



**TWEED**  
SHIRE COUNCIL

**Mayor:** Cr K Skinner (Mayor)

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

## Agenda

### Ordinary Council Meeting Tuesday 21 June 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] Minutes of Ordinary and Confidential Council Meetings held Tuesday 17 May 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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. Minutes of the Ordinary Council Meeting held Tuesday 17 May 2011 (ECM 33255965).
  2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 17 May 2011 (ECM 33209021).
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## SCHEDULE OF OUTSTANDING RESOLUTIONS

### 2 [SOR] 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.

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21 September 2010

#### ORDERS OF THE DAY

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

666

Cr D Holdom

Cr K Milne

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

**Current Status:** To be rescheduled as a result of the postponement of the workshop of 7 June 2011.

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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 to be developed.

---

16 November 2010

**48 [NOM-Cr Milne] Public Transport Strategy**

803

Cr K Milne

Cr B Longland

**RESOLVED** that Council brings forward a report on developing a long term Public Transport Strategy and how future transport corridors can be preserved in the Tweed.

**Current Status:** A workshop was held on 7 June 2011 and a report to be provided to a future meeting.

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**51 [NOM-Cr Milne] Marine Litter Volunteer Groups**

806

Cr K Milne

Cr K Skinner

**RESOLVED** that Council brings forward a report on:

1. How Council could assist/enhance or provide support for the establishment of permanent volunteer groups in the removal of rubbish and fishing line along the riverbanks and waterways.
2. Ways to establish a mechanism to fund the removal of this rubbish along the waterways.

**Current Status:** Report to be prepared.

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18 January 2011

**ORDERS OF THE DAY**

**24 [NOM-Cr D Holdom] En Globo Procedures for Monthly Council Meetings**

**NOTICE OF MOTION:**

**Cr D Holdom**  
**Cr B Longland**

**RESOLVED** that:

1. The General Manager investigates and reports back to Council on *En Globo* procedures being adopted by Council within the context of monthly Council Meetings; and
2. A workshop be arranged for Councillors on *En Globo* procedures.

**Current Status:** A workshop was conducted on Tuesday 14 June 2011.

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**26 [NOM-Cr Milne] Fast Food Capital**

**NOTICE OF MOTION:**

**34**  
**Cr K Milne**  
**Cr K Skinner**

**RESOLVED** that Council holds a Workshop on fast food outlets.

**Current Status:** A workshop was conducted on Tuesday 14 June 2011.

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**29 [NOM-Cr Milne] Green Spaces for Small Lots**

**NOTICE OF MOTION:**

**37**

**Cr K Milne  
Cr D Holdom**

**RESOLVED** that Council brings forward a report on the implications on developing a policy that small lot housing should only be approved only where they back onto green spaces.

**Current Status:** Report to be prepared.

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**15 February 2011**

**MAYORAL MINUTE**

**4 [MM] Mayoral Minute (Report) - Chinderah Service Centre**

**46**

**Cr K Skinner**

**RESOLVED** that arrangements be made for Council to meet with senior NSW Roads and Traffic Authority staff to discuss operational aspects of the existing centre and to raise concerns regarding the potential for a further centre on the northern side of the Chinderah Interchange.

**Current Status:** Invitations have been forwarded to relevant Roads and Traffic Authority of NSW staff.

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17 May 2011

**ORDER OF THE DAY**

**42 [NOM-Cr K Milne] Whole of Shire Cultural and Community Facilities Plan and Open Space Requirements - Review**

**320**

**Cr K Milne**

**Cr B Longland**

**RESOLVED** that the General Manager investigates and reports back to Council on a possible review of the Whole of Shire Cultural and Community Facilities Plan and Open Space requirements in light of the greater recognition of these issues to Healthy Cities and mental health, and as a timely review for these 2002 and 2007 plans.

**Current Status:** Report to be prepared.

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## MAYORAL MINUTE

### 3 [MM] Mayoral Minute for the period 3 May to 1 June 2011

Councillors,

## COMMITTEE MEETINGS

### Attended by the Mayor

- 11 May 2011 - Beach Safety Liaison Committee - Cudgen Headland Surf Life Saving Club - attended as alternate
  - 27 May 2011 - NOROC Meeting - Invercauld House, Invercauld Road, Goonellabah
- 

## INVITATIONS:

### Attended by the Mayor

- 03 May 2011 - Sustainable Agriculture Forum, Food Links Launch - Murwillumbah Golf Club, 233 Byangum Rd, Murwillumbah (Cr Milne also advised her attendance)
- 05 May 2011 - Kids in Community Tweed Shire Launch event - South Tweed Sports Club
- 11 May 2011 - 4CRB Talkback Radio - 4CRB, 8 Stevenson Court, Burleigh Heads
- 11 May 2011 - Private Citizenship Ceremony - Mayor's office, Murwillumbah Civic Centre, 3 Tumbulgum Rd
- 13 May 2011 - 2nd Annual King and Queen of the Campus Surf Challenge - Cabarita Beach
- 15 May 2011 - Opening of the RSPCA Million Paws Fundraising Walk - Jack Bayliss Park, Kingscliff
- 16 May 2011 - Citizenship Ceremony for 30 new citizens - The Auditorium, Tweed Heads Civic Centre
- 17 May 2011 - Opening of the Education Revolution P21 Project - Bogangar Public School, 123-147 Tweed Coast Road, Bogangar

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

- 04 May 2011 - Re-branding of Tweed Daily News to Daily News - Ivory Tavern, 156 Wharf St, Tweed Heads (attended by Crs Polglase and van Lieshout)
- 11 May 2011 - Tweed River Art Gallery (TRAG) Volunteers' Morning Tea - TRAG, Mistral Rd, Murwillumbah (attended by Cr van Lieshout)
- 15 May 2011 - Official opening of Revolution Health & Fitness - Seagulls, Tweed Heads (attended by Cr Polglase)
- 19 May 2011 - Tweed Seniors Expo 2011 - Seventh Day Adventist complex, Racecourse Road, Murwillumbah (Crs van Lieshout and Longland advised their attendance)
- 23 May 2011 - NSW Environmental Health Conference - Twin Towns, Tweed Heads (attended by Cr van Lieshout)
- 25 May 2011 - Twin Towns Friends, Volunteers Certificate of Appreciation Ceremony - Community Hall, Heffron Street, Tweed Heads South (attended by Crs Holdom and Longland)
- 28 May 2011 - Fingal Rovers 78th Annual Presentation Dinner - Fingal Rovers Surf Lifesaving Club, Cnr Marine Parade & Prince Street, Fingal Head (attended by Cr Polglase)

**Inability to Attend by or on behalf of the Mayor**

- 04 May 2011 - Tweed Heads Aboriginal Community Information & Assistance Day - PCYC, Cnr Florence & Adelaide Streets, Tweed Heads
  - 06 May 2011 - Murwillumbah Business Chamber Breakfast - Murwillumbah Services Club
  - 12 May 2011 - Twin Towns Friends, Big Cuppa for Cancer - Community Hall, Heffron Street, Tweed Heads South
  - 12 May 2011 - 90th Anniversary of the Founding of the Tweed Heads & Coolangatta Bowls Club (THBC) - Bowlers Lounge, THBC, Florence St, Tweed Heads
  - 20 May 2011 - Launch of 2011 Tyalgum Festival of Classical Music - World Heritage Rainforest Centre & Visitor Information Centre
-

**REQUESTS FOR WORKSHOPS:**

<b>Date of Request</b>	<b>Requested by Councillor</b>	<b>Topic</b>	<b>Councillors For</b>	<b>Councillors Against</b>	<b>Proposed Workshop Date</b>
5 May	Cr Milne	Rising Sea Levels and consideration of a Community Advisory Committee	Milne Holdom Longland	Remaining Councillors	-
23 May	Cr Holdom	Bogangar / Cabarita Beach Locality Plan (to identify any changes that may need to be made to the LEP)	Holdom Longland Skinner Milne Youngblutt van Lieshout	Polglase	To be Advised
23 May	Cr Holdom	Council Land Assets - identifying possible land sales further to previous workshop	Holdom Longland Skinner Youngblutt van Lieshout	Milne Polglase	To be advised
30 May	Cr Holdom	Cobaki Estate - Where to from here? Seeking an explanation from Council & Federal officers re planning processes for the advancement of the 2 approved subdivisions	Cr Holdom Cr Longland Cr Skinner Cr Milne	Remaining Councillors	To be Advised

**CONFERENCES:****Conferences attended by the Mayor and/or Councillors**

- 31 May-01Jun Shires Association of NSW 2011 Annual Conference - Sofitel Wentworth Sydney, 61-101 Phillip Street, Sydney (attended by Crs Skinner, Polglase, van Lieshout)

- 5-6 Aug 2011 - Councillor Weekend Program provided by the LGSA - Novotel Pacific Bay Resort, Coffs Harbour - *Explores Councillors' role in the planning system, Managing Time and Stress, Community Leadership, Meeting Skills* - Registration \$990pp, plus \$320 for 2 night accommodation, plus flights - Refer to website  
<http://www.lgsa.org.au/resources/documents/CRWkAug11.pdf>
  
- 17-18 Aug Local Government, Destination 2036 - Dubbo, venue to be advised - *Jointly developed with the LGSA and LGMA, this two day workshop for Mayors and General Managers is a "think tank" on the long-term financial vulnerability of councils, to discuss and consider options for the future of local government in NSW and to produce a roadmap for an effective and sustainable local government sector over the next 25 years* - Flight costs only, No Registration fee, accommodation will be provided by the Division of Local Government.

