex	Anti Drugs Campaign	17,000
Ex	Social Development Fund	3,407
Ex	Pottsville Beach Neighbourhood Centre Extensions s94	564,901
Ex	CDSE Doon Doon Community Project	4,000
Ex	Hannaford ITEG Grant 11-12	5,655
Ex	ConnectEd Arts Program 2011	145
Ex	Visions Macleod Touring Grant	19,536
Ex	Art NSW Triennial 2011	22,109
Ex	Insect/Vermin Cnt Other	5,000
Ex	Building Maintenance / Repairs	20,000
Ex	SES/Flood Rescue - Pottsville Shed	77,120
Ex	Black SpotTyalgum Road – Curve Markers etc	16,690
Ex	Keith Compton Drive Foreshore Cycleway	6,866
Ex	Cycleway Kennedy Drive	15,932
Ex	Project Management System	9,358
Ex	Street Lighting Expenses	265,272
Ex	Pedestrian Fac Grant	99,957
Ex	Tweed Valley Way Speed Zone Project	8,460
Ex	40km High Pedestrian Activity Zone - Riverside Dr Tumbulgum	57,304
Ex	RTA Funding Traffic	54,833
Ex	Traff Fac-Classified Rds	9,456
Ex	Traff Fac Council Rds	3,126
Ex	Pedestrian Facilities	16,000
Ex	Pandanus Parade Pedestrianisation	2,903
Ex	Cross Border Traffic Master Plan Pacific Hwy Corridor S94	15,364
Ex	South Tweed Flood Levee – Investigation & Design Stage 2	43,682
Ex	NDMP 08-09 TV Floodplain RM Comp & Impl	49,927
Ex	NDMP 08-09 Tweed Shire Coastal Creeks	134,304
Ex	Voluntary purchase - general	139,462
Ex	NDMP FRMS	162,057

Ex	NDMP TV Community Flood Awareness \$45K	17,615
Ex	Country Passenger Transport Interchange	8,500
Ex	Country Passenger Transport Interchange	29,689
Ex	Sth Tweed Levee Invest'n/Shire Flood Warning	76,501
Ex	Road Safety Off Ancillary	220
Ex	Road Safety Programs	41,542
Ex	Traineeships & Apprenticeships	50,864
Ex	T.V. Transport Info Service	1,000
Ex	Library Grant Exp	166,910
Ex	MoT Western Villages Bus Service	1,031
Ex	M'Bah Museum Capital	93,849
Ex	Tweed Valley Respite Centre	495,000
Ex	Youth Week Grant Expenditure	1,945
Ex	Black Spot Kyogle Rd 3km West of Kunghur	110,806
Ex	River Street	160,000
Ex	R2R Kyogle Road Snake Creek Bridge Approach	34,142
Ex	R2R Nobbys Creek Rd sealing school bus route	18,212
Ex	Piggabeen Road Pt R2R	166,690
Ex	FAG Road Grant	614,763
Ex	Federal Assistance Grant Maintenance	1,132,109
Ex	Repair Prog Funding	21,058
Ex	Black Spot Funding	3,465
Ex	Clothiers Creek Road land purchase	399,266
Ex	Maintenance MR7733	15,955
Ex	Bridges	491,708
Ex	Drainage	866,360
Ex	Rural roads	208,019
Ex	Urban Street	448,526
Ex	TH Masterplan Implementation	10,000
Ex	Local Growth Management Plans	20,000
Ex	Stage 1 Shirewide LEP	2,389
Ex	Local growth management plans	1,304
Ex	Tweed City Centre LEP	16,911
Ex	Developer funded studies - expenditure	21,479
Ex	Tweed Shire Comm - Based Heritage Study	9,061
Ex	Museum / Historical Operations	77,411
Ex	Migration – Final Stage	4,805
Ex	Disabled ramp Murwillumbah Museum	20,000
Ex	Koala Management Plan	30,000
Ex	Northern Rivers Carpool	10,000
Ex	Casuarina Blossum Bat Rehabilitation	93,049
Ex	LPMA Noxious Weeds Crown Land Casuarina	1,500
Ex	Krekelberg Environmental Park	2,673
Ex	USP Bray Park Wetland & Blacks Drain	61,597
Ex	Env Trust Improve Urban & Peri Urban Bushland	528,080
Ex	UNSW Remediation Acidified Coastal Environments	30,000
Ex	Riparian Vine Weed Mapping & Suppress	22,979
Ex	Supporting Sustainable Agriculture in the Tweed	21,976
Ex	Salt Dune Rehabilitation	34,800
Ex	NRCMA Funding	33,310
Ex	NRCMA Community Support Project Tweed	1,602
Ex	NRCMA Development of a model Biodiversity DCP ISB	33,316
Ex	Connect littoral rainforest Tweed Coast	592
Ex	Recovery of Threaten Species in Priority Implementation Area	87,625
Ex	NRCMA 3 Tweed Biodiversity Enhancement Site Action Plan	3,240
Ex	Protection and Restoration of the Pottsville Wetlands	40,000
Ex	Koala Connections NSW Environmental Trust	47,685
Ex	Tweed Sustainable Agriculture Strategy	20,000
Ex	Care Group Training	4,000
Ex	Significant Tree Identification	23,678
Ex	Koala Beach	44,040
Ex	Plan of Management Duranbah Beach	10,000
Ex	NSW Maritime Chinderah Boat Ramp Upgrade	2,853

Council Meeting held Tuesday 18 October 2011

Ex	MIP Boat Ramps	20,974
Ex	Fingal Head & Condong Boat Ramp upgrade	16,745
Ex	Boat Ramps Construction	54,458
Ex	Canal Maintenance	12,955
Ex	Lwr Tweed Mgt Plan	1,741,479
Ex	Expansion of Byrill Ck Restoration Program	58,751
Ex	Catchment Water Quality	81,676
Ex	COP Operating Costs	85,692
Ex	SAS	9,170
Ex	COMPACKS Expenditure	279,514
Ex	Support Coordination (OPC) Expenses	117,951
Ex	Podiatry	910
Ex	Kirkwood Road Stage1	6,846,909
Ex	Contracts Section	10,000
Ex	Innovation Fund	186,829
Ex	Software Maintenance	44,000
Ex	Misc Operating Costs	38,000
Ex	New Computer Items	7,000
Ex	Records Storage/Disposal	53,822
Ex	Richmond Tweed Council Co - operation	576
Ex	Internet/Intranet	- 20,000
Ex	Leases / Hardware	160,000
Ex	Proclaim revival project	16,003
Ex	Think Act Be Safe campaign	3,300
Ex	Occ Health & safety	1,000
Ex	Asset Management Systems	34,207
Ex	Risk Management Program	81,363
Ex	Land Purchase Open Space	84,635
Ex	Kingscliff Central Park	15,577
Ex	Sale Yards	23,719
Ex	Murwillumbah Airfield	65,061
Ex	Economic Development - internal	12,505
Ex	Tourism - Internal	37,045
Ex	Tweed Heads VIC	30,000
Ex	Murwillumbah VIC	134,345
Ex	Donation To RFS	17,301
Ex	Bush Fire Control Expenses	285,030
Ex	Fire Mitigation Works Fund 2010/11	1,554
Ex	Civic Buildings Asset Mgt	31,116
Ex	Pt Danger Lighthouse Asset Mgt	15,202
Ex	Chillingham Village Common	9,441
Ex	Terranora Village Open Space Embellishment	145,374
Ex	Pottsville Env Park (Bond Inc)	116,044
Ex	Murwillumbah Regional Hockey Complex s94	500,000
Ex	Asset maintenance trades plant replacement	30,572
Ex	Beach Control	23,134
Ex	Acquisitive Prize BAP	2,200
Ex	Art Gallery Operating Expenses	9,980
Ex	Prizes	6,651
Ex	1864 Projects - Guppy	6,489
Ex	Acquisitive Prize Community Printmakers	2,800
Ex	Cabarita Beach SLSC s64/94 fees deferral	114,462
		<hr/>
		20,687,594
General funding sources		
In	Grant funds	4,756,270
In	Loan funds	2,743,987
In	Reserve funds	1,320,065
In	Works carried reserve funds	4,093,064
In	s94 funds	7,774,209
		<hr/>
		20,687,594
7 Year Plan expenses		
Ex	Asset management Levees & Floodgates	200,352
Ex	Flood studies coastal creeks 2D (7YP)	17,233

Ex	Cultural Arts Seed Funding	630
Ex	Arts Traineeship and Mentorship	2,572
Ex	Administrative assistant (Community)	2,825
Ex	Community Centre Murwillumbah	1,319,694
Ex	Youth Activities Program	1,693
Ex	Youth Transport	9,457
Ex	Improved Services for Shire Youth	2,834
Ex	Aboriginal Community Development	120,660
Ex	TRRM Flagstaff	370,000
Ex	Murwillumbah Auditorium refurbishment	48,288
Ex	Community Buildings Renovations	37,470
Ex	Amenities Hall Kingscliff	56,529
Ex	Amenities Hall K'cliff Recurring costs	5,651
Ex	Library extension Kingscliff	2,990,920
Ex	Youth Strategy recurring costs	23,180
Ex	Jack Evan Boatharbour	902,128
Ex	Pottsville North drainage outlet - Elanora	6,276
Ex	West Kingscliff Drain - Gales/Bowling Club	1,524,560
Ex	Locality Plans - Rural Villages	50,000
Ex	Waterways Asset Replacement	112
Ex	Vegetation Management Strategy	288,863
Ex	Duranbah Beach Plan of Management	57,412
Ex	Tweed Coast Estuaries Management Plan 04-08 & River Mgt	195,193
Ex	Bushland maintenance officer	2,500
Ex	Land purchase - open space	100,000
Ex	Economic Development - Internal	42,956
Ex	Tourism & Promotion - Internal	54,000
Ex	WHRC Redevelopment	512,840
Ex	SES Operation Centre additions Banora Po	70,000
Ex	Environmental Health Compliance - Carava	18,041
Ex	Emergency Management Plan Implementation	56,476
Ex	Building Compliance Officer	47
Ex	SES Operations Centre Banora Point	4,575
Ex	Pool Upgrade Kingscliff (including Shde	936
Ex	Surf Life Patrols	28,576
Ex	Surf Life Saving Strategy 2020	1,367
Ex	Park asset maintenance	264,072
Ex	Parks Asset Renewal	266,828
Ex	Regional Sport & Recreational Facilities	1,614,726
Ex	Sportsgrounds capital works (local)	493,804
Ex	Botanical Gardens Visitors Centre	500,000
Ex	Jack Evans Boatharbour recurring costs	100,000
Ex	St Joseph Sports Amenties	200,000
Ex	Internal Auditor/Corporate Planning	34,697
		<hr/>
		12,600,973

7 Year Plan funding sources

In	Revenue	2,978,710
In	Loans	3,743,874
In	Grants	828,263
In	Reserves	48,288
In	S94	4,305,729
In	Sales	696,109
		<hr/>
		12,600,973

2004/05 Rate Rise expenses

Ex	Urliup Rd Sealing School Bus Route	319,059
Ex	Bus Route Rate Rise Surplus/Deficit	300,000
Ex	Footpath repairs	13,699
Ex	Nobbys Creek Rd	5,000
Ex	Asphalt Resheeting	350,582
		<hr/>
		988,340

2004/05 Rate Rise expenses

In	Revenue	988,340
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General Fund

Based on current projections the General Fund is expected to remain as a “balanced budget”.

Water Fund

Based on current projections the Water Fund is expected to remain as a “balanced budget”.

Sewer Fund

Based on current projections the Sewer Fund is expected to remain as a “balanced budget”.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As discussed in the report.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

33 [TCS-CM] 2010/2011 Statutory Financial Reports/Audit Report

ORIGIN:

Financial Services

SUMMARY OF REPORT:

Council's Statutory General Purpose Financial Reports in accordance with Section 413 of the Local Government Act, 1993 and the Special Purpose Financial Reports in accordance with the Local Government Code of Accounting Practice and Financial Reporting for the financial year ended 30 June 2011 have been completed.

Section 413 (2) – A council's financial reports must include:

- (a) a general purpose financial report;
- (b) any other matter prescribed by the regulations; and
- (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.

RECOMMENDATION:

That the statement as to Council's opinion on the General Purpose Financial Reports as required by Section 413 (2) (c) of the Local Government Act and the Special Purpose Financial Reports as required by the Local Government Code of Accounting Practice and Financial Reporting be executed.

REPORT:

Background

Council's Statutory General Purpose Financial Reports in accordance with Section 413 of the Local Government Act, 1993 for the financial year ended 30 June 2011 have been completed.

Legislation Requirements

The Local Government Act 1993 ("the Act") relating to the preparation of Council's annual financial reports requires that:

1. Section 413 – A council must prepare financial reports for each year, and must refer them for audit as soon as practicable after the end of that year.
2. Section 413 (2) – A council's financial reports must include:
 - (a) a general purpose financial report;
 - (b) any other matter prescribed by the regulations; and
 - (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.
3. Section 413 (3) – The general purpose financial report must be prepared in accordance with the Act and the regulations and the requirements of:
 - (a) the publications issued by the Australian Accounting Standards Board, as in force for the time being, subject to regulations; and
 - (b) such other standards as may be prescribed by the regulations.
4. Section 416 – A council's financial reports for a year must be prepared and audited within the period of 4 months after the end of that year.
5. Section 418 – Upon receiving the Auditor's Report, the Act requires the Council to give at least 7 days public notice of the meeting at which it proposes to present its audited financial reports, together with the Auditor's Report, to the public.
6. Section 420 – Any person may make a submission to the Council with respect to the Council's audited financial reports or with respect to the Auditor's Report.
7. Clause 215 of the Local Government (General) Regulation, 2005 requires that the Statement under Section 413 (2) (c) on the annual financial report must be made by resolution of the Council and signed by the Mayor, at least one (1) other member of Council, the General Manager and the Responsible Accounting Officer.
8. Section 417 (5) - It is a requirement that lodgement of the Audited Financial Statements and the Auditors Report be submitted to the Chief Executive of the Division of Local Government by 7 November of each year.

Council's Statutory General Purpose Financial Reports and Special Purpose Financial Reports for the financial year ended 30 June 2011 have been completed. Due to the timing of the October Council meeting, the receipt of the Auditor's Report and the requirement to give at least 7 days public notice of the meeting at which it proposes to present its audited financial reports, the presentation of the Financial Reports to the public will be held at the November Council meeting.

The Audited Financial Statements and Auditors Report will be sent to the Division of Local Government by 7 November as required.