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### **COUNCIL REPRESENTATIVES - Community Aviation Consultation Group**

The Mayor (or his representative) has been invited by Gold Coast Airport to join the Gold Coast Airport Community Aviation Consultation Group (CACG). The purpose of the CACG is to ensure that community views are effectively heard by the airport and to give members the opportunity to obtain information about what is happening on-airport. The CACG will be open to residents affected by airport operations, local authorities, airport users and other interested parties and will be used to exchange information on issues relating to Gold Coast Airport operations and their impacts. Council currently has 2 staff representatives.

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### **SIGNING OF DOCUMENTS BY THE MAYOR:**

- 12 May 2011 - Section 88B Instrument - easement Tweed Heads West (Lot 1 DP 1032820, Lot 2 DP 537490 and Lot 25 DP 1017105)
  
  - 27 May 2011 - Request - Land Acquisition West End Street, Murwillumbah
  
  - 27 May 2011 - Transfer - Operational Land - Pottsville
-

**RECOMMENDATION:**

**That:-**

- 1. The Mayoral Minute for the period 3 May to 1 June 2011 be received and noted.**
  - 2. The attendance of Councillors at nominated Conferences be authorised.**
  - 3. Council appoints \_\_\_\_\_ as delegate and \_\_\_\_\_ as an alternate delegate to the Gold Coast Airport Community Aviation Consultation Group.**
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**ORDINARY ITEMS FOR CONSIDERATION**

**REPORTS THROUGH THE GENERAL MANAGER**

**REPORTS FROM THE GENERAL MANAGER**

**4 [GM-CM] Building Better Regional Cities Program**

**ORIGIN:**

**General Manager**

**SUMMARY OF REPORT:**

The Australian Government has released details of its Building Better Regional Cities (BBRC) Program. The program is a \$100 million commitment that aims to help build more affordable homes in regional cities across Australia over the next three years.

Up to \$15 million will be provided to successful regional cities for infrastructure projects that support new housing developments, such as connecting roads, extensions to drains and sewerage pipes and community infrastructure such as parks and community centres.

Forty seven regional cities across Australia will be eligible for funding under the program. Tweed Heads is one of the eligible regional cities.

Draft program guidelines, application form and consultation paper have been released and are attachments to this report.

**RECOMMENDATION:**

**That Council seeks expressions of interest from private companies and incorporated not for profit bodies to enter into a consortium arrangement with Council to develop an eligible project and make application to the Australian Government for program funding.**

## REPORT:

The Australian Government has released details of its Building Better Regional Cities (BBRC) Program. The program is a \$100 million commitment that aims to help build more affordable homes in regional cities across Australia over the next three years.

Up to \$15 million will be provided to successful regional cities for a single infrastructure project or multiple projects that support new housing developments, such as connecting roads, extensions to drains and sewerage pipes and community infrastructure such as parks and community centres.

Forty seven regional cities across Australia will be eligible for funding under the program. Tweed Heads is one of the eligible regional cities.

Draft program guidelines have been released and are an attachment to this report.

The objective of the BBRC Program is to relieve the pressure on major cities to help Australia grow sustainably. This will be done by increasing the number of homes for sale and rent that are affordable for low and moderate income earners (affordable homes) over the next three years in regional centres that are experiencing positive jobs and population growth.

Priority will be given to infrastructure projects that:

- Can demonstrate that there is land available for housing.
- Can demonstrate strong expected jobs growth.
- Can demonstrate that there is community support for the development.
- Can demonstrate how many extra affordable homes will be delivered over the next three years.
- Represent good value for money to the Australian Government.
- Are well planned.
- Meet appropriate planning benchmarks.
- Demonstrate good urban design.
- Incorporate environmental improvements.

Funding may be used for the infrastructure needed to support new greenfield and infill housing developments within eligible regional cities, where this will also result in an increase the amount of affordable homes in those new developments.

The types of infrastructure that can be funded under the program include:

- Connecting infrastructure such as water and sewerage headworks, upgrades and reticulation systems, and roads.
- Community infrastructure such as: parklands and open space; pedestrian and cycle paths; and community centres, libraries and recreation facilities, where these facilities would otherwise be funded by charges to the cost of new homes in the area.

Funding provided under the BBRC Program does not include any funding for future maintenance or upgrades to the development. Any proposal submitted must take into account future costs that might arise from the initial BBRC Program investment.

All construction for the component funded by the Australian Government and the housing development itself must be completed by 30 June 2014.

Successful applications will need to address the following assessment criteria:

- Criterion 1: Economic Growth and Housing Need
- Criterion 2: Planning and Approvals
- Criterion 3: Value for Money and Affordability
- Criterion 4: Good Urban Design, Sustainability and Accessibility
- Criterion 5: Capacity and Compliance

Applicants must address this criterion (at a minimum) by:

- Clearly identifying the infrastructure that is proposed to be constructed using BBRC funding (including in a concept plan where possible).
- Providing details of planning approvals (including those already obtained or submitted, and those yet to be obtained). Where approvals have already been obtained, applicants must attach a copy of the approval (including any conditions of consent), to their application form.
- Submitting a project plan that shows how the proposal will be implemented and managed, including: Timeframes; Activities (including community consultations); Key Project Personnel; Roles and Responsibilities; Resources; Outputs / Deliverables / Milestones; Costings and Budget.
- Submitting a Risk Management Plan which identifies all risks to the successful completion of the project, along with risk ratings and proposed risk treatment or mitigation measures.
- Providing evidence of community support for the proposal (eg: letters of support or submissions made as part of community consultation efforts).

While state and territory governments, private companies and incorporated not-for-profit bodies are not eligible to apply for funding directly, they are encouraged to participate in the program by entering into consortium arrangements with Council as the lead organisation.

Consortia need to be supported by appropriate legal arrangements (including strong governance and accountability provisions) which must be set up to ensure that:

- a) the project can be delivered as detailed in the application form; and
- b) the lead organisation is capable of meeting its obligations under the terms and conditions of the Funding Agreement with the Australian Government.

Acceptable legal arrangements must be put in place prior to a Funding Agreement with the Australian Government being signed. It is the responsibility of the eligible/lead organisation to put these legal arrangements in place.

## **CONCLUSION**

It is considered that a partnership arrangement between affordable housing providers, land owners, developers and/or financiers with Council would provide the maximum opportunity to put forward a successful project.

This report, therefore, recommends that Council seeks expressions of interest to enter into such an arrangement.

Any arrangement will involve particular due diligence in regard to probity, financial viability and risk assessment. Notwithstanding the difficulties that may arise with any such arrangement, it is considered that Council as a standalone entity would not be in a position to put forward a sustainable project.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Given the scale of the project, Council would need to develop a legal framework that mitigated Council's commercial and legal risks.

**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](http://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 Building Better Regional Cities Application Guidelines (ECM 34564385).
  2. Draft Building Better Regional Cities Application Form (ECM 34564386).
  3. Draft Building Better Regional Cities Consultation Paper (ECM 34564387).
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## **REPORTS FROM THE DIRECTOR PLANNING AND REGULATION**

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

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

#### **MATTERS FOR CONSIDERATION**

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

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**5 [PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards**

**ORIGIN:**

**Director Planning and Regulation**

**SUMMARY OF REPORT:**

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

**RECOMMENDATION:**

**That Council notes the May 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, the following Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

<b>DA No.</b>	DA10/0556
<b>Description of Development:</b>	surf lifesaving outpost and vehicle access
<b>Property Address:</b>	Lot 7064 DP 1113596 Surfside Crescent, Pottsville
<b>Date Granted:</b>	19/5/2011
<b>Development Standard to be Varied:</b>	Clause 32B(4)(b) - overshadowing
<b>Zoning:</b>	6(a) Open Space
<b>Justification:</b>	The proposed life saving facility is required to be in close proximity to the beach for reaction times etc. The shadow created by the facility is unavoidable due to the facility being located on adjacent open space land. The development is surrounded by residential dwelling of two storey in height, with the proposed facility being single storey in height.
<b>Extent:</b>	The dimensions of the proposed outpost (roof area) being height 3.8m x length 16.2m x width 9.4m (152.28m <sup>2</sup> ). The size of the proposed shadow is relatively minor due to the relatively small scale of the development and in relation to the size of the reserve (90, 511.79m <sup>2</sup> ).
<b>Authority:</b>	Tweed Shire Council

<b>DA No.</b>	DA10/0797
<b>Description of Development:</b>	two storey dwelling with basement carpark and swimming pool
<b>Property Address:</b>	Lot 353 DP 1087716, No. 23 Cylinders Drive, Kingscliff
<b>Date Granted:</b>	10/5/2011
<b>Development Standard to be Varied:</b>	Clause 32B(4)(b) - overshadowing
<b>Zoning:</b>	2(f) Tourism
<b>Justification:</b>	Application has been made to vary Clause 32B of the North Coast Regional Plan, as the proposed development will cast a shadow onto the foreshore land at the rear of the property. The dwelling is two storeys high and in keeping with the bulk and scale of Beach front dwellings already approved in the area. The shadow cast by the dwelling will only impact on a footpath/cycle way at the rear of the property. The beach is located approximately 100 metres from the dwelling and shadows cast by existing trees in the foreshore have a more significant impact on the foreshore area than the shadow cast by the dwelling.