Income Statement

for the financial year ended 30 June 2011

Budget ⁽¹⁾		Actual	Actual
2011	\$ '000	2011	2010
Income from Continuing Operations			
<i>Revenue:</i>			
73,408	Rates & Annual Charges	73,336	67,124
29,353	User Charges & Fees	31,866	29,377
9,046	Interest & Investment Revenue	10,202	9,085
1,509	Other Revenues	8,879	7,581
14,401	Grants & Contributions provided for Operating Purposes	18,762	19,560
22,808	Grants & Contributions provided for Capital Purposes	15,822	24,484
<i>Other Income:</i>			
-	Net gains from the disposal of assets	-	-
-	Net Share of interests in Joint Ventures & Associated	-	-
-	Entities using the equity method	-	-
150,525	Total Income from Continuing Operations	158,867	157,211
Expenses from Continuing Operations			
42,857	Employee Benefits & On-Costs	44,705	43,989
12,667	Borrowing Costs	12,061	10,337
43,103	Materials & Contracts	41,744	38,526
39,771	Depreciation & Amortisation	37,192	38,639
	Impairment	-	-
11,861	Other Expenses	12,900	11,920
	Interest & Investment Losses	-	-
-	Net Losses from the Disposal of Assets	4,663	4,779
	Net Share of interests in Joint Ventures & Associated	-	-
-	Entities using the equity method	17	16
150,259	Total Expenses from Continuing Operations	153,282	148,206
266	Operating Result from Continuing Operations	5,585	9,005
Discontinued Operations			
-	Net Profit/(Loss) from Discontinued Operations	-	-
266	Net Operating Result for the Year	5,585	9,005
266	Net Operating Result attributable to Council	5,585	9,005
-	Net Operating Result attributable to Minority Interests	-	-
(22,542)	Net Operating Result for the year before Grants and Contributions provided for Capital Purposes	(10,237)	(15,479)

(1) Original Budget as approved by Council - refer Note 16

Statement of Comprehensive Income

for the financial year ended 30 June 2011

\$ '000	Actual 2011	Actual 2010
Net Operating Result for the year (as per Income statement)	5,585	9,005
Other Comprehensive Income		
Gain (loss) on revaluation of I,PP&E	164,718	192,154
Gain (loss) on revaluation of available-for-sale investments	-	-
Gain (loss) on revaluation of other reserves	-	-
Realised (gain) loss on available-for-sale investments recognised in P&L	-	-
Realised (gain) loss from other reserves recognised in P&L	-	-
Impairment (loss) reversal relating to I,PP&E	-	-
Other Movements in Reserves (enter details here)	-	-
De-recognition of land under roads	-	-
Adjustment to correct prior period depreciation errors	-	174,754
Total Other Comprehensive Income for the year	164,718	366,908
Total Comprehensive Income for the Year	170,303	375,913
Total Comprehensive Income attributable to Council	170,303	375,913
Total Comprehensive Income attributable to Minority Interests	-	-

Balance Sheet

as at 30 June 2011

\$ '000	Actual 2011	Actual 2010
ASSETS		
Current Assets		
Cash & Cash Equivalents	157,411	137,299
Investments	4,024	7,559
Receivables	19,185	17,827
Inventories	1,660	1,212
Other	2,369	1,358
Non-current assets classified as "held for sale"	-	-
Total Current Assets	184,649	165,255
Non-Current Assets		
Investments	11,190	10,510
Receivables	2,913	2,861
Inventories	-	-
Infrastructure, Property, Plant & Equipment	2,526,044	2,342,044
Investments accounted for using the equity method	-	-
Investment Property	1,688	2,405
Intangible Assets	615	649
Non-current assets classified as "held for sale"	-	-
Other	-	-
Total Non-Current Assets	2,542,450	2,358,469
TOTAL ASSETS	2,727,099	2,523,724
LIABILITIES		
Current Liabilities		
Payables	14,786	10,403
Borrowings	6,419	4,699
Provisions	16,916	17,756
Liabilities associated with assets classified as "held for sale"	-	-
Total Current Liabilities	38,121	32,858
Non-Current Liabilities		
Payables	523	353
Borrowings	180,510	153,630
Provisions	4,943	4,184
Investments accounted for using the equity method	-	-
Liabilities associated with assets classified as "held for sale"	-	-
Total Non-Current Liabilities	185,976	158,167
TOTAL LIABILITIES	224,097	191,025
Net Assets	2,503,002	2,332,699
EQUITY		
Retained Earnings	1,172,242	1,166,657
Revaluation Reserves	1,330,760	1,166,042
Council Equity Interest	2,503,002	2,332,699
Minority Equity Interest	-	-
Total Equity	2,503,002	2,332,699

Statement of Changes in Equity
for the financial year ended 30 June 2011

\$ '000	Retained Earnings	Reserves	Council Equity Interest	Minority Interest	Total Equity
2011					
Opening Balance (as per Last Year's Auditor's Report)	1,166,657	1,166,042	2,332,699	-	2,332,699
a. Correction of Prior Period Errors	-	-	-	-	-
b. Changes in Accounting Policies (prior year effect)	-	-	-	-	-
Revised Opening Balance (as at 1/7/10)	1,166,657	1,166,042	2,332,699	-	2,332,699
c. Net Operating Result for the Year	5,585	-	5,585	-	5,585
d. Other Comprehensive Income					
- Revaluations : IPP&E Asset Revaluation Rsvs	-	164,718	164,718	-	164,718
- Revaluations: Other Reserves	-	-	-	-	-
- Transfers to Income Statement	-	-	-	-	-
- Impairment (loss) reversal relating to IPP&E	-	-	-	-	-
- Other Movements (TCHIP)	-	-	-	-	-
Other Comprehensive Income	-	164,718	164,718	-	164,718
Total Comprehensive Income (c&d)	5,585	164,718	170,303	-	170,303
e. Distributions to/(Contributions from) Minority Interests	-	-	-	-	-
f. Transfers between Equity	-	-	-	-	-
Equity - Balance at end of the reporting period	1,172,242	1,330,760	2,503,002	-	2,503,002

\$ '000	Retained Earnings	Reserves	Council Equity Interest	Minority Interest	Total Equity
2010					
Opening Balance (as per Last Year's Auditor's Report)	982,898	973,888	1,956,786	-	1,956,786
a. Correction of Prior Period Errors	174,754	-	174,754	-	174,754
b. Changes in Accounting Policies (prior year effect)	-	-	-	-	-
Revised Opening Balance (as at 1/7/09)	1,157,652	973,888	2,131,540	-	2,131,540
c. Net Operating Result for the Year	9,005	-	9,005	-	9,005
d. Other Comprehensive Income					
- Revaluations : IPP&E Asset Revaluation Rsvs	-	192,154	192,154	-	192,154
- Revaluations: Other Reserves	-	-	-	-	-
- Transfers to Income Statement	-	-	-	-	-
- Impairment (loss) reversal relating to IPP&E	-	-	-	-	-
- Other Movements (enter details here)	-	-	-	-	-
Other Comprehensive Income	-	192,154	192,154	-	192,154
Total Comprehensive Income (c&d)	9,005	192,154	201,159	-	201,159
e. Distributions to/(Contributions from) Minority Interests	-	-	-	-	-
f. Transfers between Equity	-	-	-	-	-
Equity - Balance at end of the reporting period	1,166,657	1,166,042	2,332,699	-	2,332,699

Statement of Cash Flows

for the financial year ended 30 June 2011

Budget		Actual	Actual
2011	\$ '000	2011	2010
Cash Flows from Operating Activities			
Receipts:			
73,408	Rates & Annual Charges	72,765	65,758
29,353	User Charges & Fees	32,109	28,196
9,046	Investment & Interest Revenue Received	8,921	7,751
24,709	Grants & Contributions	26,152	29,308
-	Increase of deposits held in trust ⁽¹⁾	207	424
1,509	Other	9,620	2,200
Payments:			
(42,857)	Employee Benefits & On-Costs	(43,751)	(44,033)
(43,103)	Materials & Contracts	(38,287)	(42,300)
(12,667)	Borrowing Costs	(12,326)	(9,955)
-	Refund of deposits held in trust ⁽¹⁾	(22)	(393)
(11,861)	Other	(14,670)	(16,555)
27,537	Net Cash provided (or used in) Operating Activities	40,718	20,401
Cash Flows from Investing Activities			
Receipts:			
-	Sale of Investment Securities	3,535	5,919
2,511	Sale of Infrastructure, Property, Plant & Equipment	1,348	1,207
-	Deferred Debtors Receipts	108	153
Payments:			
-	Purchase of Investment Securities	(680)	-
(72,477)	Purchase of Infrastructure, Property, Plant & Equipment	(53,500)	(33,089)
-	Purchase of Interests in Joint Ventures & Associates	(17)	-
(69,966)	Net Cash provided (or used in) Investing Activities	(49,206)	(25,810)
Cash Flows from Financing Activities			
Receipts:			
24,276	Proceeds from Borrowings & Advances	33,847	28,715
Payments:			
(6,044)	Repayment of Borrowings & Advances	(5,247)	(3,887)
18,232	Net Cash Flow provided (used in) Financing Activities	28,600	24,828
(24,197)	Net Increase/(Decrease) in Cash & Cash Equivalents	20,112	19,419
137,299	plus: Cash & Cash Equivalents - beginning of year	137,299	117,880
113,102	Cash & Cash Equivalents - end of the year	157,411	137,299
Additional Information:			
	plus: Investments on hand - end of year	15,214	18,069
	Total Cash, Cash Equivalents & Investments	172,625	155,368

(1) Recorded under Investing Activities in prior years

Council of Tweed Shire

**General purpose financial report
for the year ended 30 June 2011**

**Statement by Councillors and Management made pursuant to Section 413(2)(c) of the
Local Government Act 1993 (as amended)**

The attached General Purpose Financial Report has been prepared in accordance with:

- The Local Government Act 1993 (as amended) and the Regulations made thereunder.
- The Australian Accounting Standards and professional pronouncements.
- The Local Government Code of Accounting Practice and Financial Reporting.

To the best of our knowledge and belief, this Report:

- Presents fairly the Council's operating result and financial position for the year, and
- Accords with Council's accounting and other records.

We are not aware of any matter that would render this Report false or misleading in any way.

Signed in accordance with a resolution of Council made on Tuesday 18 October 2011

Barry Longland
Mayor

Phil Youngblutt
Councillor

Mike Rayner
General Manager

Michael Chorlton
Responsible Accounting Officer

Council of Tweed Shire

**Special purpose financial reports
for the year ended 30 June 2011**

Statement by Councillors and Management made pursuant to the Local Government Code of Accounting Practice and Financial Reporting

The attached Special Purpose Financial Reports have been prepared in accordance with:

- NSW Government Policy Statement "Application of National Competition Policy to Local Government"
- Division of Local Government Guidelines "Pricing & Costing for Council Businesses: A Guide to Competitive Neutrality"
- The Local Government Code of Accounting Practice and Financial Reporting
- The NSW Office of Water, Department of Environment, Climate Change and Water Guidelines

To the best of our knowledge and belief, these Reports:

- Present fairly the operating result and financial position for each of Council's declared Business Activities for the year, and
- Accord with Council's accounting and other records

We are not aware of any matter that would render the reports false or misleading in any way.

Signed in accordance with a resolution of Council made on Tuesday 18 October 2011

Barry Longland
Mayor

Phil Youngblutt
Councillor

Mike Rayner
General Manager

Michael Chorlton
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.

34 [TCS-CM] Monthly Investment Report for the Period Ending 30 September 2011

ORIGIN:

Financial Services

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Cl. 212 of the Local Government (General) Regulations and Council policies.

Council had **\$169,649,626** invested as at **30 September 2011** and the accrued net return on these funds was **\$797,421** or **5.64%** annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 30 September 2011 totalling \$169,649,626 be received and noted.

REPORT:

Report for Period Ending 30 September 2011

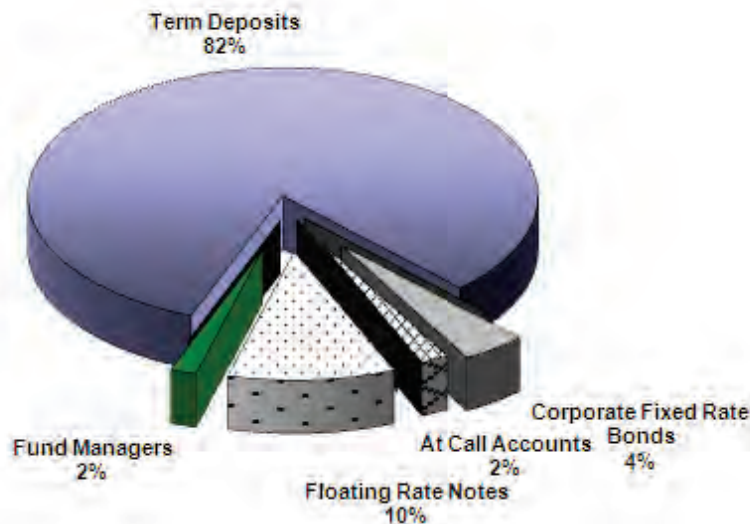
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

1. Restricted Funds as at 1 July 2011

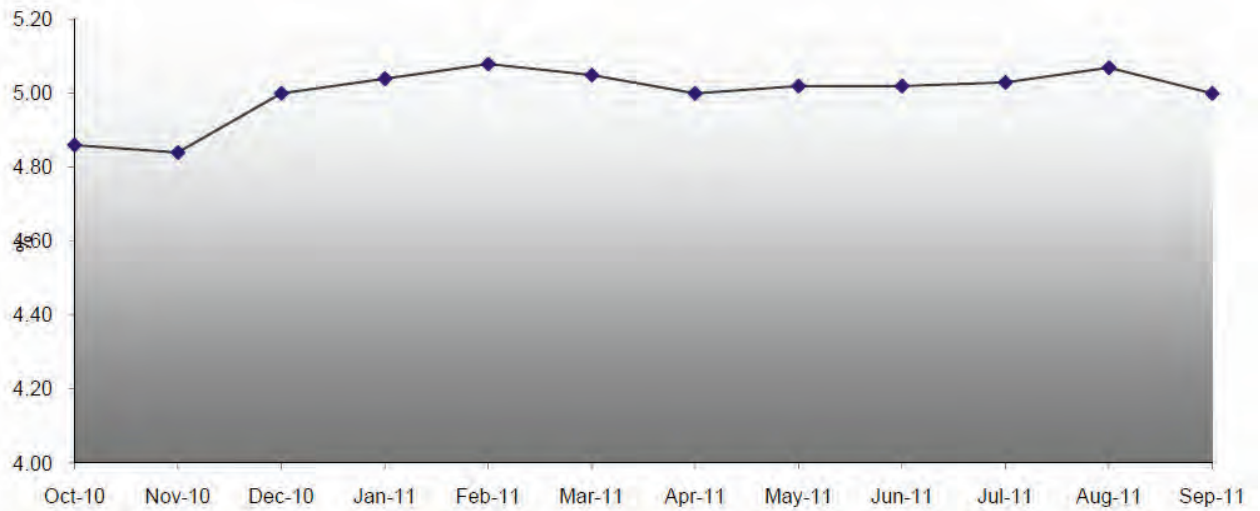
Description	(\$'000)			
	General Fund	Water Fund	Sewer Fund	Total
Externally Restricted	1,162	10,137	62,875	74,174
Crown Caravan Parks	12,430			12,430
Developer Contributions	27,770	15,770		43,540
Domestic Waste Management	8,373			8,373
Grants	3,395			3,395
Internally Restricted	16,613			16,613
Employee Leave Entitlements	2,199			2,199
Grants	3,404			3,404
Unexpended Loans	6,488			6,488
Total	81,834	25,907	62,875	170,616