<b>Extent:</b>	<p>An application has been received to construct a two (2) storey dwelling with a basement car park, an in-ground swimming pool and fencing at the subject property.</p> <p>An objection under SEPP No. 1 has been submitted to seek a variation to the North Coast Regional Environmental Plan 1988 relating to overshadowing of waterfront open space, as the proposed two storey dwelling will cast a shadow on the adjacent waterfront open space. . The shadow cast will only impact on a pedestrian/ cycle way and the coastal dune vegetation behind the dwelling and not impact on the public's enjoyment of the foreshore.</p>
<b>Authority:</b>	Tweed Shire Council

<b>DA No.</b>	DA10/0849
<b>Description of Development:</b>	additions to create a dual occupancy
<b>Property Address:</b>	Lot 61 DP 31369 No. 11 Murraba Crescent, Tweed Heads
<b>Date Granted:</b>	24/5/2011
<b>Development Standard to be Varied:</b>	Clause 51A - Multi Dwelling Housing Densities in Zone 2a
<b>Zoning:</b>	2(a) Low Density Residential
<b>Justification:</b>	Site is 897m <sup>2</sup> in 2a zone - applicant's justification rests on minor nature of variation (3m) and the objectives of the standard will be achieved anyway given the low impact design of the proposed dwelling.
<b>Extent:</b>	Variation of 3m or less than 10%
<b>Authority:</b>	Tweed Shire Council

<b>DA No.</b>	DA11/0107
<b>Description of Development:</b>	dwelling additions
<b>Property Address:</b>	Lot 18 DP 838549 No. 768 Terranora Road, Terranora
<b>Date Granted:</b>	2/5/2011
<b>Development Standard to be Varied:</b>	Clause 24 - Set backs to designated roads
<b>Zoning:</b>	1(c) Rural Living
<b>Justification:</b>	Application received to vary clause 24 of the Tweed LEP 2000 to permit the construction of additions to an existing dwelling within thirty metres of Terranora Road which is a designated road.
<b>Extent:</b>	<p>Application has been received to vary clause 24 of the Tweed LEP 2000 to permit the construction of dwelling additions within the thirty metre setback to Terranora Road. The allotment is zoned 1(c) rural living and is subject to a thirty metre setback as this part of Terranora Road is a designated road.</p> <p>The additions will be located within 12m of the Terranora Road frontage to the site which will require the development standard to be varied by more than 10% hence the need for a SEPP 1 variation.</p>
<b>Authority:</b>	Tweed Shire Council

<b>DA No.</b>	DA11/0176
<b>Description of Development:</b>	gazebo and pool pump house
<b>Property Address:</b>	Lot 5 DP 1047760 No. 9 Winchelsea Way, Terranora
<b>Date Granted:</b>	23/5/2011
<b>Development Standard to be Varied:</b>	Clause 24 - Set backs to designated roads
<b>Zoning:</b>	1(c) Rural Living
<b>Justification:</b>	A SEPP 1 objection has been lodged against the requirement under clause 24 of the Tweed LEP 2000 for the dwelling house to observe a thirty (30) metre building alignment to Terranora Road, which is a designated road
<b>Extent:</b>	Variation to encroach 43% or 13 metres into designated road setback to accommodate an outbuilding.
<b>Authority:</b>	Tweed Shire Council

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

Nil.

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**6 [PR-CM] Development Application DA10/0295 for a Telecommunications Facility at Lot 7306 DP 1132011, No. 37 Boxsell Road, Limpinwood**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA10/0295 Pt1**

**SUMMARY OF REPORT:**

The subject application seeks consent for the construction of a telecommunications tower for Optus 3G coverage in the form of a monopole 30m in height and associated antennae, equipment shelter, bollards and chain-link security fence, within the existing garbage depot site on Boxsell Road, Limpinwood.

The proposed development raises issues in relation to visual amenity, flora/fauna impact and alternative site selection. Twenty-one (21) written submissions were lodged against the application.

This application was called up by Councillor Milne for determination by Council.

Following the assessment against the relevant heads of consideration, Council Officers consider that the location of the proposal is not suitable in terms of its likely adverse impacts on the natural and built environments.

It is therefore recommended that the application be refused.

**RECOMMENDATION:**

**That Development Application DA10/0295 for a telecommunications facility at Lot 7306 DP 1132011, No. 37 Boxsell Road, Limpinwood be refused for the following reasons:**

- 1. The development application is contrary to Clause 115(3) of the State Environmental Planning Policy (Infrastructure) 2007, in that the proposed development is not consistent with the principles described in the NSW Telecommunications Facilities Guidelines.**
- 2. The development application is contrary to Clause 4 of the Tweed Local Environmental Plan 2000, in that the proposed development does not meet the aims of the plan.**
- 3. The development application is contrary to Clause 5 of the Tweed Local Environmental Plan 2000, in that the proposed development would have an unacceptable adverse impact (particularly in terms of visual amenity and flora / fauna) on the natural environment.**
- 4. The development application is contrary to Clause 8(1) of the Tweed Local Environmental Plan 2000, in that the proposed development is considered**

**to have an unacceptable cumulative impact upon the surrounding environment.**

- 5. The development application is not suitable for the subject site, in that there is considered to be better suited alternative sites in the same locality and the proposed development is contrary to the Tweed Shire Scenic Landscape Evaluation.**
- 6. The development application is not considered to be in the public interest.**

**REPORT:**

**Applicant:** Optus Mobile  
**Owner:** Land and Property Management Authority  
**Location:** Lot 7306 DP 1132011, No. 37 Boxsell Road, Limpinwood  
**Zoning:** 5(a) Garbage Depot  
**Cost:** \$200,000

**BACKGROUND:**

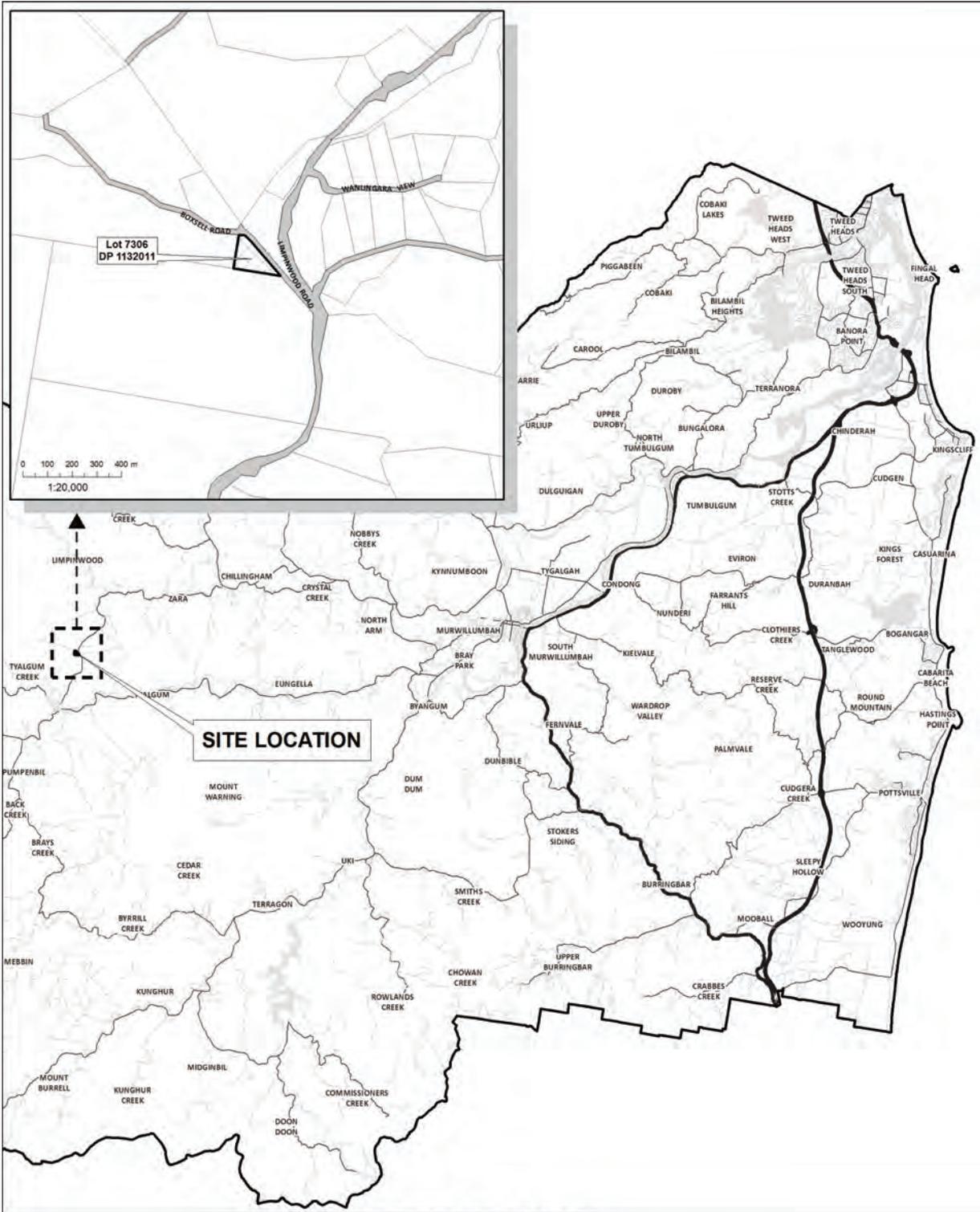
The subject site is legally described as Lot 7306 DP 1132011 located at 37 Boxsell Road, Limpinwood. The site has an area of 15,705m<sup>2</sup> and is zoned 5(a) Garbage Depot and is surrounded by land that is zoned 1(a) Rural. The site is approximately 2.2km from the township of Tyalgum

The subject application was lodged in May 2010 and seeks consent for the construction of monopole (telecommunications facility) and associated infrastructure, to provide improved 3G capacity in the Tyalgum township and surrounding rural areas. The Optus proposal comprises the following:

- One (1) 30m high monopole (maximum height including antennas is 30.9m);
- Three (3) Optus panel antennas (each 2.8m long) mounted on a circular headframe at Centre Line 29.5m;
- Two (2) x 0.6m parabolic antennas at Centre Line 27m;
- 1 x 0.6m parabolic antenna at Centre Line 27m;
- Equipment Shelter; and
- High chain link security fencing around the proposed compound.

The complex will take up an area of approximately 10.0m x 6.0m (60m<sup>2</sup>).