Note: Restricted Funds Summary next update September 2012

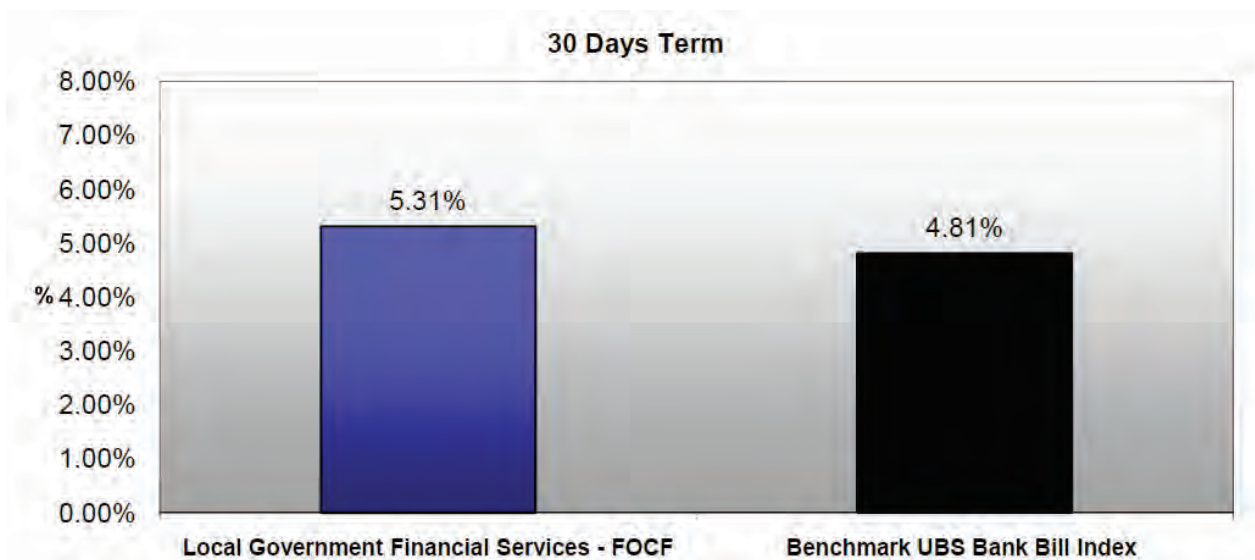
2. Investment Portfolio by Category



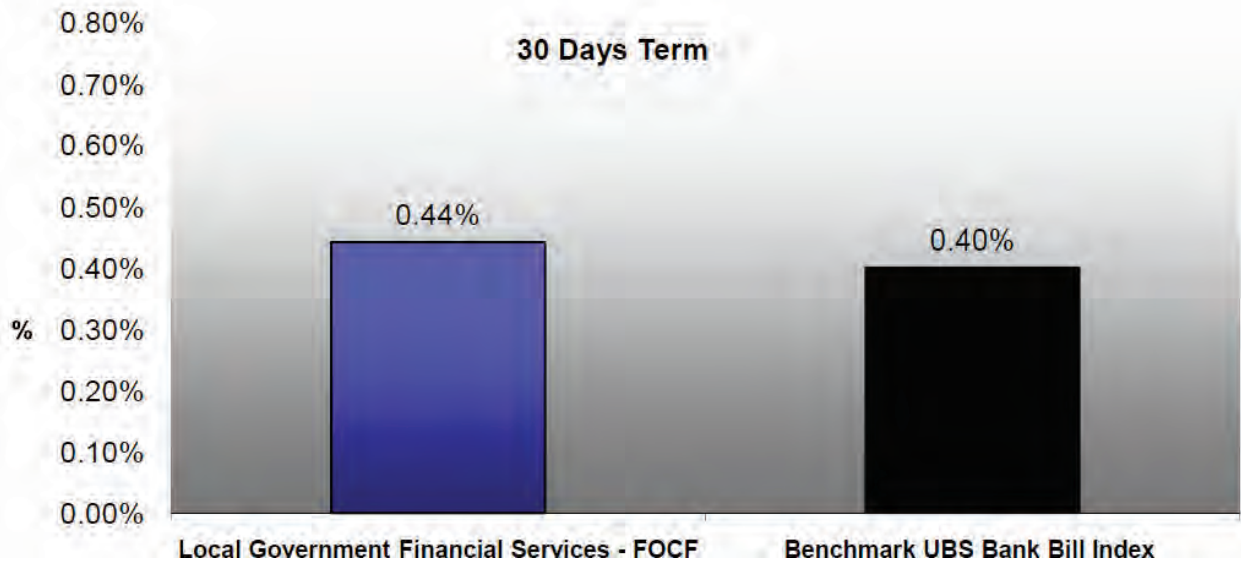
3. Benchmark 90 Day Bank Bill Rate



4. Funds Managers Performance for Month - Annualised Net of Fees and Change in Capital Value



5. Fund Managers for Month - Not Annualised
Net of Fees and Change in Capital Value



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
Local Government Financial Services FOCF Macquarie IP	AA-	100%	\$2,796,769	\$2,808,686	\$11,917
Total		100%	\$2,796,769	\$2,808,686	\$11,917

6. Direct Securities for Month

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date	Next Quarterly or Final Coupon
ANZ Bank	1,000,000.00	1,092,920.00	6.50	Fixed Rate Bond	08/11/2011	32,500.00
ANZ Bank	1,000,000.00	1,027,057.44	8.50	Fixed Rate Bond	22/04/2013	42,500.00
CBA Retail Bond	1,000,000.00	989,700.00	6.04	FRN	24/12/2015	18,500.00
CBA Retail Bond	498,250.00	494,850.00	6.45	FRN	24/12/2015	6,361.64
CBA Retail Bond	492,500.00	494,850.00	6.45	FRN	24/12/2015	
CBA	1,000,000.00	1,017,938.86	6.17	FRN	17/04/2012	15,378.50
CBA	1,000,000.00	998,549.05	6.20	FRN	02/08/2016	10,871.23
CBA	2,000,000.00	1,997,100.00	6.20	FRN	02/08/2016	13,249.32
CBA/Merrill Lynch Zero Coupon Bond	4,000,000.00	2,753,600.00	7.28	Fixed Rate Bond	22/01/2018	0.00
Citigroup Inc.	1,000,000.00	1,005,641.64	5.08	FRN	13/02/2012	10,577.53
Deutsche Bank	1,000,000.00	942,169.00	5.99	FRN	23/11/2012	15,102.37
Members Equity Bank	2,000,000.00	1,997,300.00	6.04	FRN	08/03/2012	30,196.16

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date	Next Quarterly or Final Coupon
National Australia Bank	2,000,000.00	1,979,580.00	5.92	FRN	21/06/2016	30,196.16
National Australia Bank	1,000,000.00	1,005,270.00	6.15	FRN	05/11/2015	30,196.16
Rabobank	1,000,000.00	1,002,510.00	6.13	FRN	27/07/2016	30,196.16
Suncorp Metway	2,000,000.00	1,990,420.00	6.12	FRN	26/05/2014	30,196.16
Westpac Bank	2,000,000.00	2,000,984.12		FRN	09/11/2015	30,196.16
Westpac Bank	1,000,000.00	1,025,250.00	7.25	Fixed Rate Bond	24/09/2012	30,196.16
Westpac Bank	1,000,000.00	1,025,250.00	7.25	Fixed Rate Bond	24/09/2012	36,250.00
Total	25,990,750.00	24,840,940.11	6.43			412,663.71

ABS = Asset Backed Security
Bond = Fixed Rate Bond
CDO = Collateralised Debt Obligation
FRN = Floating Rate Note

7. Term Deposits for Month

TERM DEPOSITS SORTED BY MATURITY AS AT 30/09/11									
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE	FORM	Notes	Maturity
11-Jul-11	11-Oct-11	Westpac (matures Jan 2016)	8,000,000.00	92	6.210	125,220.82	TD	Floating 90DBBSW + 1.05	27/06/2012
10-May-11	25-Oct-11	Bankwest	2,000,000.00	168	6.130	56,429.59	TD	Fixed Rate	04/10/2011
24-May-11	25-Oct-11	ING (RIMSEC)	1,000,000.00	154	6.060	25,568.22	TD	Fixed Rate	11/10/2011
12-Nov-08	14-Nov-11	Investec Bank	1,000,000.00	1099	6.880	207,153.97	TD	Floating Rate 90DBBSW +1.25%	11/01/2016
18-Aug-11	18-Nov-11	IMB (matures Nov 2011)	1,000,000.00	92	6.070	15,299.73	TD	Fixed Rate	18/10/2011
29-Aug-11	28-Nov-11	NAB (RBS) (matures Aug 2015)	2,000,000.00	91	6.060	30,216.99	TD	Fixed Rate	18/10/2011
31-Aug-11	30-Nov-11	IMB (matures Dec 2013)	2,000,000.00	91	6.120	30,516.16	TD	Fixed Rate	25/10/2011
05-Jan-11	05-Dec-11	Suncorp Metway	5,000,000.00	334	6.440	294,652.05	TD	Fixed Rate	25/10/2011
05-Jan-11	05-Dec-11	Suncorp Metway	2,000,000.00	334	6.440	117,860.82	TD	Fixed Rate	08/11/2011
04-Apr-11	10-Jan-12	Rabodirect	1,000,000.00	281	6.400	49,271.23	TD	Fixed Rate	11/11/2011
17-Feb-11	14-Feb-12	ING (RIMSEC)	1,000,000.00	362	6.450	63,969.86	TD	Floating 90DBBSW + 1.50	12/11/2013
16-Aug-11	14-Feb-12	Adelaide Bendigo Bank	2,000,000.00	182	6.000	59,835.62	TD	Fixed Rate	14/11/2011
06-Sep-11	06-Mar-12	Heritage BS	1,000,000.00	182	5.900	29,419.18	TD	Fixed 6.09% 3mths Floating 1.27% 9mths Floating 90DBBSW + 1.25	16/08/2012
03-May-11	08-May-12	NAB	2,000,000.00	371	6.330	128,681.10	TD	Floating Rate 90DBBSW + 1.21%	18/11/2011
21-Jul-11	24-Jul-12	NAB	5,000,000.00	369	6.320	319,463.01	TD	Fixed 7% & Floating 1.20%	18/02/2016
06-Aug-10	07-Aug-12	Adelaide Bendigo Bank	2,000,000.00	732	6.600	264,723.29	TD	Floating 90DBBSW + 1.25	27/08/2015
05-Aug-11	07-Aug-12	Members Equity Bank	1,000,000.00	368	6.300	63,517.81	TD	Floating 90DBBSW + 1.25	03/12/2013

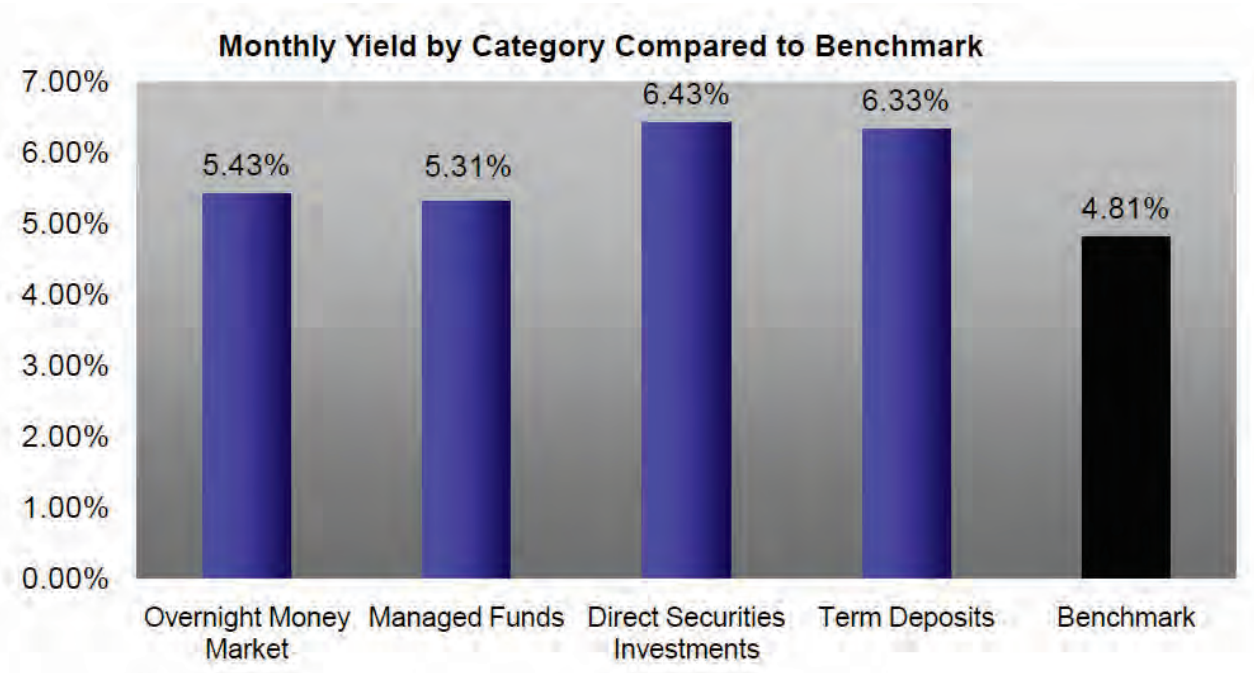
Council Meeting held Tuesday 18 October 2011