**SITE DIAGRAM:**



**Locality Plan**  
 Lot 7306 DP 1132011  
 No. 37 Boxsell Road, Limpinwood

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Cadastral: 31 May, 2011  
 © Land and Property Management Authority (LPMA) & Tweed Shire Council.  
 Boundaries shown should be considered approximate only.

0 2 4 Km  
 1:200,000 @ A4 Portrait  
 DO NOT SCALE  
 COPY ONLY - NOT CERTIFIED

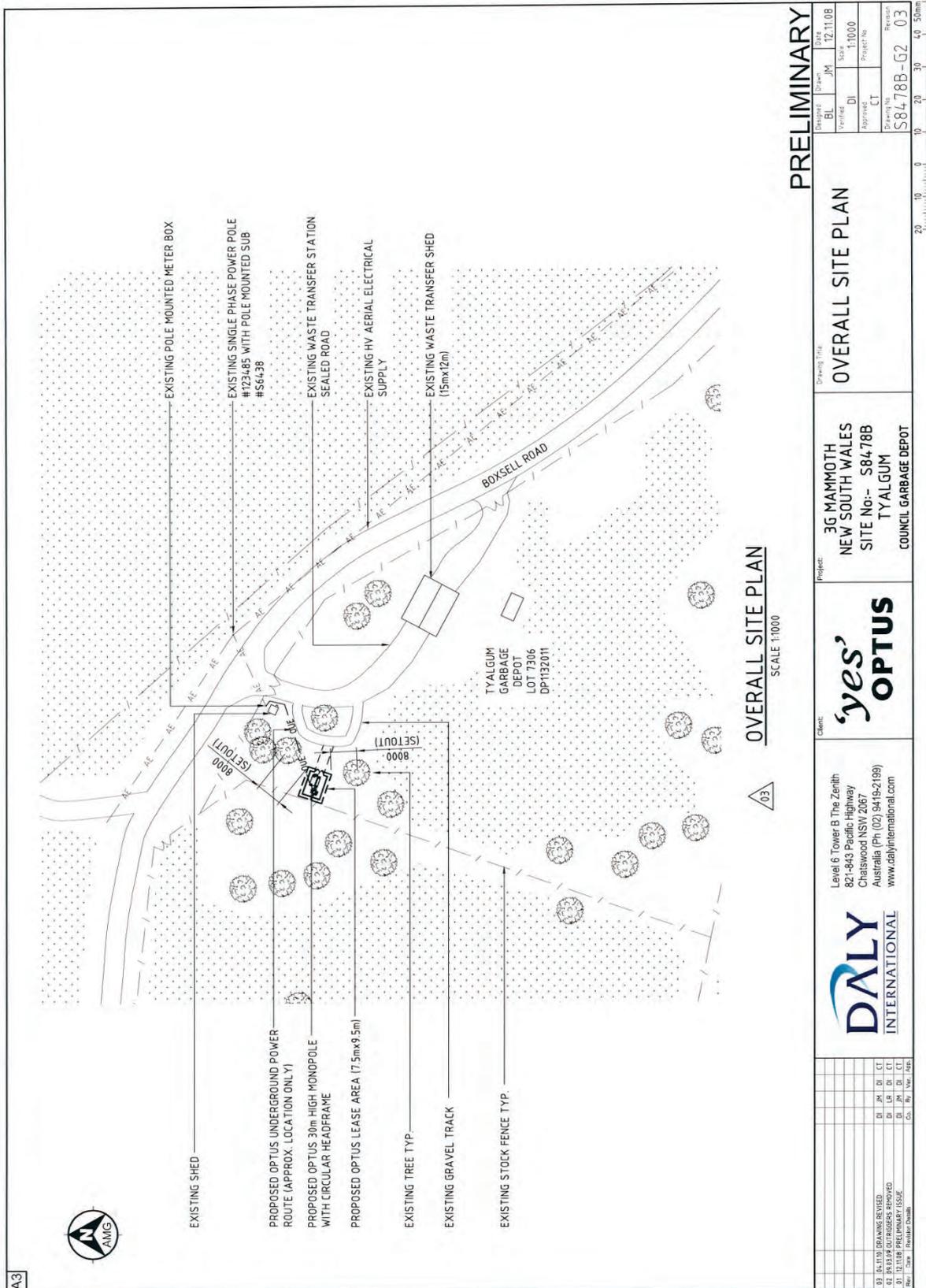
Map Projection: Universal Transverse Mercator  
 Horizontal Datum: Geocentric Datum of Australia 1994  
 Grid: Map Grid of Australia, Zone 56

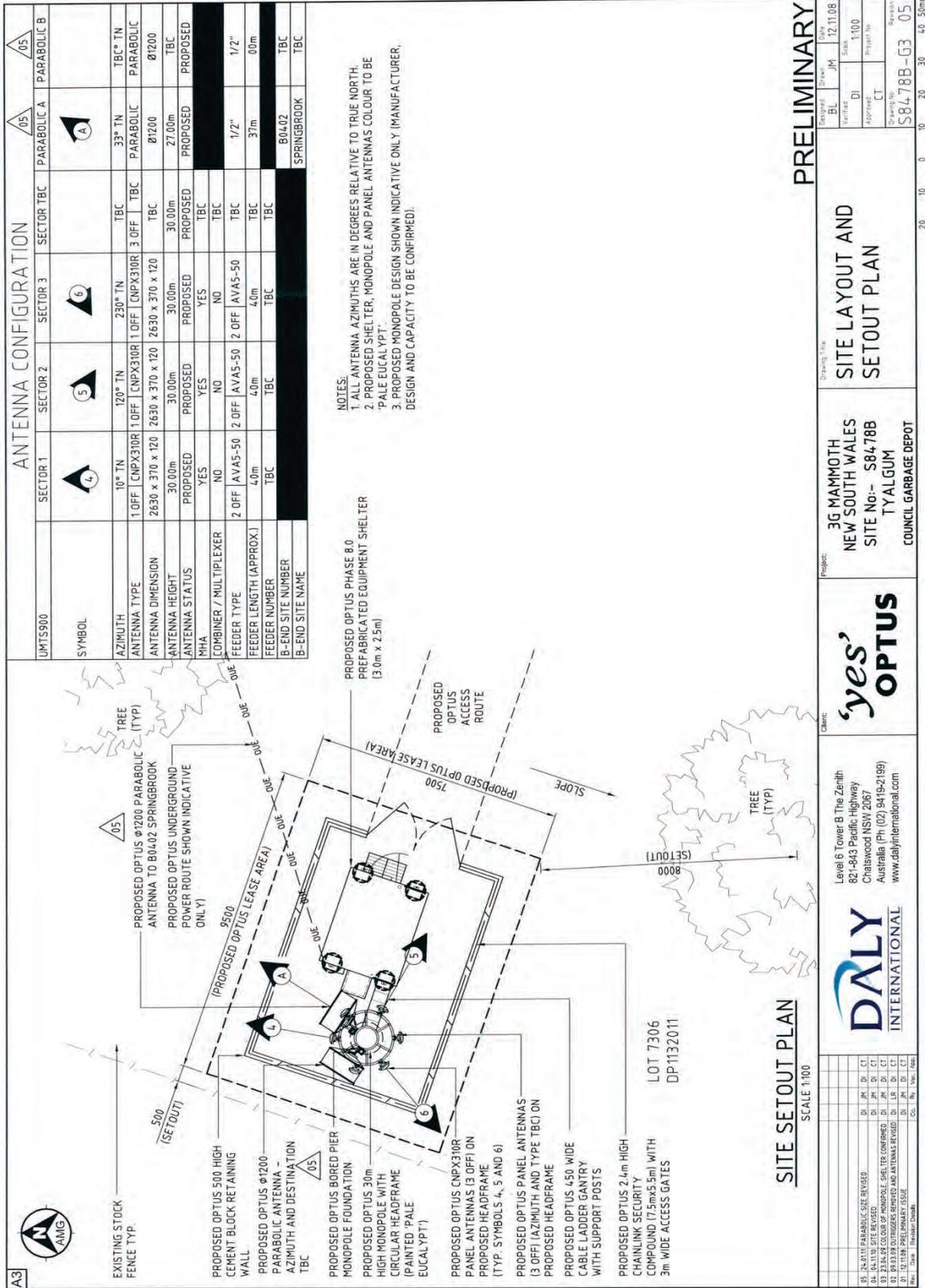
Civic and Cultural Centre  
 3 Tumbulgum Road  
 Murwillumbah NSW 2484  
 PO Box 816  
 Murwillumbah NSW 2484  
 T | (02) 6670 2400 | 1300 292 872  
 F | (02) 6670 2429  
 W | www.tweed.nsw.gov.au  
 E | planning@tweed.nsw.gov.au

**TWEED**  
 SHIRE COUNCIL

Filepath: Z:\EKO\PLANNING\STANDARD TEMPLATE\BASIC\MAPS\SHMap - LocalityPlan\_A4.mxd  
 Author: [Barthelemy - Planning Reform's Unit]  
 Date Printed: 11 May, 2011

DEVELOPMENT PLANS:





**PRELIMINARY**

Client: **'yes' OPTUS**  
 Level 6 Tower B The Zenith  
 821-843 Pacific Highway  
 Chatswood NSW 2067  
 Australia (Ph 02) 94192189  
 www.dalyinternational.com

Project: **3G MAMMOTH NEW SOUTH WALES SITE No:- 584788 TYALGUM COUNCIL GARBAGE DEPOT**

Drawing Title: **SITE LAYOUT AND SETOUT PLAN**

Drawn By: BL  
 Checked By: JM  
 Date: 12.11.08

Scale: 1:100  
 Drawing No: 584788-03  
 Revision: 05



**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 proposed development has been assessed by Council's Ecologist. The proposed development is considered to create unacceptable adverse impact on the natural environment, contravening paragraph a) and d) of clause 4, which are provided below:

- “(a) 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; and*
- (d) to encourage sustainable economic development of the area of Tweed compatible with the area's environmental and residential amenity qualities.”*

The proposed development is therefore not considered to be consistent with the aims of this plan.