TERM DEPOSITS SORTED BY MATURITY AS AT 30/09/11									
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE	FORM	Notes	Maturity
31-Aug-11	04-Sep-12	ING (RIMSEC) (matures Sept 2012)	1,000,000.00	369	6.020	60,859.73	TD	Floating Rate 1.15%	29/05/2012
08-Dec-10	11-Dec-12	NAB Adelaide	2,000,000.00	733	6.950	279,142.47	TD	Fixed Rate	05/12/2011
22-Mar-11	19-Mar-13	Bendigo Bank	1,000,000.00	728	6.500	92,465.75	TD	Fixed Rate	05/12/2011
17-May-11	21-May-13	Investec Bank Suncorp Metway (RBS)	1,000,000.00	735	7.100	92,466.75	TD	Floating Rate 90DBBSW +1.95	10/06/2014
21-Jul-10	23-Jul-13		1,000,000.00	1097	7.300	219,400.00	TD	Fixed Rate	13/12/2011
12-Aug-10	13-Aug-13	Bank of QLD	2,000,000.00	1096	7.050	423,386.30	TD	Floating Rate 90DBBSW + 0.80	20/03/2012
01-Sep-10	02-Sep-13	NAB	4,000,000.00	1098	6.520	784,543.56	TD	Fixed Rate	21/12/2011
22-Mar-11	25-Mar-14	Bank of QLD	1,000,000.00	1099	6.750	203,239.73	TD	Fixed Rate	10/01/2012
22-Mar-11	22-Mar-16	RaboDirect	1,000,000.00	1827	7.150	92,466.75	TD	Fixed Rate	10/01/2012
03-Feb-11	08-Nov-11	Bank of QLD NAB (matures Aug 2012)	2,000,000.00	278	6.450	98,252.05	TD	Fixed Rate	17/01/2012
16-Aug-11	16-Nov-11	Westpac (matures Feb 2016)	1,000,000.00	92	6.090	15,350.14	TD	Fixed Rate	14/02/2012
18-Aug-11	18-Nov-11		2,000,000.00	92	6.030	30,397.81	TD	Fixed Rate	17/02/2012
02-Sep-11	02-Dec-11	NAB	5,000,000.00	91	6.020	75,043.84	TD	Fixed Rate	21/02/2012
07-Sep-11	07-Dec-11	ING	2,000,000.00	91	5.990	29,867.95	TD	Fixed Rate	21/02/2012
13-Sep-11	13-Dec-11	NAB LGFS CRI (matures Jun 2012)	2,000,000.00	91	6.030	30,067.40	TD	Fixed Rate	28/02/2012
28-Sep-11	28-Dec-11		4,000,000.00	92	5.862	59,098.78	TD	Fixed Rate	06/03/2012
16-Aug-11	21-Feb-12	Westpac	2,000,000.00	189	6.030	62,447.67	TD	Fixed Rate	06/03/2012
25-Aug-11	21-Feb-12	Heritage BS	1,000,000.00	180	6.000	29,589.04	TD	Fixed Rate	06/03/2012
30-Aug-11	28-Feb-12	Westpac	2,000,000.00	182	5.950	59,336.99	TD	Fixed Rate	13/03/2012
17-May-11	20-Mar-12	RaboDirect	1,000,000.00	307	6.300	52,989.04	TD	Fixed Rate	20/03/2012
25-May-11	22-May-12	ANZ	2,000,000.00	363	6.400	127,298.63	TD	Fixed Rate	20/03/2012
09-Jun-10	12-Jun-12	Investec Bank NAB (matures Jul 2012)	1,000,000.00	369	6.420	64,903.56	TD	Fixed Rate	08/05/2011
27-Jul-11	27-Jul-12		5,000,000.00	369	6.110	308,847.95	TD	Fixed Rate	22/05/2012
22-Mar-11	26-Mar-13	NAB	1,000,000.00	735	6.380	128,473.97	TD	Fixed Rate	22/05/2012
30-Aug-11	03-Sep-13	AMP Bank (CURVE)	500,000.00	735	6.000	60,410.96	TD	Fixed Rate	25/06/2012
30-Aug-11	10-Sep-13	AMP Bank (CURVE)	500,000.00	742	6.000	60,986.30	TD	Fixed Rate	18/07/2012
04-Apr-11	08-Apr-14	Bank of QLD	2,000,000.00	1100	6.390	385,150.68	TD	Fixed Rate	24/07/2012
08-Feb-11	04-Oct-11	Suncorp Metway	1,000,000.00	238	6.330	41,275.07	TD	Fixed Rate	24/07/2012
14-Jan-11	11-Oct-11	Bank of QLD	5,000,000.00	270	6.450	238,561.64	TD	Fixed Rate	07/08/2012
12-Jan-11	18-Oct-11	Bank of QLD (RIMSEC)	4,000,000.00	279	6.400	195,682.19	TD	Fixed Rate	07/08/2012
19-Apr-11	18-Oct-11	Suncorp Metway	2,000,000.00	182	6.150	61,331.51	TD	Fixed Rate	14/08/2012
12-Nov-08	11-Nov-11	Suncorp Metway Bank of QLD (matures Nov 2013)	4,000,000.00	1094	6.880	824,846.03	TD	Floating Rate 1.15%	04/09/2012
12-Aug-11	14-Nov-11		2,000,000.00	94	6.330	32,603.84	TD	Fixed Rate	11/12/2012
31-Aug-11	30-Nov-11	ING (RIMSEC) (matures May 2012)	1,000,000.00	91	6.020	15,008.77	TD	Fixed Rate	05/03/2013
09-Sep-11	09-Dec-11	Investec Bank (RIMSEC) (matures Jun 2014)	1,000,000.00	91	6.837	17,044.92	TD	Fixed Rate	19/03/2013

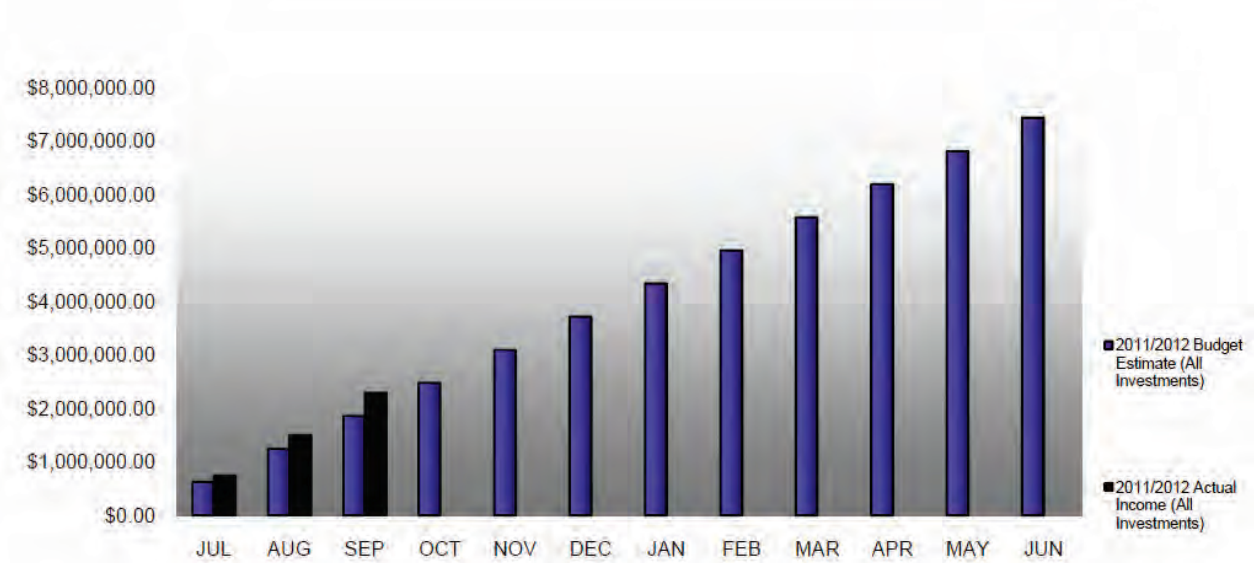
TERM DEPOSITS SORTED BY MATURITY AS AT 30/09/11									
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE	FORM	Notes	Maturity
01-Mar-11	13-Dec-11	Bank of QLD LGFS CRI (matures Mar 2012)	2,000,000.00	287	6.350	99,860.27	TD	Fixed Rate	26/03/2013
20-Sep-11	20-Dec-11	NAB	1,000,000.00	91	5.510	13,737.26	TD	Fixed Rate	21/05/2013
29-Jun-11	21-Dec-11	Suncorp Metway Members Equity Bank	2,000,000.00	175	6.140	58,876.71	TD	Fixed Rate 3 yrs fixed Fixed & 2 yrs Floating 1.96%	23/07/2013
12-Jul-11	10-Jan-12	Bankwest	3,000,000.00	182	6.250	93,493.15	TD	Fixed Rate	11/08/2015
11-Jan-11	17-Jan-12	IMB	1,000,000.00	371	6.500	66,068.49	TD	Fixed Rate	13/08/2013
09-Sep-11	07-Feb-12	RaboDirect Widebay CU (RIMSEC)	4,000,000.00	151	6.000	99,287.67	TD	Fixed Rate	02/09/2013
02-Mar-11	06-Mar-12	Rural Bank (Curve)	1,000,000.00	370	6.360	64,471.23	TD	Fixed Rate	03/09/2013
07-Mar-11	06-Mar-12	RaboDirect	1,000,000.00	365	6.600	66,000.00	TD	Fixed Rate	10/09/2013
16-Aug-11	13-Mar-12	Adelaide Bendigo Bank	1,000,000.00	210	6.200	35,671.23	TD	Fixed Rate	25/03/2014
06-Sep-11	13-Mar-12	Suncorp Metway AMP Bank (CURVE)	2,000,000.00	189	6.000	62,136.99	TD	Fixed Rate	08/04/2014
09-Aug-11	20-Mar-12	Westpac NAB (RBS) (matures Aug 2015)	1,000,000.00	224	6.200	38,049.32	TD	Fixed Rate 7% fixed 1 year 90DBBSW +1.30% capped at 7.25%	22/03/2016
24-May-11	22-May-12	Westpac (matures Apr 2016)	2,000,000.00	364	6.350	126,652.05	TD		07/04/2016
22-Jul-10	18-Jul-12		2,000,000.00	727	6.720	267,695.34	TD		
09-Aug-11	14-Aug-12		1,000,000.00	371	6.100	62,002.74	TD		
04-Mar-11	05-Mar-13		2,000,000.00	735	6.350	255,739.73	TD		
11-Aug-10	11-Aug-13		2,000,000.00	1095	6.000	360,000.00	TD		
07-Apr-11	07-Apr-16		2,000,000.00	1825	7.000	700,000.00	TD		
			139,000,000.00		6.326				

8. Performance by Investment Category

Category	Face Value	Market Value	Average Return	Above/(Below) 30 day BBSW Benchmark
Overnight Money Market	\$3,000,000.00	\$3,000,000.00	5.43%	0.62%
Managed Funds	\$2,808,686.45	\$2,808,686.45	5.31%	0.50%
Direct Securities Investments	\$25,990,750.00	\$24,840,940.11	6.43%	1.62%
Term Deposits	\$139,000,000.00	\$139,000,000.00	6.33%	1.52%
Benchmark	\$170,799,436.45	\$169,649,626.56	4.81%	Benchmark 30 Day UBS Bank Bill Index



9. Total Portfolio Income Year to Date



Note: From August 2008 includes net managed funds distributions, term deposit accrued interest & direct security accrued coupons

10. Investment Policy Diversification and Credit Risk

Total Portfolio Credit Limits Compared to Policy Limits						
Long-Term Credit Ratings	Credit	Investment Policy Limit	Actual Portfolio	Short-Term Credit Ratings	Investment Policy Limit	Actual Portfolio
AAA Category		100%	1.17%	A-1+	100%	25.76%
AA Category		100%	22.73%	A-1	100%	17.56%
A Category or below		60%	2.93%	A-2	60%	18.73%
BBB Category or below		20%	7.02%	A-3	20%	0.59%
Unrated		10%	2.34%	Unrated	10%	1.17%
			36.19%			63.81%

11. Investment Policy Term to Maturity Limits

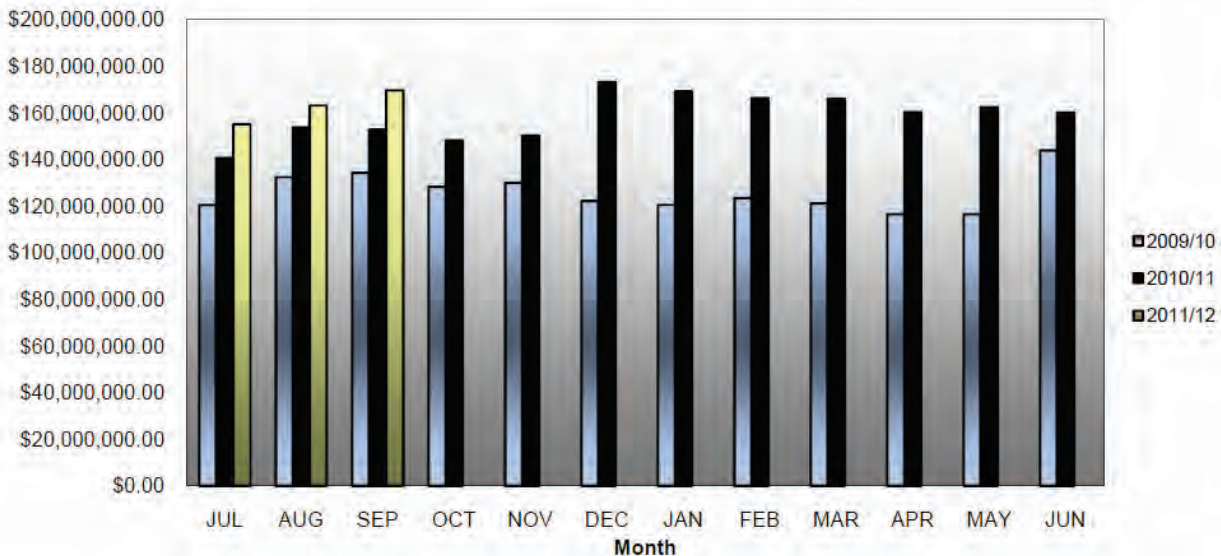
Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	66.63%	Maximum 100% of portfolio minimum 40%
Between 365 days and 2 years	9.95%	Maximum 60%
Between 2 years and 5 years	21.08%	Maximum 35%
Between 5 years and 7 years	2.34%	Grandfathered investment. Outside current policy limit
Total	100.00%	

12. Investment Alternatives Explained

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
At Call Cash	At Call	Immediate to a few months	<ul style="list-style-type: none"> Highly liquid - same day access to funds with no impact on capital Highly secure as a bank deposit 	<ul style="list-style-type: none"> Not a capital growth asset Underperforms other asset classes in the long term
Bank Bill	1 - 180 days	Less than 1 year	<ul style="list-style-type: none"> Highly liquid - same day access to funds, usually with no or minimal impact on capital Highly secure (bank risk) 	<ul style="list-style-type: none"> Not a growth asset Underperforms other asset classes in the long term May incur a small loss for early redemption
Term Deposit	Up to 5 years	Less than 2 years	<ul style="list-style-type: none"> Liquid - same day access to funds Highly secure as a bank deposit 	<ul style="list-style-type: none"> Will incur a small capital loss for early termination Underperforms growth assets in the longer term

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
Floating rate Note Bond	1 - 5 years	Greater than 2 years	<ul style="list-style-type: none"> • Increased yield over bank bills • Can accrue capital gain if sold ahead of maturity and market interest rates have fallen • Coupon interest rate resets quarterly based on 90 day bank bill swap rate • Relatively liquid • Less administration than bank bills 	<ul style="list-style-type: none"> • Not a growth asset • Can incur capital losses is sold ahead of maturity and market interest rates have risen • Credit exposure to company issuing the paper • May not be bank guaranteed • Underperforms other asset classes in the long term
Fixed Rate Bond	1 - 5 years	Greater than 3 years	<ul style="list-style-type: none"> • Can accrue capital gain if sold before maturity and market interest rates have fallen • Fixed return - semi annual coupons • Generally liquid • Can be government or corporate issuer 	<ul style="list-style-type: none"> • Can incur capital losses is sold before maturity and market interest rates have risen • Credit exposure to company issuing paper

13. Monthly Comparison of Total Funds Invested



14. Section 94 Developer Contributions - Monthly Balances

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	DCP3 Open Space	4,003,983	-
02	Western Drainage	508,251	-
03	DCP3 Community Facilities	36,953	-
04	Tweed Road Contribution Plan	10,957,218	55,315
05	Open Space	865,908	4,512
06	Contribution Street Trees	209,699	-
07	West Kingscliff	475,047	-
10	Cobaki Lakes	(771)	-
11	Libraries	1,443,290	3,960
12	Bus Shelters	47,631	120
13	Cemeteries	(46,051)	600
14	Mebbin Springs	76,500	-
15	Community Facilities	711,817	-
16	Surf Lifesaving	318,750	339
18	Council Administration & Technical Support	1,078,246	8,851
19	Kings Beach	1,025,091	3,384
20	Seabreeze Estate	638	-
21	Terranora Village Footpath	26,191	-
22	Shirewide Cycleways	332,545	898
23	Shirewide Carparking	1,835,105	-
25	Salt Development	857,322	-
26	Shirewide Open Space	2,596,707	23,442
27	Tweed Heads Masterplan & Streetscaping	89,327	-
28	Seaside City	20,794	-
90	Footpath Cycleway	-	-
91	DCP14	91,550	-
92	Public Reserve Contributions	114,913	-
95	Bilambil Heights	447,685	-

15. Investment Portfolio Commentary

The Reserve Bank of Australia (RBA) left the cash rate on hold at 4.75% for the eleventh consecutive month at their meeting on 4 October 2011.

The RBA made provision for a possible cash rate cut and continued to note many issues impacting their decision including contained inflation, banking and sovereign debt problems in Europe, a stalling US economy, cautious Australian consumers, subdued lending growth, falling asset prices, a high Australian dollar and flat jobs market.

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with Division of Local Government guidelines with 84% of the portfolio held in term deposits or cash at call. Term deposits and bonds continue to provide above trend returns while minimizing capital risk.

All investment categories out-performed the UBS 30 day bank bill benchmark this month. Overall, the investment portfolio has returned an average 2.07% pa above the 30 day UBS bank bill index for the last 12 month period.

16. Investment Portfolio Summary

GENERAL FUND

COLLATERISED DEBT OBLIGATIONS	0.00	
COMMERCIAL PAPER	0.00	
CORPORATE FIXED RATE BONDS	6,924,077.44	
FLOATING RATE NOTES	17,916,862.67	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSIT - LOAN 104 OFFSET	0.00	
TERM DEPOSITS	53,000,000.00	
CALL ACCOUNT	3,000,000.00	80,840,940.11

WATER FUND

TERM DEPOSITS	36,000,000.00	
FUND MANAGERS	2,808,686.45	38,808,686.45

SEWERAGE FUND

TERM DEPOSITS	50,000,000.00	
FUND MANAGERS	0.00	50,000,000.00

TOTAL INVESTMENTS 169,649,626.56

It should be noted that the General Funds investments of **\$80 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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35 [TCS-CM] Audit Committee Report for Period Ending 30 June 2011

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

As required under the Audit Committee Charter a report is required to be submitted on the Committee's activities for the financial year ended 30 June 2011.

The Committee's role is advisory in nature and has no executive powers other than as expressly provided by Council. The Audit Committee operates under the auspices of the Tweed Shire Council and within the doctrine of its own Charter.

RECOMMENDATION:

That Council receives and notes the report from the Audit Committee for the financial year ended 30 June 2011.

REPORT:

AUDIT COMMITTEE ANNUAL REPORT

For year ended 30 June 2011

As required under the Audit Committee Charter this report is submitted to the Council reporting on the Committees activities for the financial year ended 30 June 2011.

Members of the Committee

The Committee comprises the following members,

Warren Buntine	Independent member and Chairman
Ross Bell	Independent member
Dot Holdom	Councillor - Tweed Shire Council
Barry Longland	Councillor - Tweed Shire Council
Colin Wight	Alternate independent member

The Committee is advisory in nature and has no executive powers other than as expressly provided by the Council. The Audit Committee operates under the auspices of the Tweed Shire Council and within the doctrine of its own Charter.

Committee Operations

The Committee met on five occasions during the year. Where appropriate and at the invitation of the Chairman, Council officers and representatives of the external auditors attended the meetings to assist the Committee in undertaking its role.

Formal reports have been submitted to the Committee on matters requested and an open dialogue has existed between all parties.

Internal Audit has played an integral role in assisting the Committee, with the internal auditor's functions acting as a forum for communication between Council, General Manager, senior management and external audit.

The Committee has reviewed and considered whether:

1. Risk Management

- Management through its Enterprise Risk Management Committee has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of business and financial risks, including fraud.
- There has been a sound and effective approach followed in developing strategic risk management plans for major projects or undertakings.

2. Control Framework

- Management has adequate internal controls in place, including covering external parties such as contractors and advisors;
- Management has in place relevant policies and procedures, which are periodically reviewed and updated with appropriate processes in place to ensure they are complied with;
- Management has taken steps to embed a culture committed to ethical and lawful behaviour.

- Internal and external auditors' review of internal control over financial reporting has been performed satisfactorily with reports on findings and recommendations together with managements responses reviewed.

3. External Audit and Accountability Processes

- The annual financial report complies with applicable Australian Accounting Standards and are supported by appropriate management controls.
- The external audit opinion, was acceptable to the Audit Committee.
- The external auditor's provided adequate feedback on the financial statement.
- Significant issues raised in previous external audit reports were considered.

4. Legislative Compliance

- Management had appropriately considered legal and compliance risks as part of the risk assessment and management arrangements.
- The system for monitoring compliance with relevant laws, regulations and associated government policies has been effective.
- The process of communicating the Council's Code of Conduct and other corruption resistance controls to personnel, and for monitoring compliance therewith has been followed.

5. Internal Audit

- The Annual Audit Plan was risk based and prepared in accordance with 'International Standard ISO 31000:2009(E) Risk Management – Principles and guidelines'.
- Audit reports, with particular reference to significant issues identified with action taken including identification and dissemination of better practices have been satisfactorily dealt with.
- Appropriate organisational structures, authority, access and reporting arrangements were in place.
- The internal auditor had provided the External Auditor with copies of all internal audit reports.
- The performance of Internal Audit for the financial year has been performed satisfactorily as measured against agreed key performance indicators.

Conclusion

The Committee is confident with matters raised, referred to, and dealt with by the officers of the Council.

There are no material exceptions that the Committee reports to the Council.



Mr Warren Buntine, B.Bus (Acc), FCPA
Independent Member
Chairman
Tweed Shire Council Audit Committee

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Under Section 5 of the Audit Committee Charter a report is to be prepared on an annual basis on the past financial year activities to be presented to Council.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

36 [TCS-CM] Pecuniary Interest Returns 2010/2011

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The Pecuniary Interest Returns for the period 1 July 2010 - 30 June 2011 are tabled in accordance with Sections 449 and 450A of the Local Government Act 1993.

RECOMMENDATION:

That the Pecuniary Interest Returns for the period 1 July 2010 to 30 June 2011, as tabled, be received and noted.

REPORT:

Section 449 of the Local Government Act 1993 requires the General Manager to obtain returns disclosing interest of Councillors and designated persons.

Section 450(a)(2) of the Local Government Act 1993 requires the General Manager to table such returns at the first meeting of Council held after the last day for lodgement of the returns, that date being 30 September 2011.

The returns relate to the period 1 July 2010 - 30 June 2011 and are available for inspection by members of the public.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

37 [TCS-CM] EC2011-158 Supply, Install and Maintenance of Multifunction Devices for 5 Years

ORIGIN:

Information Technology

SUMMARY OF REPORT:

Council currently has 50 multifunction devices which are utilised for the printing, scanning and photocopying of information. The majority (37) of these devices have reached the end of their lease period and require replacement. The remaining (13) will be at their end of useful life in March 2013.

Council invited tenders for the supply, install and maintenance of multifunction devices for a period of 5 years. Seven vendors responded to the tender.

BBCdigital
Enigma Business Solution
Konica Minolta
Ricoh
Sharp
Toshiba
Xerox Business Centre

An assessment of the tenders was undertaken by a panel of council officers in accordance with the tender evaluation plan. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation report included in **CONFIDENTIAL ATTACHMENT A.**

The evaluation panel is recommending that the tender be awarded to BBCdigital.

Attachment A is **CONFIDENTIAL** in accordance Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

RECOMMENDATION:

That:

- 1. The tender EC-2011-158 “Supply, Install and Maintenance of Multifunction Devices for 5 Years” from BBCdigital be accepted to the value of \$822,479.**

- 2. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.**

REPORT:

Background

Council Tender EC2011-158 Supply, Install and Maintenance of Multifunction Devices for 5 Years invited responses for the provision of:-

- Timely replacement of Council's MFD devices
- Competitive and cost effective hardware pricing
- Competitive and cost effective service pricing
- A multi-year support/service agreement that has clearly defined processes, service levels and reliability targets
- A seamless transition from the existing MFDs and service arrangements
- A scalable product portfolio to meet Council's diverse requirements
- Simple methods for equipment management and administration
- Simple, clear and accurate billing, accounting and reporting
- Improved sustainability through lower energy and re-cycling footprints
- Improved security for managing the printing and distribution of sensitive documents

Tenders Received

A total of 7 responses were received for tender EC2011-158 Supply, Install and Maintenance of Multifunction Devices for 5 Years.

BBCdigital
Enigma Business Solution
Konica Minolta
Ricoh
Sharp
Toshiba
Xerox Business Centre

Tender Evaluation

A tender panel assessed the tender submissions against the evaluation criteria and it was determined that BBCdigital and Xerox Business Centre both represented virtually "equal" best value. However taking into consideration price and past work experience it was determined that the tender submission from BBCdigital represented the best value for money.

Details of BBCdigital's relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was prepared by the Evaluation Panel.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding is provided within the 2011/2012 to 2016/2017 Budgets for EC2011-158 Supply, Install and Maintenance of Multifunction Devices for 5 Years.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - Supplementary Confidential Attachment A to EC2011-158 Supply, Install and Maintenance of Multifunction Devices for 5 years - (ECM 40237013)
-

38 [TCS-CM] Review of Council Policy "Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors"

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

In accordance with Section 252 of the Local Government Act 1993 Council is required each year (by 30 November) to adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities for the Mayor and Councillors in relation to discharging the functions of civic office.

"Council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions" (Section 253(1)).

There is a small change recommended in the Draft Policy which relates to Clause 2.1.7 - Approval and dispute resolution processes.

RECOMMENDATION:

That Council gives 28 day notice to adopt the "Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors" Policy Version 1.6 under the provisions of Section 253(1) Local Government Act 1993.

REPORT:

Council's Policy, "Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors" was last reviewed at its meeting of 16 November 2010.

The adopted Version 1.5 of the policy has been reviewed in accordance with Division of Local Government Circular 11-27 dated 21 September 2011 and the following amendment is recommended for approval by Council:

- Insert within Clause 2.1.7:

Amended wording:

"2.1.7 Approval and dispute resolution processes"

This policy sets out in various areas the approval arrangements for all expenses. In particular, the attendance at seminars and conferences, training and educational courses, dinners and other non – council functions.

Should a dispute arise about the provision of expenses and facilities, or when an expense claim is not approved by the Mayor and General Manager or nominee for Councillors, or the Deputy Mayor and General Manager or nominee for the Mayor, then the disputed decision should be reviewed by the Chair of the Audit Committee, with a report to the full council meeting. "

Current wording:

"2.1.7 Approval and dispute resolution processes"

This policy sets out in various areas the approval arrangements for all expenses. In particular, the attendance at seminars and conferences, training and educational courses, dinners and other non – council functions.

Should a dispute arise about the provision of expenses and facilities, or when an expense claim is not approved by the Mayor and/or General Manager, then the disputed decision should be reviewed by the Chair of the Audit Committee, with a report to the full council meeting. "

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Draft "Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors Policy - Version 1.6" (ECM39667184)
 2. Division of Local Government Circular No 11-27 dated 21 September 2011 (ECM39668200)
-

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39 [TCS-CM] Internal Reporting (Protected Disclosures) Policy Version 1.0

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The *Protected Disclosures Act 1994* has been renamed the *Public Interest Disclosures Act 1994*, (PID Act) The Act sets out the system under which people working within Council can make complaints about the functioning of Council in a way that minimises the risk of reprisal. People can make disclosures about serious maladministration, corrupt conduct, serious and substantial waste and a failure to properly fulfil functions under the *Government Information (Public Access) Act 2009*.

Disclosures made in accordance with the renamed Act will still be known as *protected disclosures*.

Under section 6D of the *Public Interest Disclosures Act 1994*, Council is required to have a policy and procedures for receiving, assessing and dealing with protected disclosures. In preparing its policy, Council must have regard to the NSW Ombudsman's Model Internal Reporting Policy (Local Government) and guidelines.

The draft *Internal Reporting (Protected Disclosures) Policy Version 1.0* complies with the Model Policy and when adopted will replace Council's Internal Reporting Policy - Version 1.1.

RECOMMENDATION:

That Council adopts the draft Internal Reporting (Protected Disclosures) Policy Version 1.0 and agrees to the deletion of the Internal Reporting Policy Version 1.1.

REPORT:

As per Summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Internal Reporting (Protected Disclosures) Policy Version 1.0 (ECM39772594)
-

40 [TCS-CM] Councillor Numbers

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

Section 242(2) of the Local Government Act 2011 requires Council not less than 12 months before the next ordinary election, to determine the number of its councillors for the following term.

Council under Administration at its meeting of 12 April 2006, after conducting a public consultation process, resolved to reduce its number from 11 to 7.

Should Council wish to change its numbers, then it must seek and receive approval of its electors at a constitutional referendum for any change in conjunction with the 2012 elections.

RECOMMENDATION:

That Council determines the number of its Councillors for the term commencing after the 2012 elections to be seven (7).

REPORT:

As per summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Local Government Act 1993 - Section 242(2).

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

41 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 2 September 2011

Venue:

Tweed Byron Local Aboriginal Land Council, 21/25 Ourimbah Road Tweed Heads

Time:

9.30am

Present:

Jackie McDonald (Tweed Wollumbin AECG), Garth Lena (Minyungbal Community), Leweena Williams (Tweed Aboriginal Corporation for Sport), Aunty Joyce Summers (Canowindra Aged and Disability Cooperative), Cr Dot Holdom (Tweed Shire Council)

Ex-officio:

Anne McLean and Jenni Clarke (Minutes), (Tweed Shire Council)

Guest Observers:

Vince Connell (TSC) (arrived 10.07am), Jason Young (TSC) (arrived 10.50am), David Hannah, Greg Jones (TSC) (arrived 11.45am), Tim Robins (Everick Heritage Consultants) (arrived 12.56pm), Kay Bolton (Fingal Head Coastcare) (arrived 1.51pm)

Apologies:

Desrae Rotumah (Tweed Aboriginal Cooperative), David Oxenham (Tweed Shire Council), Des Williams (Tweed Byron Local Aboriginal Land Council)

Chair:

Moved: Jackie McDonald

Seconded: Garth Lena

RESOLVED that the Chair was declared vacant and nominations were called. Leweena Williams was nominated and was unanimously elected to Chair the meeting.

Leweena Williams opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Jackie McDonald

Seconded: Aunty Joyce Summers

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 5 August 2011 be accepted as a true and accurate record of the proceedings of that meeting with the following amendment:

Amend page 6 of the Minutes of 5 August 2011 Item A4 fifth paragraph to read:

"Jackie advised that if *an assessment* of Cobaki Lakes development was *undertaken* as a "desktop" study *alone, the community would not have known the full extent of cultural values and would not have had the opportunity to study and date artefacts found on the site. In addition, valuable scientific and educational data was identified to add to the cultural landscape information for future generations."*

Agenda Items:

Outstanding Matters Report

O1. Between River and Sea

Anne noted a letter received from Tweed Heads Historical Society Inc. confirming that a copy of the Public Notice has been placed in all stock of unsold copies of Between River and Sea.

Regarding development of a protocol, a workshop will be held when the position of Community Services Officer - Aboriginal Development is filled.

Item O2 deferred until commencement of Councils Community Services Officer - Aboriginal Development.

O3. TBLALC request to seal bottom end of Letitia Road

Anne noted that a letter has been forwarded to Tweed Byron Local Aboriginal Land Council requesting their official position.

David Oxenham to discuss the survey with Director Engineering.

Item O4 and O5 deferred until commencement of Councils Community Services Officer - Aboriginal Development.

O5. Terms of Reference

ToR changed to reflect name change: Community Services Officer - Aboriginal Development. Position description has been forwarded to Human Resources for advertising.

Action: Anne to forward position package to Committee.