Clause 5 - Ecologically Sustainable Development

As described in this report the proposed development is considered to create unacceptable adverse impact on the natural environment, contravening Clause 5 of the LEP.

Clause 8 - Zone objectives

- (1) 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.*

In this instance, the subject site is zoned 5(a) Special Uses (Garbage Depot), the primary objectives of which are outlined in Clause 11 assessment below. The proposed development is considered to be consistent with the primary objectives of the zone.

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

The proposed development is considered to have an **unacceptable cumulative impact** on the surrounding locality, particularly in relation to such close proximity to the proposed Telstra facility further along Boxsell road.

In light of the above, the proposed development is not considered to meet the provisions of Clause 8 of the LEP.

### Clause 11 - Zone objectives

#### **Zone 5 (a) Special Uses**

##### **Zone objectives**

##### **Primary objective**

- *to identify land which is developed or is proposed to be developed, generally by public bodies, for community facilities and services, roads, railways, utilities and similar things.*

##### **Secondary objective**

- *to provide flexibility in the development of the land, particularly if it is not yet or is no longer required for the relevant special use.*

The proposed development is defined as a 'Telecommunications Facility' under the provisions of the Tweed LEP 2000. The proposed development is **only permissible** within the 5a zone if it is a 'use which is compatible with adjacent uses allowed (with or without consent) in adjacent zones'.

The surrounding / adjacent zone is 1(a) Rural, which does permit Telecommunications Facilities. The proposed development is considered to be generally compatible with rural uses and is therefore permissible development.

### Clause 15 - Essential Services

The proposed development does not require the provision of water, sewerage and drainage/stormwater. Electricity supply is available from within the waste transfer station compound. The power supply is proposed to be run underground from an existing power pole within the compound to the proposed equipment shelter.

### Clause 16 - Height of Building

The site is identified on Council's Building Heights Map as being affected by a three (3) storey height limit. The proposed structure has a total height of 31.4 metres (note: as per definition pursuant to Tweed LEP 2000, the structure cannot be measured by storeys as there is no space between two floors). Therefore, the proposal complies with Clause 15 of the LEP.

### Clause 17 - Social Impact Assessment

Section A13 of Council DCP, identifies the types of developments that require a social impact assessment, the proposed telecommunication tower is not identified as an item requiring social impact assessment.

The applicant has noted that there...*'is not expected to be any adverse social or economic effects as a result of the development. Indeed it is anticipated that there will be positive impacts as a result of enhanced mobile telephone coverage'*. However the proposal did receive numerous submissions from the community objecting to the proposal in particular the proposed location. The issues raised in the submissions are addressed later in this report.

### Clause 39A Bushfire protection

The subject site is identified as being prone to bushfire. The applicant has noted that the site would be unmanned when operational and hence would not pose a threat to human life in the event of a bushfire. As the proposal is not a habitable building, the applicant suggests that referral to the NSW Rural Fire Service (RFS) is not required.

The local branch RFS was forwarded a copy of the application to determine if a bushfire assessment was required, pursuant to s79BA Environmental Planning and Assessment Act 1979. No reply has been obtained from the Local branch of the RFS. However, Council has recently received comments from the RFS in Sydney in relation to another telecommunications facility currently under assessment, noting the following:

*'RFS has a draft policy for telecommunications towers in bush fire prone areas. When the RFS is asked for comment on new towers:*

- *A 10m APZ (asset protection zone) shall be provided around the tower, buildings and associated infrastructure.*

*In this case the equipment shelter.*

- *The equipment shelter shall comply with section 8 (BAL 40) Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas'.*

### **State Environmental Planning Policies**

#### **SEPP (North Coast Regional Environmental Plan) 1988**

There are no specific clauses within the NCREP which are relevant to the proposed development.

#### **SEPP No. 44 - Koala Habitat Protection**

In terms of SEPP 44, the applicant has noted that the area of Tyalgum is not identified as core koala habitat. Therefore, a Plan of Management is not required.

The site is mapped as Secondary Koala Habitat. See flora / fauna comments later in this report.

#### **SEPP (Infrastructure) 2007**

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

##### ***115 Development permitted with consent***

- (1) *Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.*
- (2) *(Repealed)*
- (3) *Before determining a development application for development to which this clause applies, **the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities** that are issued by the Director-General for the purposes of this clause and published in the Gazette.*

The guidelines referred to in Clause 115(3) of the SEPP are found within the *NSW Telecommunications Facilities Guideline Including Broadband July 2010*. Section 2 of the Guideline is specific to site selection, design, construction and operation principles for telecommunications facilities and **requires development**

carried out under Clause 115 of the SEPP to be consistent with the principles set out in the Guideline in order to follow best practice.

**NSW Telecommunications Facilities Guideline Including Broadband**

*Principle 1: A telecommunications facility is to be designed and sited to minimise visual impact.*

*Principle 2: Telecommunications facilities should be co-located wherever practical.*

*Principle 3: Health standards for exposure to radio emissions will be met.*

*Principle 4: Minimise disturbance and risk, and maximise compliance.*

**Principle 1 (Visual Impact)**

- (e) *A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.*
- (g) *A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.*

Although the proposed location is within existing vegetation, the proposed facility (being 31.4m in height) will be visible above the tree line (shown as approximately 22m on the applicant's drawings). As noted later in this report, the proposed development is not considered to be acceptable in terms of visual impact, and therefore is not consistent with Principle 1 of the NSW Telecommunications Facilities Guidelines.

**Principle 2 (Co-location)**

- (e) *If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.*

*Note: Co-location is 'not practicable' where there is no existing tower or other suitable telecommunications facility that can provide equivalent site technical specifications including meeting requirements for coverage objectives, radio traffic capacity demands and sufficient call quality.*

Council was advised in February 2011 of Telstra's intention to install a proposed 40m telecommunications facility at 10 Boxsell Road under the provisions of the Infrastructure SEPP, as Complying Development. Telstra was required to advise Council of the proposal, prior to undertaking community consultation. The distance between the subject site and the Telstra proposal at 10 Boxsell Road is approximately 620m (see Figure 1 below).

Further to discussions with Council Officers (in regard to whether appropriate aboriginal heritage assessment had been undertaken and level of vegetation removal), Telstra submitted a letter from the Tweed / Byron Local Aboriginal Land Council (TBLALC). The letter noted that the TBLALC had...*'been consulted through the course of the Aboriginal Heritage Assessment'* and that the TBLALC...*'has no concerns with the proposed erection of the communication tower'*. Telstra also confirmed that the proposed location of the complying development was in a cleared area, with no requirement for the removal of vegetation.

Whilst it is acknowledged that the Tyalgum area is in need of better mobile telecommunications services, two facilities in such close proximity to each other is not acceptable, particularly in terms of visual impact. It was at this point that Optus was requested to investigate the option of co-locating on the proposed Telstra facility, noting that Council would be unlikely to support the proposed Optus facility if there was a co-location opportunity on a nearby facility (It should also be noted that this point in time (February 2011) Optus had not yet submitted an Aboriginal Cultural Heritage assessment, and it was not certain that such assessment would support the proposed Optus facility).

The response from Optus (February 2011) was that they would not consider changing the proposed location, given that the...*'application had been lodged with Council for 12 months and a considerable amount of time, effort and money has been invested in working with Council to create an acceptable solution for all parties'*. It was also noted by the applicant that it was...*'unacceptable to assume that Optus would be able to co-locate on a Telstra structure that is in the proposal stages only. There is no guarantee that the Telstra proposal will progress at all, or that Telstra will be amicable to allowing Optus to co-locate. Optus has identified a requirement to strengthen its network in the area, and is undertaking the necessary steps to do so in a timely fashion. To rely on other carries to plan and develop their infrastructure to suit coverage objectives would not be a feasible option. The ISEPP powers are also available to the Optus proposal, however have not been perused as yet in favor of working with Council for an acceptable solution'*.

Based on the fact that Optus had not addressed Council's request to investigate co-location opportunities (as required by the NSW Telecommunications Guidelines), Optus was advised that two (2) telecommunications towers in close proximity in a rural environment was **not acceptable**. See Figure 1 below which demonstrates the proximity of the proposed telecommunications facilities. Consideration of co-location options was again requested of Optus.