Action: Anne to place Community Services Officer - Aboriginal Development position advertisement in the Koori Mail, National Indigenous Times, Tracker Magazine

Outstanding Matters suspended for Guests

A1. Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines; Draft LEP/DCP/Vision for Tweed Heads (Vince Connell - Tweed Shire Council)

Vince Connell arrived at 10.07am

a) Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines

Vince Connell of TSC proposed to the Committee that Council will alter the procedure in regards to applications that require assessment in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines. Under the proposed procedure private and government applicants are to consult directly with the community on Aboriginal Cultural Heritage matters prior to lodging a Rezoning or Development Application, which should better inform the current Due Diligence process. Vince will advise his staff to amend the protocol to reflect this change. Vince will forward final set of procedures to the Committee.

Cr Holdom enquired if the procedure, when endorsed by the Committee and EMT, could be made public via a media release.

b) Draft LEP/DCP Vision for Tweed Heads City Centre

Vince acknowledged concerns raised by the Committee from the meeting held on 5 August 2011 in regards to the draft LEP/DCP/Vision for Tweed Heads City Centre and advised the Committee to make a submission in regards to the historical context pages of the draft Vision document within the exhibition period. The document will be on exhibition from 14 September 2011 for 28 days.

c) Wooyung Properties Development

Vince advised the Committee that Wooyung Properties have lodged an appeal in the Land and Environment Court (LEC) in respect of the approved tourist resort development at No. 440 Wooyung Road, Wooyung as the related Construction Certificate is yet to be determined by Council. Vince advised that the development poses many complex issues in terms of environmental impact. Vince advised the Committee that there is still an opportunity for the AAC to submit a report/letter to Council officers outlining the cultural heritage significance to the area, which can then be referred to Council's solicitors to determine its relevance as a Fact or Contention for the LEC appeal. Committee to forward information by next week to Council.

Vince Connell left at 10.32am

Leweena advised she will raise the issue at the next board meeting of TBLALC. Anne asked if there is already collated information about the area or could someone be engaged to write a submission.

Moved: Jackie McDonald

Seconded: Garth Lena

RESOLVED that Tweed Shire Council's Community Services Coordinator seek approval from Director Community and Natural Resources to engage Ian Fox to finalise Aboriginal Historical Information prepared for Tweed Shire Council by Kyle Slabb, Lesley Mye and Ian Fox to form a submission in response to the Local Environmental Plan/Development Control Plan Vision for Tweed Heads City Centre.

The Committee discussed the Wooyung properties development.

Moved: Jackie McDonald

Seconded: Garth Lena

RESOLVED that Community Services Coordinator seek approval from Director Community and Natural Resources to engage Ian Fox to assist Aboriginal Advisory Committee to formulate a document regarding cultural values contained in No. 440 Wooyung Road, Wooyung for submission to Land Environment Court.

- A2. Update on the Scared Tree Preservation proposal for the AHIP Application for Kirkwood Road Project (Jason Young - Tweed Shire Council)

Jason Young arrived at 10.50am

Jason Young advised that Council has identified accepted Tenderers for the Kirkwood Road Project and will forward the Tender documentation to contractors in early October. Accepted Tenderers will be invited to submit a Tender and demonstrate commitment to Aboriginal employment. It is anticipated the Tender will be awarded at the November 2011 Council meeting. It is proposed that works will commence in early 2012 and continue over a 15 month period.

Action: Committee advised to compile list of potential Aboriginal applicants and forward to Jason who will approach the engaged contractor.

Action: TBLALC to provide Registered Training Organisation contact to Jason who may be able to work with Jason and the Tenderer to place local Aboriginal people in the project.

Action: Jason to provide document to AAC that sets out skills covered in a traineeship.

Jason provided an update on the Scar Tree at Kirkwood Road and advised that there are products available which will be used to treat the exposed areas of the Scar Tree to preserve it. It is proposed to mount the Scar Tree in an enclosure such as perspex and be displayed at the Minjungbal Museum with a plaque stating where it was located and where it came from. A plaque will also be mounted at the site at Kirkwood Road. Jason noted the Committee must decide on wording of plaque, but at this stage it is not urgent.

Jason advised that a representative from Councils Human Resources Department will attend a future AAC meeting to provide information to Committee in regards to Aboriginal employment.

Jason Young left at 11.20am

Resumption of Outstanding Matters

- O6. Terms of Reference

Letter and form sent to current members of AAC to clarify Committee member representative and advise of alternate delegate.

Item O7 deferred until commencement of Council's Community Services Officer - Aboriginal Development.

O8. Terms of Reference

ToR changed to reflect one Councillor representative. Updated ToR sent to Governance Manager for review. Item completed.

O9. Aboriginal Community Member Representation to Museum Advisory Committee

Item deferred until commencement of Councils Community Services Officer - Aboriginal Development. Anne suggested that when a new Museum Curator is engaged by Council that they be invited to attend a couple of AAC meetings for a cultural overview.

O10. Pacific Highway, Banora Point Upgrade

Letter forwarded to RTA 31 August 2011 in response to letter from Garry McPherson of Banora Point Upgrade Alliance regarding "background information" into naming of 'Goodjinburra Connection'.

O11. Pacific Highway, Banora Point Upgrade

Jackie advised that revised designs were presented to RTA but needs to include a black crow and removal of figure as resolved at AAC meeting on 5 August 2011. Committee to discuss updated artwork at next AAC meeting.

Jackie asked Committee how interpretive sign for Wilsons Park should be written. Aunty Joyce to develop story for signage.

Action: Anne to forward adopted Aboriginal sign designs to Leweena.

Item O12 and O13 deferred until Committee is stabilised.

O14. AHIP Application for Kirkwood Road Project

Jason Young (TSC) attended meeting of 2 September 2011. Refer to Agenda Item A2.

O15. Fingal Head Holiday Park

Tim Robins (Everick) to provide historical aerials to Committee.

O16. Clarrie Hall Dam

Six copies of the Review of Environmental Factors for Clarrie Hall Dam Spillway Upgrade dated August 2011 were tabled and provided to the Committee. Item closed.

O17. Aboriginal Statement

Anne McLean (TSC) to provide draft Aboriginal Statement to the next AAC meeting to be held on 7 October 2011.

O18. Pottsville Environment Park

Committee to action.

O19. Bush Regeneration teams

Deferred until Des Williams (TBLALC) available to provide feedback.

- O20. AHIP Application for Kirkwood Road Project
Committee to be linked up to contractor through Jason Young. Refer to Agenda Item A2. Item closed.
- O21. Boyd's Bay Garden Centre, Tweed Heads and World Riva Vue, Murwillumbah
Tim Robins attended 2 September 2011 meeting. Boyd's Bay Garden Centre, Tweed Heads and World and Riva Vue, Murwillumbah Reports not discussed.
- O22. LPMA Projects
Referred to Council's Legal Officer. Anne to follow up.
- O23. Green Teams Alliance
Green Teams Alliance staff members invited to November AAC meeting. Item closed.
- O24. Kennedy Drive Cycleway
Committee to be advised of further excavations. Standing item.
- O25. Proposed Park Name Cudgera Creek Park - Hastings Point
Committee to provide comments.
- O26. Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines
Vince attended meeting of 2 September 2011 and will provide a copy of process procedures to the Committee.
- O27. Draft LEP/DCP/ Vision for Tweed Heads City Centre
Refer to Agenda Item A1.

-
- A3. New stormwater pipe outlet to Terranora Creek (David Hannah, Greg Jones - Tweed Shire Council)

David Hannah and Greg Jones arrived at 11.45am

Greg Jones from Council advised that it is proposed as part of the Kennedy Drive Road upgrade works, that additional stormwater pipes would be constructed to alleviate stormwater issues currently experienced at the western end of Kennedy Drive. It is proposed to include two additional 450mm diameter stormwater pipes which will discharge stormwater from Kennedy Drive into Terranora Creek. Approximate maximum depth of excavation for pipe trenching/installation is 800mm below ground level.

A Council Brief of the proposed works was tabled.

Greg advised that from an engineering point of view the works will have a minor impact with a narrow construction footprint.

Searches of the NSW Aboriginal Heritage Information Management Systems database and a review of Ian Fox's *Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan* have identified potential midden sites in the area. Based

on these findings it is proposed that an Aboriginal Cultural Monitor be on site at time of excavations in proximity to Terranora Creek, as a precautionary measure.

Proposed works will commence in latter part of 2011 or early 2012. Jackie and TBLALC would like the opportunity to inspect the site when it is exposed. Greg Jones advised that the Committee will be notified when closer to the works.

Moved: Jackie McDonald

Seconded: Cr Dot Holdom

RESOLVED that Garth Lena and a representative from Tweed Byron Local Aboriginal Lands Council be nominated as Aboriginal Site Monitors for the proposed installation of stormwater pipes at Kennedy Drive.

David Hannah and Greg Jones left at 11.54am

A4. Scenic Drive Bilambil Heights; Boyd's Bay Garden Centre, Tweed Heads and World and Riva Vue, Murwillumbah (Tim Robins - Everick Heritage Consultants)

Tim Robins arrived at 12.56pm

Tim Robins tabled Draft assessments for Scenic Drive subdivision in Bilambil Heights and proposed Highway Service Centre, Pacific Highway Chinderah.

a) Scenic Drive Bilambil Heights

Tim advised that the subdivision site at Bilambil Heights covers 25ha on very steep land and that the proposal is for 38 house lots. The project area is currently used as farmland and is defined on page 11 of the draft assessment. Any activities proposed outside of the highlighted area are outside of the scope of the report. Results of the survey found nothing of significant heritage and that it is highly unlikely to contain Aboriginal cultural heritage as 95% of site is too steep but Tim advised that isolated material cannot rule out. The only relatively flat land has previously been farmed and ploughed. Anne clarified with Tim that the application is for rezoning.

The Committee discussed the draft assessment. Jackie enquired which site is listed on the National Heritage site list (page 23 of document) and advised that page 25 is incorrect. Page 25 should include references to the Nganduawal/Minyungbal people. Aunty Joyce noted there is no reference to the Yugambeh language.

Tim asked Committee to make him aware if there are any references to studies that need to be added to the report.

Action: Tim to provide statement referring to the context of the project in the broader cultural landscape and provide same to the Committee.

b) Proposed Highway, Service Centre Pacific Highway Chinderah

Tim advised that the assessment is for a proposed Service Centre at Chinderah. Under the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales Guidelines, the recommendation is that there is no further assessment required as it is disturbed cane fields land, but would like feedback from the Committee. Jackie advised that there are recorded sites of historical artefacts being found in this area.

Jackie and Aunty Joyce advised that cane cutters picked up stone axe handles across the road from the site and that they know Aboriginal people who said there were significant sites in the area.

Action: Committee to provide feedback to Tim regarding the assessments.

c) Fingal Head Cemetery

Tim advised he has obtained plans for Fingal Head cemetery from 1926 from Land and Property Management Authority (LPMA) and noted that the physical boundary of the cemetery has not shifted in this time. The Committee noted there have been disagreements about the historical boundary in the past and reaffirmed that burials may well be outside the boundary. Tim advised that approximately 1m of the site has been sand mined and that it is quite likely there is burials and significant Aboriginal heritage and has advised the proponent to proceed with caution.

Tim Robins left at 1.50pm

A5. Fingal Headland Sign (Kay Bolton - Fingal Head Coastcare)

Kay Bolton arrived at 1.51pm

Jackie McDonald and Aunty Joyce left at 1.53pm

Kay Bolton discussed the problem with erosion on Fingal Headland and advised that a new boardwalk has been constructed and that there is a need for further erosion control and interpretive signage for the access boardwalk. A copy of the draft signage was tabled. TBLALC advised they have previously provided feedback for the proposed signage. Kay advised that the proposed opening is 25 September 2011 but would prefer to have the signage approved by the Committee before the opening.

Action: Committee to provide feedback for interpretive signage and clarify:

a) Spelling of "Booninghah" or "Booninybah"

b) Spelling of "Booniny"

c) Confirmation that "indigenous" is replaced with "Aboriginal"

Kay Bolton left at 2.10pm

Inwards Correspondence

IC1. Canowindra Tweed Byron Aged and Disabled Aboriginal Corporation

Request for financial assistance for the Elders Indigenous Ball to be held in November 2011.

Action: Anne to assist with any other funding sources such as Community Development Support Scheme (CDSE).

Moved: Cr Dot Holdom

Seconded: Leweena Williams

RECOMMENDATION that \$500 be donated to the Canowindra Tweed Byron Aged and Disabled Aboriginal Corporation to assist with the holding of the Elders Indigenous Ball in November 2011.

- IC2. New Guidance - Aboriginal Heritage Regulation NSW
Information tabled. Hard copies taken by Aunty Joyce and Leweena Williams.
Action: Anne to forward website links to Committee- Guide to investigating, assessing and reporting on ACH in NSW:
www.environment.nsw.gov.au/licences/investassessreport.htm and Applying for an AHIP: Guide for applicants: www.environment.nsw.gov.au/licences/applyforahip.htm
- IC3. Grafton Regional Art Gallery - 2011 Clarence Valley Indigenous Art Awards
Brochures distributed.
- IC4. Tweed Heads Historical Society Inc
Re- Between River and Sea. Refer to O1.
-

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held on Friday 7 October 2011 at Minjungbal Museum.

The meeting closed at 2.10pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

IC1. Canowindra Tweed Byron Aged and Disabled Aboriginal Corporation

There are funds available in the Aboriginal Development program.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

IC1. Canowindra Tweed Byron Aged and Disabled Aboriginal Corporation

That \$500 be donated to the Canowindra Tweed Byron Aged and Disabled Aboriginal Corporation to assist with the holding of the Elders Indigenous Ball in November 2011 and that it be funded from the Aboriginal Development program.

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42 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 22 September 2011

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 10.00am.

PRESENT:

Committee Members: Cr Kevin Skinner on behalf of Cr Barry Longland (Mayor), Mr Ian Shanahan, Roads and Traffic Authority, Snr Constable Ray Wilson, NSW Police, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Danny Rose (Chairman), Mr Ray Clark, Ms Judith Finch, Ms Cathy Martin (Minutes Secretaries).

APOLOGIES:

Mr Thomas George MP, Member for Lismore, Mr Paul Brouwer, Mr Geoff Provest MP, Member for Tweed, Cr Barry Longland (Mayor), Ms Liz Smith (Roads and Traffic Authority).

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

[LTC] Confirmation of Previous LTC Minutes Meeting held 18 August 2011

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 18 August 2011 be adopted as a true and accurate record of proceedings of that meeting.

The Chairman tabled comments from Mr McKennariey in relation to items B4 - Kennedy Drive Tweed Heads and Item A8 - Wollumbin Street Murwillumbah.

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC] Schedule of Outstanding Resolutions - 22 September 2011

1. [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.

From Meeting held 25/11/10:

Council's Traffic Engineer advised that a consultant has been appointed to look at signalised intersection treatment options for the Kennedy Drive / Norman Street intersection.

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.**

From Meeting held 21/7/11:

The Chair updated the meeting on the various options that have been considered for addressing the traffic problems at the subject intersection and tabled an intersection design plan that provides revised linemarking, provision of medians and protected right turn lanes. It also provides pedestrian facilities for crossing Kennedy Drive with a view to linking into a future cycleway and reconfigures the entry/exit and circulation lanes for the boat and trailer parking area. All traffic exiting the Kennedy Drive service road will be limited to left turns only into Norman Street.

Cr Skinner left the room at 10.30am and returned at 10.35am

In order to provide a safe pedestrian crossing point on Kennedy Drive some additional blisters will be required in the existing parking lane. The proposed intersection design will reduce the number of available parking spaces on Kennedy Drive east of the Norman Street intersection. Prohibitive parking signage will need to be provided.

The Committee endorsed the intersection design in concept.