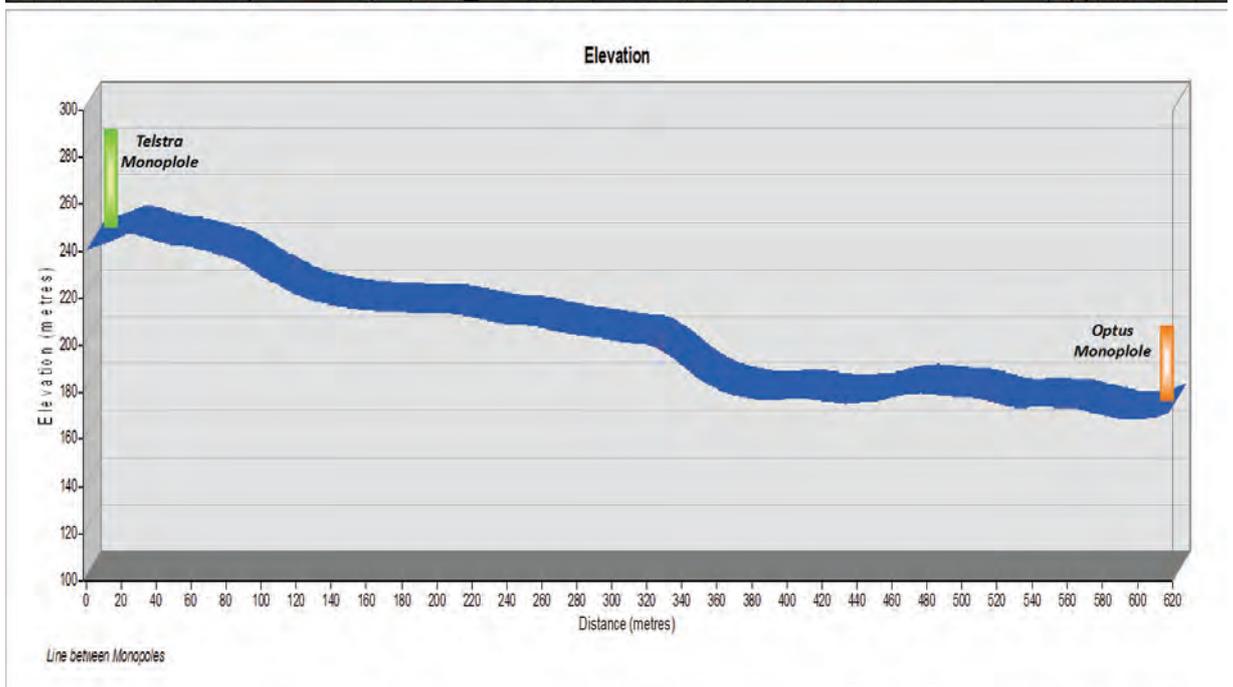


Fig 1: Comparison of location and elevation of Telstra and Optus proposals

Given Optus' disregard of co-location, Council contacted the Mobile Carriers Forum (MCF) in March 2011 to ask the Forum to "encourage" the two carriers to pursue co-location opportunities. A representative of the MCF responded in April 2011 to confirm that they had discussed the matter with representatives from both Telstra and Optus. In this regard the MCF noted the following:

*'The vast majority of existing mobile network telecommunications facilities in Australia support the equipment of more than one network carrier, so the industry has had some success in this regard. Where this is not possible it is usually due to the height of the lead carrier's proposed structure which does not allow a 2<sup>nd</sup> or 3<sup>rd</sup> carrier's antennas to be established at an elevation that meets geographical coverage objectives. I understand that this was the basis for the issues you've described, and the MCF has encouraged both Carriers to work to see if they can overcome these issues'.*

Further to the above, the following correspondence was received from Telstra in April 2011:

*'During the site investigation co-location with the proposed Optus facility was considered however, unfortunately the proposed Optus site will not meet Telstra's radio frequency requirements. The chosen Telstra location is located approximately 80m vertically higher than the proposed Optus location at the Tyalgum transfer station.*

*The extra height at the proposed Telstra location allows Telstra to provide greater coverage to Limpinwood Valley, Tyalgum Creek and Pumpenbil areas and is required to meet the requirements of Telstra and its customers. Telstra has received numerous coverage complaints from the listed locations over the years. Therefore the proposed Telstra location allows all the above mentioned locations to be covered from the one location rather than multiple sites.*

*A significant increase in height of the Optus proposal, in excess of 45m would be required to meet Telstra's network objectives.*

*During discussions between Telstra and Optus the following options were identified. Optus could amend its DA to increase the height of its structure to allow Telstra to co-locate (as the existing application is still undecided this approach will take some time), withdraw its DA and undertake a complying development for a larger facility which could possibly provide sufficient height for Telstra, or co-locate on Telstra's complying development proposal at 10 Boxsell Road, Tyalgum.*

*There is a well established co-location process between Carriers. Council can be assured that Telstra will, as always, work cooperatively with Optus regarding their application if they wish to take this approach.*

*Approval timeframes of the current Optus development application have also been taken into consideration. The Optus application is still undecided and no decision is foreseeable in the near future.*

*Telstra and Optus have now discussed the above options and without a substantial increase in height of the Optus proposal, Telstra have concluded that the complying development proposal at 10 Boxsell Road will continue to be pursued, in accordance with the State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications Facilities) 2010'.*

Correspondence from Optus was received in May 2011, which noted that Telstra has not yet secured an agreed lease with the landholder. Telstra was contacted on 31 May 2011 in this regard and verbally advised Council that the proposed facility at 10 Boxsell Road was...*'still going ahead and that the lease agreement was being finalised'*. The Optus letter also suggested that there is a higher probability of aboriginal artefacts being found at the proposed Telstra site, due to the relative undisturbed nature of the ground. As noted above, documentation received from Telstra notes that an Aboriginal Heritage Assessment was undertaken, which was subsequently supported by the TBLALC.

In light of Optus not being able to demonstrate that co-location is not practicable, the proposed development is not considered to be consistent with Principle 2 of the NSW Telecommunications Facilities Guidelines.

### **Principle 3 (Health Standards)**

- (a) *A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.*
- (b) *An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.*

As noted later in this report, an EME report has been submitted detailing the estimated maximum cumulative EME levels produced by the proposal. Council's Environmental Health Unit is satisfied that the proposed development is well within emissions standards. Therefore, the proposed development is considered to be consistent with Principle 3 of the Guidelines.

### **Principle 4 (Minimise disturbance)**

- (k) *Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.*

The applicant has noted that it is unlikely any trees would require removal. However, it is conceded that minor lopping of branches will be required. As noted later in this report, the proposed development is not considered to be acceptable in terms of flora / fauna impact, and therefore is not consistent with Principle 4 of the NSW Telecommunications Facilities Guidelines.

### **Conclusion:**

The proposed development is not considered to be consistent with three of the four principles set out in the NSW Telecommunications Facilities Guidelines. Therefore, the proposal **does not comply with the provisions of Clause 115(3) of the Infrastructure SEPP** and should be refused.

### **SEPP (Rural Lands) 2008**

One of the aims of this Policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. It is considered that

the proposed development is consistent with the aims of this Policy in that it will improve the telecommunication network in the locality.

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

The subject site is proposed to be zoned RU2 – Rural Landscape in the Draft Tweed Local Environmental Plan 2010. A proposed telecommunication facility is prohibited in this zone. Any telecommunications facility would have to rely on the provisions if the infrastructure SEPP in order to be permissible in this zone.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The proposed land use (telecommunications facility) is not identified within the policy, therefore a strict development standard is not available to use. The applicant states that *the proposed facility is self contained and operates on a continuously unstaffed basis. Once operational and integrated within the Optus mobile network, the base station typically requires only yearly maintenance inspections.*

It is apparent from the proposed plans that the waste transfer station compound could accommodate adequate onsite parking.

A11-Public Notification of Development Proposals

The application was advertised for a period of fourteen (14) days from Wednesday 9 June 2010 to Thursday 24 June 2010 (public holidays excluded).

Twenty-one submissions were received with regard to the application, with the majority citing concerns with human health and environmental value/health, as well as impact upon a site of Aboriginal cultural heritage. Thus there is strong opposition to this site for a mobile phone tower. The issues raised within the submissions are listed within the body of the report below.

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

Clause 92(a) Government Coastal Policy

The Coastal Policy is not applicable to the subject site.

Clause 92(b) Applications for demolition

The proposed development does not include demolition works.

Clause 93 Fire Safety Considerations

Clause 93 is not applicable to the proposed development.

Clause 94 Buildings to be upgraded

Clause 94 is not applicable to the proposed development.

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

The three coastal zone management plans (Tweed Shire Coastline Management Plan 2005, Tweed Coast Estuaries Management Plan 2004 and the Coastal Zone Management Plan for Cobaki and Terranora Broadwater) are not applicable to the subject site.

**(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**

Visual Impact

The proposed facility is 31.4 metres in height and located along a ridgeline, with some level of screening to the development from existing mature tree species that are located within the waste transfer compound.

The applicant notes the following:

*'The site has been designed in a manner that takes into account the necessity of reducing any impact. The compound location is 2.2km outside of the main village area, hence the proposed monopole will not detract from the existing character of the Tyalgum town centre.'*

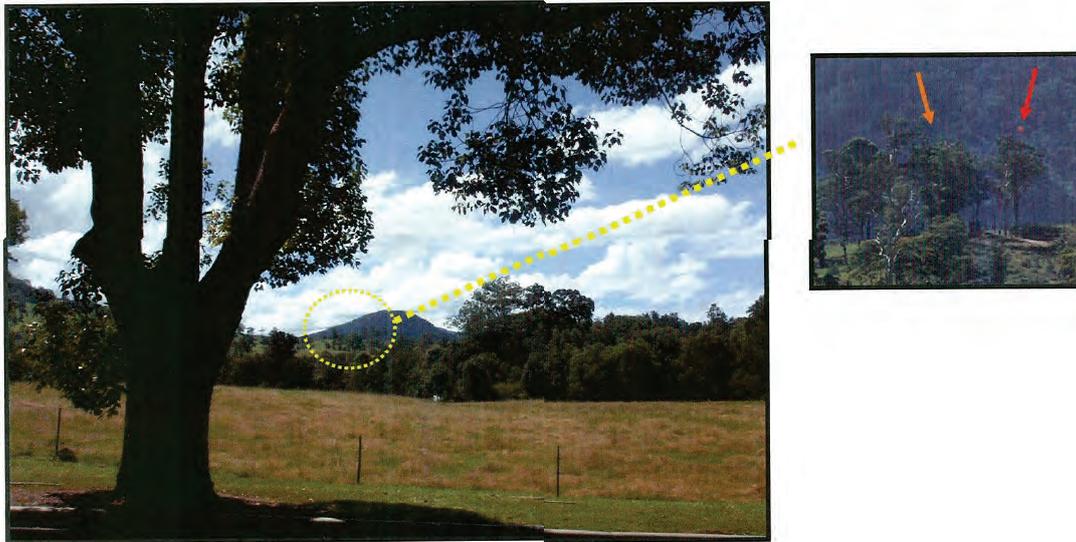
*Measures to mitigate visual impact from view sheds include locating in a vegetated area, painting the monopole and the selection of an appropriate headframe'.*

The following photos are some of those taken by the applicant in an effort to demonstrate that the proposed facility will not have an impact in terms of visual amenity:

**Photo 12.** Wanagara Road looking south west. Taken a short distance from intersection of Wanagara Road and Limpinwood Road. The balloons were not visible further down (heading east) of Wanagara Road because the terrain reduced in elevation. Red arrow indicates the locations of the balloons. Orange arrow indicates readjustment to proposed compound position.