The Committee noted that access into the service road may be difficult for some service vehicles and Council officers will review the design accordingly. There also appears to be a risk of side swipe accidents due to vehicles turning right from Norman Street into the service road conflicting with left turning traffic from Kennedy Drive. The Committee requested that Council officers investigate these risks and consider 'left in' 'left out' provisions for the service road.

The Committee will be advised of the outcomes of these additional investigations at a future meeting.

Current Status: *That Item 1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 18 August 2011 remain on the list of Outstanding Resolutions.*

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 27 August 2009 (Item B7).

2. [LTC] Kennedy Drive, Tweed Heads - Tweed Street Audit

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 19660428; Traffic - Committee; Pedestrian Crossings; Traffic - Safety; Kennedy Drive, Tweed Heads

SUMMARY OF REPORT:

From Meeting held 23 September 2010 (Item B5):

Request received for the provision of a safe crossing for people near Kennedy Plaza. It is reported that "*since the opening of the new bypass the traffic is horrific and pedestrians can wait up to 15 minutes*". It is also reported that "*motorists making illegal right hand turns into Kennedy Plaza also contribute to traffic congestion*".

Kennedy Drive near Kennedy Plaza carries over 20,000 vehicles per day, which is significant. A marked pedestrian crossing was located in this vicinity prior to the installation of the traffic signals at Ducat Street. This crossing was removed on request from the Roads and Traffic Authority of NSW as the signals provided a much safer crossing point for pedestrians. The signals are located approximately 200m west of the middle of the shopping centre. There is also a pedestrian underpass connecting residents on the southern side of Kennedy Drive to the shopping centre.

The pedestrian warrant for a marked or signalised pedestrian crossing would not be met at this location.

Council's crash database shows 6 reported crashes occurred in the vicinity of Kennedy Plaza between 2004 and 2009, none of which involved a pedestrian.

The Roads and Traffic Authority of NSW Representative advised that the Roads and Traffic Authority of NSW were investigating the Ducat Street/Kennedy Drive signals which will include the Kennedy Plaza area. It was suggested that this matter be listed as an Outstanding Resolution until the Roads and Traffic Authority of NSW have finalised their investigation. This investigation may include the possibility of the inclusion of a pedestrian refuge, which is the subject of concern.

COMMITTEE ADVICE:

That Kennedy Drive, Tweed Heads South be listed on the Outstanding Resolutions report.

Current Status: That Item 2 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 18 August 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 23 September 2010 (Item B5).

3. [LTC] Sathya Sai School, Nullum Street, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 29113523 and 29114576; Traffic - Committee; Schools - Sathya Sai; Traffic - School Zones; Traffic - Safety; Traffic - Pedestrian Crossings; Nullum Street;

SUMMARY OF REPORT:

From meeting held 17 March 2011 (item B5):

Request received (ECM 29113523) in relation to:

"Parents and children are exiting the Sathia (sic) Sai school and walking between buses to get to their cars parked on the duck pond side of Nullum St. This is a very dangerous practice. There is a school crossing further to the south from the school but it is not being used probably because it is too far away."

It is suggested that this crossing could be moved north in Nullum Street so it is outside the school and the present bus zone be moved south and possibly lengthened to comfortably accommodate two buses.

Council officers will investigate this matter on site and report to the meeting.

Further request received (ECM 29114576):

"I am writing in regards to the unsafe conditions outside Sathya Sai Primary School and on the intersection of Nullum St. and Wollumbin St.

The Sathya Sai Primary School has increased its enrolments considerably since it's expansion, and consequently the facilities provided by the R.T.A. are insufficient to provide a safe environment for pedestrians. I am writing to request that the crossing that is currently unmarked on Nullum St. be marked, flagged and manned by a lolipop person.

I am also requesting that a marked pedestrian crossing be implemented on the corner of Nullum St. and Wollumbin St.. That area is incredibly unsafe and impossible to cross safely with a child."

Council's traffic database provides:

1. Vehicle count, Nullum Street (north of Prince Street) 1,289 vehicles per day.
2. Council's accident database shows no reported pedestrian accidents on Nullum Street between Prince Street and Wollumbin Street for the period 2003 to 2008.

For pedestrian crossing warrants to be met under relevant Roads and Traffic Authority of NSW guidelines, well over 300 pedestrians per hour crossing Nullum Street are required for the vehicle volumes on Nullum Street. Clearly these warrants would not be met.

For school crossings, the Roads and Traffic Authority of NSW are the determining authority for these facilities.

Council officers will provide pedestrian traffic counts (peak period) to the Committee for consideration.

There was much discussion about potential benefits regarding various possible infrastructure improvements at the frontage to Sathya Sai School including providing a footpath on the Knox Park side of Nullum Street. It was suggested that Council officers further consider pedestrian infrastructure improvement that could be undertaken in the area at the frontage of the school.

For the pedestrian crossing request at the Wollumbin Street/Nullum Street intersection, it was noted that the pedestrian warrants were not met for the installation of a marked pedestrian crossing. Immediately following the close of school at 2.55pm on Tuesday 15 March 2011 for a 25 minute period, only 2 adults and 1 child were observed crossing Nullum Street at the Wollumbin Street intersection.

Observations Sathya Sai School Nullum St, Murwillumbah

Afternoon visit

School ends 2:55pm

- No flags on school crossing.
- Angle parking no wheel stops vehicles intruding into grassed area obstructing pedestrians

- No buffer behind angle parks
- Most vehicles through site did not appear to observe 40km/h speed limit.
- Several parents did u-turns over double centre lines.

Buses

Arrive	Depart
2:56	2:58
3:06	3:07
3:09	3:10
3:09	3:10
3:15	3:16
3:15	3:16

Bus zone worked smoothly with no more than 2 buses on site at any one time.
Bus zone opposite school on Knox Park side was not used during observations.

Crossing road

2:50pm – 3:20pm

Adults	9
Unaccompanied children	4
Adult with children	16 adults/23 children

Very low usage of designated “crossing point”. Drivers were observed to be uncertain whether to stop and give way to pedestrians as no flags were in place.

Site inspection ended 3:20pm.

Morning Site visit

17/3/2011

- No flags in place.
- Parents generally escorted children across the road.
- 5 minute parking area adjacent to school used well
- No parent access to school observed in Nullum Lane.

COMMITTEE ADVICE:

That the Sathya Sai School, Nullum Street, Murwillumbah item be placed on the list of Outstanding Resolutions.

From Meeting Held 23/6/11:

The Road Safety Officer advised that a meeting had been held on site with the Deputy Principal. It is proposed to relocate the children's crossing closer to the entrance to the School. This would involve modification to the existing bus zone. A concept design will be developed and circulated to the affected bus companies and school for comment. This will be submitted to the Committee for approval after comments are received.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 18 August 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 17 March 2011 (Item B5).

4. [LTC] Kyogle Road and Nimbin Road, Mt Burrell

ORIGIN:
Planning & Infrastructure

FILE NO: ECM32781485; Traffic - Committee; Kyogle Road, Nimbin Road, Mt Burrell;
Traffic - Speed Zones

SUMMARY OF REPORT:

From Meeting held 19 May 2011 (Item B3):

Request received in relation to the speed limit on Kyogle Road, Mt Burrell being reduced to 80km/hr for 1km either side of the Nimbin Road intersection.

- "• *Historically there is a considerable amount of traffic that use the road travelling from the Gold Coast down to Nimbin. It is primarily tourist traffic and often overseas travellers who are not used to these road conditions.*
- *The road is a standard 2 lane rural road with little or no shoulders, speed advised corners, livestock, and wildlife issues.*
- *.....The intersection is the main point of conflict with minimal site distances for vehicles travelling north...."*

Traffic speed and AADT will be submitted at the meeting for the Committee's advice.

The Roads and Traffic Authority representative advised that a speed zone review is being conducted on MR142 from Lismore to Murwillumbah including this section of Nimbin Road to provide consistency and reduce the number of speed zone changes along the route.

The Committee considered that this item should be deferred pending receipt of the Roads and Traffic Authority's Speed Zone Review Report.

COMMITTEE ADVICE:

That this item be listed on the Schedule of Outstanding Resolutions.

Current Status: That Item 4 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 18 August 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 19 May 2011 (Item B3).

22 September 2011 meeting:

The Roads and Traffic Authority of NSW representative advised that the speed zone review has been completed. Consultation with Council officers regarding proposed speed zone changes is currently being conducted. A revised speed zone review report will be submitted to Council following completion of the consultation and will be tabled for the Committee's consideration, with the intent to implement these speed zone changes in early November 2011.

BUSINESS ARISING

Nil

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Eyles Avenue, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 37203244; Traffic - Committee; Car Parking Zones; School - Murwillumbah Primary; Disability/Accessibility Matters; Eyles Avenue

SUMMARY OF REPORT:

An item relating to a request for disabled carparking adjacent to Murwillumbah Primary School was dealt with at the Local Traffic Committee meeting held 18 August 2011. During Committee discussions on this item further issues were raised relating to the arrangements for the bus zone in Eyles Avenue which was also considered in previous committee items.

The previous items raised included bus manoeuvring from Prince Street into Eyles Avenue and conflicts with parked cars. Whilst drivers may be parking contrary to Australian Road Rules it is acknowledged that reinforcement may be provided by the installation of "No Stopping" signs within 10 metres of the intersection.

COMMITTEE ADVICE:

That "No Stopping" signs and yellow kerb line be installed on Eyles Avenue at the Prince Street intersection to reinforce the 10 metre no stopping rule at intersections.

RECOMMENDATION TO COUNCIL:

That "No Stopping" signs and yellow kerb lines be installed on Eyles Avenue at the Prince Street intersection to reinforce the 10 metre "No Stopping" rule at intersections.

FOR VOTE - Ian Shanahan, Cr Kevin Skinner, Snr Const Ray Wilson

PRESENT. DID NOT VOTE - Rod Bates

A2 [LTC] Heffron Street, Tweed Heads South

**ORIGIN:
Planning & Infrastructure**

FILE NO: ECM38692383; Traffic - Committee; Safety; School Zones; Parking Zones; Pedestrian Crossings; School - Tweed River High; Heffron Street; Minjungbal Drive

SUMMARY OF REPORT:

Request received in relation to the Tweed River High School Community and O H & S Committee regarding the safety of students, staff and parents at the front of the school especially:

- "1. Lack of appropriate bus bay
2. Lack of appropriate "drop off and pick up" zone for parents
3. Lack of parking at the front and around school for parents and students
 - Bus Zone at front of school 7.30-8.30am and 2.30-3.00pm
 - Restricted parking at HACS centre (2 hours)
 - Design of parking bays at front of school
4. Lack of appropriate pedestrian crossing

The concerns have been expressed in previous correspondence of 2 June 2008 and 13 October 2008.

There have been previous visits and assessments done and a "blister" put in place to assist pedestrians, however this has not provided a significant change to safety issues.

There have also been significant complaints by parents, community and our TRHS OH&S Committee about the safety of parking, pedestrian crossings and bus zones. The staff car park is provided for staff parking and visitor parking as designated by DEC with the school building code.

These problems were exacerbated on Wednesday 17 August 2011 when a number of students were fined by the police for illegal parking, causing significant stress for Year 12 students doing Trial HSC exams and their parents.

We require urgent action by the Tweed Heads Council and DEC to design a more appropriate school, bus zone, "drop off and pick up areas" and student parking to bring in line Tweed River High School with the front of school standards of other school on the Far North Coast."

Council is proposing to install pedestrian centre median fencing on Minjungbal Drive South of Heffron Street this financial year subject to final endorsement by the RTA. Previous Traffic Committee discussions on the provision of a School 40km/h speed zone on Minjungbal Drive were not supported as there is no direct access to the School off

Minjungbal Drive. The warrants for a marked pedestrian crossing on Heffron Street were not met.

The timed parking was installed in the public carpark adjacent to the pool complex and the HACC Centre to make the spaces available to all members of the public.

The School has requested an onsite meeting on Tuesday 20 September 2011. Council officers will attend and report to the Committee the outcome of this meeting.

The Committee discussed the following issues arising from the above meeting:

That:

- The school consider providing access to onsite facilities off the unformed section of Oxley Street with consultation with Council.
- The school consider managing a pedestrian access to the school grounds from the HACC carpark in consultation with Council.
- Provision of a marked crossing on Heffron Street does not meet warrants, is impractical due to multiple pedestrian desire lines, and children's crossings are not applicable to High Schools.
- Illegal parking will continue to be enforced by NSW Police and Council Rangers to maximise safety around the School.
- Existing on-site parking facilities at the School do not comply with Council's standards in DCP Section A2. Initial assessment indicates that a new School of a similar size (800 Students) being constructed on this site would require 80 customer parking bays, at least 35 staff parking bays, 8 delivery vehicle parking bays and provision of off street bus parking.
- The School's proposal for indented bus bays on Heffron Street requires significant works along the frontage and dedication of School land as road reserve and that these facilities should be provided on-site as a preferred alternative.

COMMITTEE ADVICE:

That:

- 1. Bus Zone signage on Heffron Street be amended to reflect standard School Zone times being 8.00am to 9.30am and 2.30pm to 4.00pm.**
- 2. Council officers consult with Surfside Buses regarding potential reductions in the length of bus zones in Heffron Street.**
- 3. Tweed River High School explore options to provide drop off and pick up areas within School grounds**
- 4. Existing "No Parking" signage at the intersection of Currawong Place be replaced with "No Stopping" signage as per NSW Road Rules.**

RECOMMENDATION TO COUNCIL:

That:

1. **Bus Zone signage on Heffron Street be amended to reflect standard School Zone times being 8.00am to 9.30am and 2.30pm to 4.00pm.**
2. **Council officers consult with Surfside Buses regarding potential reductions in the length of Bus Zones in Heffron Street.**
3. **Tweed River High School explore options to provide drop off and pick up areas within School grounds**
4. **Existing "No Parking" signage at the intersection of Currawong Place be replaced with "No Stopping" signage as per NSW Road Rules.**

FOR VOTE - Rod Bates, Ian Shanahan, Cr Kevin Skinner, Snr Const Ray Wilson

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] Tweed Coast Road, Cudgen - B-Double Route

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 38746847; 38746877; Traffic - Committee; Traffic - Weight of Vehicles - B-Doubles; Tweed Coast Road, Cudgen, Kingscliff, Casuarina

SUMMARY OF REPORT:

At the Local Traffic Committee meeting held 12 February 2009 the following temporary B-Double Gazettal was recommended to Council:

"That the Committee provides no objection to the temporary B-Double Gazettal of a section of the Tweed Coast Road from the Pacific Highway to approximately 200m north of Depot Road proposal subject to compliance with the Roads & Traffic Authority of NSW guidelines and only until 31 December 2009."

Council at its meeting held 17 March 2009 resolved this recommendation.

A further request has now been sought for temporary gazettal as a 25 metre B-Double route from 19 September to 16 December 2011. The proponent has since requested an extension to the end of February 2012. Council officers are not aware of any complaints being received during the last temporary gazettal and the same loading point is proposed.

Rod Bates advised that complaints have been received regarding B-Doubles in the past and did not support the Gazettal of B-Doubles at this location.

COMMITTEE ADVICE:

That the Committee provides no objection to the temporary 25 metre B-Double Gazettal of a section of the Tweed Coast Road from the Pacific

Highway to approximately 200m north of Depot Road from 30 September 2011 to 28 February 2012.

B2 [LTC] Myrtle Street, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 36576936; 38593613; Traffic - Committee; Traffic - Parking Zones; Myrtle Street; Spring Lane

SUMMARY OF REPORT:

Two submissions have been received in relation to parking of vehicles on the low side of Myrtle Street at the western end.

Cr Skinner left the meeting at 11.35am

Submission 1 (ECM 36576936):

"All the houses along this section of road have their driveways on Spring Lane which is a steep hill with no on-street parking. We regularly need to park one or more cars on Myrtle Street....The possibility of a no parking zone at the rear of our house concerns us as there are no other options for parking cars within a reasonable distance of our house. While we recognise that it is a narrow street we do not believe that it is a dangerous place to park cars. Myrtle Street is not a busy thoroughfare - the majority of traffic is local residents as other traffic uses Byangum Road. We believe the width of the road encourages motorists to drive at a sensible speed for the road conditions."

Submission 2 (ECM 38593613):

"I am writing to express my concern for the potential for a serious accident to occur on Myrtle Street, Murwillumbah, because of the vehicles being parked on the road side on the bend (refer to attached photographs) and the heavily treed area on the opposite side of the bend, creating a blind corner. When accessing Myrtle Street heading south from the town centre, cars are required to move to the wrong side of the road and hence the driver has no vision of approaching vehicles. The bend in the road has cars parked on one side of the road and land on the opposite side of the bend is heavily treed and as the driver approaches the bend, there is no vision of possible approaching vehicles, animals on the road. This bend is often occupied with up to five vehicles and on several occasions since moving to Myrtle 12 months ago, I have had two near misses with a car approaching in the opposite direction. Since this time, my partner and I have been using the car horn to warn possible approaching vehicles

Unfortunately, this is not a solution as some neighbours recently complained Apparently the noise of the car horn is not acceptable and is offensive to some neighbours in Myrtle Street..... I often have to reverse when a vehicle is approaching the other way and I cannot access the car park at the property easily from Spring Lane. If I access Myrtle Street from Byangum Road further south, I have to cross double lines to negotiate the bend, as the turning cycle of my vehicle is inadequate and I must reverse onto Byangum road without adequate vision. In my opinion, it is becoming increasingly dangerous to allow vehicles to be parked on the bend in Myrtle

Street as the traffic increases - the busy times appear to be between 7am-9.30am and 3pm-6.30pm-the parked cars and the trees are obscuring the vision of oncoming vehicles.

I don't feel qualified to provide a solution to this issue however there are three possible solutions:

- A one way street - the one way into Murwillumbah town centre (this would not be user friendly for all who live along this street and probably not the best solution)*
- Put up no parking signs on both sides of the road at the bend in the road and then all cars could negotiate the road safely in both directions, there is plenty of space to park cars further back along the straight stretch of the road.*
- Cut the trees that are obstructing the view - this would not be a long term solution and probably not financially efficient in the long term and the neighbours whose property has the trees on it, have stated very clearly that they do not want the trees cut down."*

A review of the crash history shows no recorded crashes on Myrtle Street in this vicinity. Generally, motorists are required to slow to an acceptable safe speed when sight distances are reduced due to parked vehicles. Whilst it is acknowledged vehicles parked on the street may narrow the traffic lane, given the low speed environment and low traffic volumes it is not considered that prohibitive parking signage is required and Council officers should continue to monitor the parking situation in Myrtle Street.

COMMITTEE ADVICE:

That no action be taken with regard to the request for prohibitive parking signage in Myrtle Street, Murwillumbah.

B3 [LTC] Rainbow Ride Cycle Challenge 2011

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 38234052; 38633270; Traffic - Committee; Festivals/Events - Other; Tweed Valley Way; Stokers Road; Mistral Road; Bakers Road; Kyogle Road; Pottsville Road; Cudgera Creek Road; Tweed Coast Road; Wooyung Road

SUMMARY OF REPORT:

Request received in relation to permission to use Tweed Shire roads for the Rainbow Ride Cycle Challenge Sunday 13 November 2011.

"This event will start and finish in Byron bay for the first time... The course this year in Tweed shire is similar to the inaugural event in 2006 (Mooball/Mistral rd/Uki/Stokers siding). It doesn't include the (Tyalgum/Chillingham loop) but includes a New loop out to Pottsville/Wooyung before returning to Byron shire."

This event is promoted as a charity ride and not a race. Further advice from the proponent indicates that there will be 500 to 600 participants.

The Committee considered that the organisers should provide evidence of consultation with affected communities along the route.

COMMITTEE ADVICE:

That the Rainbow Ride Cycle Challenge on Sunday 13 November 2011 be supported in accordance with the Traffic Management Plan and subject to standard conditions and Police approval.

B4 [LTC] Clothiers Creek Road, Clothiers Creek

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 37021766; Traffic - Committee; Traffic - Speed Zones; Access to Property - Driveways; Directional Signs; Clothiers Creek Road; Raven Place; Condor Place

SUMMARY OF REPORT:

Request received in relation to the speed of vehicles travelling on Clothiers Creek Road, Clothiers Creek in particular between Raven Place and Condor Place.

"Lately we've seen many vehicles overtaking over double unbroken lines in front of our property and also between Raven's Place and Madura Tea. This practice is a recipe for disaster as the sections of road where this occurring are only short and have restricted vision because of blind corners.

There are four road intersections, in excess of forty private driveways, two major businesses between Farrant's Hill Road and the Pacific Hwy interchange.

- 1. We'd like to see the speed limit dropped to 70km/h between Nunderi and the Highway which could possibly bring the majority of motorists down to 80km/h.....*
- 3. Some signage erected to alert motorists of concealed driveways (at present there's only one.....)*

.... We believe the existing speed limit on our section of road excessive due to the amount of traffic that travels, exits and enters every day."

On 25 November 2010 the Committee considered an item that related to various speed zoning issues across the Shire, including Clothiers Creek Road. The Committee advised as follows:

"That speed zone reviews for the following roads be referred to the Roads and Traffic Authority of NSW:

- 1. Fraser Drive (between Botanical Circuit and Terranora Road)*
- 2. Clothiers Creek Road*
- 3. Tomewin Road, the 100km/hr zone just outside of Murwillumbah"*

The outcomes of a speed zone review on Clothiers Creek Road has yet to be received from the Roads and Traffic Authority of NSW.

COMMITTEE ADVICE:

That the speed zone review request for Clothiers Creek Road of 25 November 2010 for the Roads and Traffic Authority of NSW be placed on the Schedule of Outstanding Resolutions.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 20 October 2011 in the Mt Warning Meeting Room commencing at 10.00am.

There being no further business the Meeting terminated at 12.00pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 [LTC] Eyles Avenue, Murwillumbah
Nil.

A2 [LTC] Heffron Street, Tweed Heads
Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

A1 [LTC] Eyles Avenue, Murwillumbah

That "No Stopping" signs and yellow kerb lines be installed on Eyles Avenue at the Prince Street intersection to reinforce the 10 metre "No Stopping" rule at intersections.

A2 [LTC] Heffron Street, Tweed Heads

That:

1. Bus Zone signage on Heffron Street be amended to reflect standard School Zone times being 8.00am to 9.30am and 2.30pm to 4.00pm.
 2. Council officers consult with Surfside Buses regarding potential reductions in the length of Bus Zones in Heffron Street.
 3. Tweed River High School explore options to provide drop off and pick up areas within School grounds
 4. Existing "No Parking" signage at the intersection of Currawong Place be replaced with "No Stopping" signage as per NSW Road Rules.
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43 [SUBCOM] Reports from Subcommittees and/or Working Groups

The following reports from Subcommittees and/or Working Groups are distributed to Councillors for information only as they do not require a Council decision.

1. Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 8 September 2011 (ECM39275879).
 - 2.
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ORDERS OF THE DAY

44 [NOR-Crs B Longland, D Holdom and K Milne] Tweed district Water Supply Augmentation

NOTICE OF RESCISSION:

Councillor B Longland, Councillor D Holdom and Councillor K Milne move that Parts 2 and 3 of Minute 688 from the meeting held 19 October 2010 Item 24-Tweed District Water Supply Augmentation Options - Selecting a Preferred Option, being:

2. *Adopts the Byrrell Creek Dam as the preferred option for augmenting the Tweed district Water Supply; and*
3. *Proceeds with the Planning Approvals process and Detailed Design in relation to Byrrell Creek Dam; and*

Part 5 of Minute 769 from meeting held 16 November 2010 Item 18-Tweed District Water Supply Augmentation - Subsequent Issues, being

5. *Proceeds with planning approval investigations for Preliminary Geological / Geotech Studies, Seismic Studies and Hydrology Studies; a Legal and Planning Advice Study; a Land Acquisitions Plan; and liaising with Government Agencies regarding Planning Approval Requirements (EIS requirements, Adaptive Management requirements, Water Sharing Plan, Fisheries requirements).*

be rescinded.

45 [NOM-Cr D Holdom] Tweed District Water Supply Augmentation Options - Selecting a Preferred Option

NOTICE OF MOTION:

Councillor D Holdom moves that Council:

1. Adopts the raising of Clarrie Hall Dam as the preferred option for augmenting the Tweed district Water Supply;
2. Proceeds with the Planning Approvals process and Detailed Design in relation to the raising of Clarrie Hall Dam;
3. Officers continue to liaise with landholders at Doon Doon Creek to facilitate acquisition of properties or parts thereof as required; and

4. Writes to the Minister advising of the Tweed district Water Supply Augmentation - Preferred Options.
-

46 [NOM-Cr D Holdom] Affordable Housing/Housing Affordability/Social Housing and Local Government's Role

NOTICE OF MOTION:

Councillor D Holdom moves that the General Manager investigates and reports back to Council on "What is Affordable Housing against "Housing Affordability/Social Housing", the report defines local government's role in such matters and a glossary of terms and acronyms be attached to the final report.

47 [NOM-Cr D Holdom] Camphor Laurel Policy Development

NOTICE OF MOTION:

Councillor D Holdom moves that the General Manager investigates and reports back to Council on a draft policy document on the eradication and management of Camphor Laurel on all public or private land in the Tweed shire.

48 [NOM-Cr K Skinner] Infrastructure Maintenance

NOTICE OF MOTION:

Councillor K Skinner, given the State Government commitment to paying half the interest on borrowings for infrastructure, moves that Council brings forward a report as to how Council can take advantage of this offer given the identified backlog in infrastructure maintenance.

49 [NOM-Cr K Skinner] Change of Meeting Dates

NOTICE OF MOTION:

Councillor K Skinner moves that:

1. December's Council Meeting be moved forward to the second Tuesday of the month i.e. 8 December 2011; and
 2. January's Council Meeting be moved back to the fourth Tuesday of the month i.e. 24 January 2012.
-

50 [NOM-Cr K Skinner] Request for Response - State Government

NOTICE OF MOTION:

Councillor K Skinner moves that Council writes to the Premier requesting the State Government's reasons for not including their employees, as well as all council employees, in the possible inclusion of a productivity clause in their future wage structure along with the other state government departments.

51 [NOM-Cr K Skinner] Dredging of Cudgen Creek

NOTICE OF MOTION:

Councillor K Skinner moves that Council requests that the Tweed River Committee applies for further rights to conduct dredging of Cudgen Creek for navigational purposes in February 2012.

52 [NOM-Cr J van Lieshout] Request for Workshop - Audit Charter Version 1.5

NOTICE OF MOTION:

Councillor J van Lieshout moves that a Workshop be held to inform elected Council on the details of the roles and responsibilities of the Tweed Shire Council Audit Committee as indicated in the " Audit Committee Charter Version 1.5" adopted by Council at the Council Meeting of 20 September 2011.

53 [NOM-Cr K Milne] Popularly Elected Mayor

NOTICE OF MOTION:

Councillor K Milne moves that Council instigates the process for a referendum on the Community's preference for a popularly elected or Councillor elected Mayor.

54 [NOM-Cr K Milne] Council Assistance for the Homeless

NOTICE OF MOTION:

Councillor K Milne moves that Council invites the Mayor of Byron Bay, Cr Jan Barham, to address Councillors and relevant staff on how councils can assist and the benefits of facilitating services for the homeless.

55 [NOM-Cr K Milne] Sustainability Development Control Plan

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on developing a Sustainability Development Control Plan for medium to large subdivisions utilising a sustainability assessment tool for subdivisions.

Note: A new assessment tool to rate the sustainability of subdivisions is now available and has recently won the Planning Institute of Australia President's National Aware for outstanding Planning Practice.

For further information see:

<http://sw.net.au/opinion/wp-content/uploads/2011/04/Precix.jpeg> and

<http://www.landcom.com.au/content/publication-and-programs/new-ways-to-sustainable-places-think-do-adapt.aspx>

UNDER SEPARATE COVER:

1. Introducing PRECINX - ECM 402389027
-

56 [NOM-Cr K Milne] Tweed Community's Preferred Population Levels

NOTICE OF MOTION:

Councillor K Milne moves that Council undertakes a community engagement process, including survey, to ascertain the Tweed Shire Community's preferred population levels.

57 [NOM-Cr K Milne] Review of Council's Water Reports

NOTICE OF MOTION:

Councillor K Milne moves that Council commissions the Institute of Sustainable Futures to review the Tweed District Water Supply Demand Management Strategy and Augmentation Options Reports; this review be designed to:

1. ascertain if there are viable opportunities to meet the water demand in the current planning horizon to 2036 without further damming, and
 2. ascertain the cost/benefit of such options for the longer future.
-

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QUESTIONS ON NOTICE

58 [QoN-Cr K Milne] Cost of Dual Reticulation for Cobaki

QUESTION ON NOTICE:

Councillor asked is the extra cost for a third pipe dual reticulation system treatment plant for the Cobaki development, if it included directing overflow back to the Banora Point Sewerage Treatment, considered one of the main impediments to dual reticulation, and what would be the estimated cost per new resident if this extra infrastructure was required?

59 [QoN-Cr K Milne] Water Supply Predicted Shortfall at 2036

QUESTION ON NOTICE:

Councillor asked what is the estimated secure water yield shortfall predicted for 2036, for each scenario, if the following were included:

- i. Demand Management Strategy savings predictions
 - ii. The readjusted population predictions from ID Consulting
 - iii. Dual reticulation
 - iv. 10,000 litre tanks
 - v. All of the above
-

60 [QoN-Cr K Milne] Route of Access for Blacks Drain Clearing

QUESTION ON NOTICE:

Councillor K Milne asked over what route would it have been possible to have gained access to this area for the heavy machinery required, and where have these trees been cleared to?

61 [QoN-Cr K Milne] Compliance Clearing etc along Blacks Drain

QUESTION ON NOTICE:

Councillor K Milne asked does Council have any role in compliance with regard to the recent clearing, tree removal and planting of exotic grasses along the Blacks drain in the Cudgen Nature Reserve between the Kings Forest development site and Cudgen Creek, and if so, what are the actions Council is taking?

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

- 1 [PR-CM] Failure to Comply with Prevention Notice - On-site Sewage Management System - Lot 2 DP 726118, No. 8 Uriup Rd Bilambil

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(A) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

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

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

- 2 [CNR-CM] Sale of Lot 11 in DP 520017 - 209 Byangum Road Murwillumbah

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
-

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

3 [EO-CM] Kingscliff Car Parking

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
-

4 [EO-CM] Bilambil Sports Club

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(b) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (b) the personal hardship of any resident or ratepayer
-

5 [EO-CM] Duroby and Chillingham Quarries - Sale by Public Tender

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
-