Photo 13. In front of Tyalgum Store, Coolamon Street, facing north east – indistinguishable. Was only located through extreme zoom on camera. Monopole is proposed to be painted pale eucalypt and located amidst trees making the facility further indistinguishable. Red arrow indicates the locations of the balloons. Orange arrow indicates readjustment to proposed compound position.



It should be noted that Photo 12 above is not considered to be an accurate indication of the potential impact upon surrounding residences. The applicant also included a photomontage (see below), taken largely from the same location, which provides a better indication of the proposed development, and clearly shows that the top of the facility will be seen above the existing vegetation.



PHOTOMONTAGE FOR ILLUSTRATIVE PURPOSE ONLY. PROPOSED VIEW LOOKING SOUTH WEST TOWARDS THE PROPOSED OPTUS MONOPOLE INSTALLATION FROM WANUNGARA VIEW

In addition, the applicant's Photo 13 is not considered to be indicative of the view of the development from the township. Whilst it is acknowledged that the mountain behind the site (as shown in Photo 13) will provide some backdrop to the facility when viewed from where the photo was taken (along Coolamon Street), Council Officers undertook their own visual analysis from the Tyalgum township. The photo below (Figure 2) clearly shows that the proposed facility will be clearly visible on the ridgeline from other parts of the village (photo taken from Coodgie Street), with no mountain back drop to screen the proposal.



**Fig 2: Photo taken from the main road from the township towards Limpinwood**

In terms of visual impact, two telecommunications facilities in such proximity to each other in a rural landscape are not considered to be acceptable. Although it is recognised that better mobile telephone coverage is needed in rural areas, the cumulative impact of having two facilities in such proximity is considered to be unsupportable, particularly when taking into consideration the Tweed Shire Scenic Landscape Evaluation report (which is addressed later in this report).

In addition, NSW Rural Fire Service (RFS) requirements would likely require a 10m APZ around the facility, which would essentially remove the existing trees around the proposed location. This would further increase the visual impact of the facility.

Therefore, the proposed development is not supported with regard to visual impact.

#### Flora and Fauna

Council's Specialist Planner / Ecologist provided the following comments, with regard to flora and fauna impacts:

*'The site is centrally located within a regional fauna corridor linking Wollumbin National Park with Limpinwood Nature Reserve, is mapped as "very high" ecological status under Tweed Vegetation Management Strategy 2004 and contains vegetation mapped as Tallwood Open Forest, including hollow-bearing trees (Figures 3 and 4). The site is likely to be of importance as a stepping-stone (a function of small vegetation remnants and isolated trees in a cleared landscape between areas mapped as old growth forest).*

*The original application did not consider the ecological values of the site and further information was requested in the following form:*

- 1) Due to the location of the site directly within a regional fauna corridor linking Wollumbin National Park with Limpinwood Nature Reserve and its “very high” ecological status under Tweed Vegetation Management Strategy 2004, Council has determined that a full flora and fauna survey for the site and surrounds is required. This survey must be undertaken by suitably qualified persons in accordance with DECCW “Threatened Biodiversity Survey and Assessment Guidelines (2004)” in order to determine habitat use on and surrounding the site;*
- 2) Provide Assessments of Significance for the Koala, Grey-headed Flying Fox, Large-eared Pied Bat and Little Bentwing Bat in accordance with DECCW Assessment of Significance Guidelines;*
- 3) Provide a survey plan that plots the proposed monopole and any associated infrastructure or equipment in relation to existing trees and shrubs, including a schedule that identifies all trees to be retained, trees that will require trimming, and the proportion of the trees to be trimmed. Demonstrate that the proposed earthworks can be undertaken in accordance with AS 4970-2009 Protection of Trees on Development Sites; and*
- 4) Provide detailed consideration to the potential and likely ecological impacts of EME on biological diversity. Include expected frequency, power density and maximum distance / extent of emissions. Any potential impacts should be considered in the context of the proximity of habitat to the source and the period(s) of exposure.*

*The response received did not address point 4 of the request by way of stating that point 4 was not applicable or justifiable, and did not satisfactorily address any of the other three points. No fauna survey, SEPP 44 assessment or individual Assessments of Significance for threatened species has been undertaken. Mapping of the vegetation community on the site resulted in a description as Tallowwood (*Eucalyptus microcorys*)/ Large-fruited Grey Gum (incorrectly named as *Eucalyptus biturbinata* when it is *Eucalyptus propinqua*)/ Northern Grey Ironbark (*Eucalyptus siderophloia*)/ Pink Bloodwood (*Corymbia intermedia*) Dry Sclerophyll Open Forest. Within the proposed compound site are seven older remnant trees with a sparse mid-stratum of shrubs and a dense ground cover of native and exotic grasses and herbs. This community equates to the Biometric description of Tallowwood Dry Grassy Forest of the far northern ranges of the north coast, a community which has been 45% cleared.*

*Six of the seven trees remnant trees support trunk and stem hollows as well as termite nests suitable for hollow-obligate threatened fauna such as micro-bats and arboreal marsupials. One Tallowwood has three large and two medium-sized hollows and is considered of very high conservation significance. The monopole is proposed in the centre of the main tree grouping. Tallowwood and Small-fruited Grey Gum are known preferred Koala food tree species and the site is mapped as Secondary A Koala Habitat under the Tweed Coast Koala Habitat Study (Biolink 201) mapping.*

*The application stated initially that no vegetation clearing was proposed and later that clearing would be restricted to small shrubs and that some*

*trimming of trees will be required during the initial erection of the monopole. The SEE and subsequent information did not satisfactorily address the amount of trimming required in the installation stage nor maintenance trimming that will almost certainly be required during the operational phase, particularly as the trees grow over time.*

*The ecological assessment has recognised that two of the six hollow-bearing trees are in the vicinity of the proposed underground power line and that a third tree being the largest and oldest Tallowwood with 3 large and two small hollows overhangs the proposed canopy and will require lopping (amount unstated). It appears very likely that continual lopping will be required and that due to the age of the trees and the likelihood of branch drop or potential root damage from excavation and underground power line placement, a request will be made in the near future to remove the trees. The Ecological Assessment of Significance has considered maximum clearing over an area of 1350m<sup>2</sup>, presumably encompassing the entire area including the large remnant trees. Removal of this important hollow resource is unwarranted.*

*Earthworks are proposed over the compound area and to erect a fence. No details have been provided to demonstrate that the critical root area of the plants retained will not be impacted by the excavation required of 9m<sup>2</sup> (3mx3m), or for the establishment of the fence posts (over an area 10 m x 6m). It is also proposed to have high security fencing which will have barbed wire. The risk of fauna being caught and killed or injured, in particular birds and bats but also arboreal mammals, has not been addressed.*

*Monopoles function through emission of radio waves, a form of electromagnetic radiation. Research and studies on the ecological effects of Electro-Magnetic Emissions (EME) suggest that a range of impacts can result on fauna and that further work is required in this area. Researched impacts include:*

- 1. Decreased reproductive potential in mammals;*
- 2. Cell damage and decreased reproductive success in insects;*
- 3. Reduced reproduction output and interference with neurological processes in amphibians (the least studied faunal group);*
- 4. Cardiac responses in reptiles (a poorly studied faunal group); and*
- 5. Changes to immune responses, suppression of carotenoids, melatonin, total proteins, elevation of granulocytes and oxidative stress, decrease in abundance, decline in reproductive potential in birds.*

### **Recommendation**

*Consideration of the above matters, and in light of a proposal by another carrier to locate in a less constrained area at slightly higher elevation (by which co-location can be gained as encouraged within the telecommunications policy and industry), has led to the conclusion that the application for a telecommunications tower at Boxsell Road, Limpinwood should be refused for the following reasons.*

1. Insufficient information to enable an accurate assessment of ecological impacts

Despite a request to undertake fauna survey to determine whether hollows were being used by fauna and to consider the importance of the hollows for individual species (in particular threatened species) no fauna survey was undertaken. Scats and scratch-marks evident at the base of trees and on their trunks indicate repeated faunal use of most, if not all, of the remnant trees in the vicinity of the proposed compound and monopole. In the absence of information sufficient to be convinced to the contrary, it must be assumed that fauna using the hollows are dependent upon them, use them for breeding and raising young and that threatened species are included in this group, in particular microchiropteran bats and arboreal mammals.

2. Potential for significant impact on hollow-dependent and threatened species

Research and studies on the ecological effects of EME's suggest that a range of impacts can result and although further work is required in this area, that impact is inversely proportional to the species size (by which smaller or young animals are more likely impacted than larger older animals). A minimum 50m buffer has been recommended for other projects. Due to the proposed placement of the monopole in close proximity to hollows likely used for breeding, a precautionary approach must be taken in this case by refusing the application.

3. The proposal is likely to exacerbate Key Threatening Processes including Loss of Hollow-bearing Trees and Clearing of Native Vegetation.

Whilst the application does not expressly state that tree clearing is necessary, the location of the proposed power line, the proposed compound, fencing and accesses into the site make the immediate or later tree removal very likely. Because Eucalypts can take up to 200 years to form large hollows, loss of these resources should be avoided and any development located well away.

4. Potential loss of primary and secondary Koala food trees.

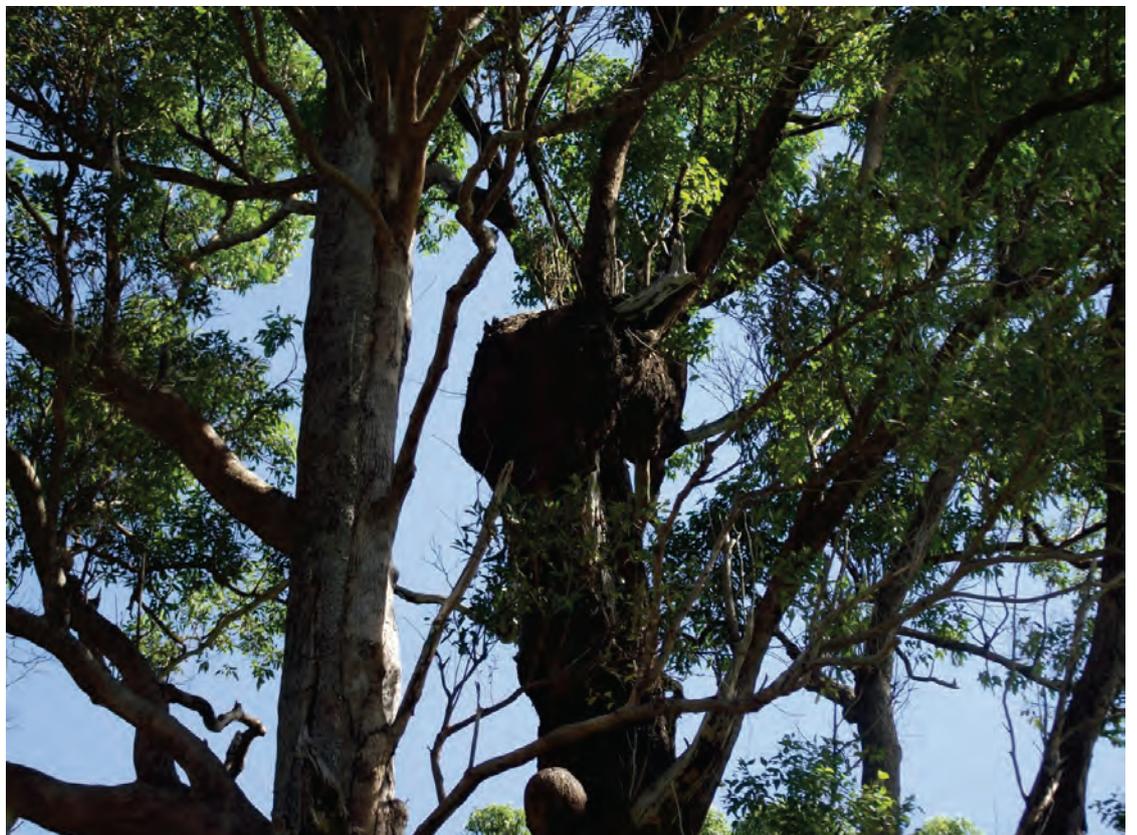
Two Tallowwoods and two Grey Gums have potential to be impacted. These are known Primary Koala food trees and the site is mapped as Secondary Koala habitat under the Tweed Coast Koala Habitat Study mapping. Although Koala populations in this area have not been defined, scats and scratches beneath the Grey Gums indicate potential use. Fencing of the area with security fencing and barbed wire would prevent further use.

5. Alternative less ecologically constrained location is available and would result in co-location

Telstra have proposed a monopole further up Boxsell Road in cleared area unconstrained by ecological issues. Being higher, this pole should be available for co-location.



**Figure 3: Overview of the site**



**Figure 4: Hollows and termite nests are significant features of these trees.**

The Ecologist's comments above were provided prior to advice from the RFS requiring a 10m APZ, if the proposal were to be supported by Council. In light of such APZ requirements, the removal of vegetation surrounding the proposed development is a likely outcome, which is not supported.

Radiofrequency Electro Magnetic Emissions (RF-EME Levels)

Radiofrequency Electro Magnetic Emissions (RF- EME) from the operation of the Base Station has been assessed and a report has been provided dated 06/02/09. This Report has been prepared in accordance with the requirements of The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and estimates the maximum cumulative EME levels (% of ACMA mandated exposure limit) produced by the site at 1.5m above ground level at the following distance from the antennas:

Distance from the antennas at Boxsell Road	Maximum Cumulative EME Level
0m to 5m	0.000019%
5m to 50m	0.0011%
50m to 100m	0.004%
100m to 200m	0.058%
200m to 300m	0.056%
300m to 400m	0.029%
400m to 500m	0.016%

Council's Environmental Health Unit assessed the proposed development in terms of Radiofrequency Electro Magnetic Emissions, noting the following:

*'The values of electromagnetic energy are given as percentages of the permitted limit. The results indicate that the maximum estimated EME level is 0.058% of the ACMA mandated exposure limit. The report demonstrates that the predicted emissions produced by the proposed facility are well within these standards. No further considerations required.'*

Heritage

During the assessment of the proposed development, it was highlighted to Council that the subject site may be an Aboriginal Heritage and Sacred site. In June 2010, the applicant was requested to investigate the matter in consultation with the Tweed Byron Local Aboriginal Land Council (TBLALC) and any other related stakeholders. The application was also referred to the next available Aboriginal Advisory Committee (AAC) meeting for comment. Minutes from the AAC meeting held 6 August 2010 note that the Committee resolved that...*'Council Planners request some additional cultural assessment through the TBLALC in terms of the cultural pathway'*.

Council's understanding of the 'cultural pathway' was a reference to the ridge line (that the subject site is located upon) and likelihood that it would have been used as a path or a track. The applicant was then requested to consult with the TBLALC with particular regard to the cultural pathway.

In November 2010, the applicant advised that Optus had engaged the services of *Converge Heritage & Community* to undertake the abovementioned Aboriginal consultation.

Converge's Cultural Heritage Assessment was submitted in February 2011. The report refers to consultation, research, fieldwork, site evaluation and impact assessment, as well as management and recommendations. The assessment provided the following Executive Summary:

*'Converge Heritage and Community (Converge) was commissioned by Daly International on behalf of Optus Pty. Ltd. (Optus) to undertake an assessment of the Indigenous cultural heritage aspects on the proposed site of a telecommunications monopole (the Project), on Boxsell Road, Limpinwood (the study area).*

*No specific areas or objects of Aboriginal cultural heritage significance were identified during the field survey. However, the study area is situated within a cultural landscape with a line of sight to the culturally significant Wollumbin (Mount Warning). **The study area is also located on a ridgeline which forms the beginning of a track way through the McPherson Ranges to Beaudesert** (cf. Steele 1984:53).*

*It should be noted that the low GI and poor GSV levels that predominate over the majority of the study area may have been a constraining factor to the identification of areas and objects of Aboriginal cultural heritage significance.*

*As noted above, no objects or areas of archaeological significance were identified during the survey. The potential for objects and areas of archaeological significance does, however, still exist because the study area is located on a ridgeline, which is known as a preferred route of travel for people in the past.*

***The study area is situated in a cultural landscape which contains a range of different landscape and anthropogenic features which bear significance to the local Aboriginal parties.** To the east of the study area is the grave of the former leader, Wollumbin Johnnie – the Aboriginal leader of this area bore the name Wollumbin, after the important landscape feature, Mount Warning (Steel 1984:52).*

*There are a number of Bora rings and stone arrangements to the south west of the study area, including the site of a former stone arrangement which was constructed in relation to the geological formation, The Pinnacle (Coowarragum). This stone arrangement was destroyed in the historic period during land clearing, although Steele claims 'a visit to the site can be a moving experience' (1984:53).*

*This study has found that there is a **low probability that further, undetected cultural heritage material may remain in the study area**, either within areas of low visibility or as subsurface remains. A number of recommendations are made in Section 5.0 of this report in order to assist in protecting and managing the cultural heritage values of the study area'.*

The report also provided the following recommendations:

'Procedures for unexpected finds

*Much of the study area exhibited poor ground surface visibility levels, which limited the possible identification of cultural objects and raises the possibility that further, undetected cultural heritage still exists within the study area. Should unexpected Aboriginal cultural heritage be located during project activities, work must cease immediately, DECCW and National Parks and Wildlife must be notified and an Aboriginal Heritage Impact Permit (AHIP) may need to be applied for. Further investigation may be required depending on the nature of the Aboriginal object that is found (refer to Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW).*

On-going consultation with the local Aboriginal community

*On-going, formal consultation between Tweed Shire Council (TSC) and appropriate representatives of the local Aboriginal community is recommended to ensure cultural considerations are incorporated into future development activities at the site. Consultation about unexpected finds in the study area would be important in order to allow appropriate mitigation programs to be implemented'.*

The final report was reported back to the Aboriginal Advisory Committee (AAC) to determine if they supported the applicant's assessment. The following resolution was made at the AAC's March 2011 meeting:

***'Draft Report for proposed Optus telecommunications facility at Limpinwood***

*Converge's draft report regarding the proposed Optus telecommunications facility at Limpinwood was discussed at the last meeting however there wasn't a resolution of the Committee as there was no quorum. Ian advised that he has now distributed the final report.*

***Moved:*** Joyce Summers

***Seconded:*** Jackie McDonald

***RESOLVED*** that the Committee accepts the final report from Converge regarding the Optus telecommunication facility at Boxsell Road, Limpinwood'.

Therefore, the proposed development is considered to be acceptable in terms of Cultural Heritage, subject to implementation of the mitigation measures and recommendations.

Noise

Some level of noise will be generated during the construction phase for the proposed monopole. During the operation phase of the lifespan of the monopole noise associated with use of air conditioning plants servicing the equipment shelter will be generated. However, considering the distance to existing nearby dwellings is approximately 230 metres, no significant impacts are anticipated in this regard.

Lighting

The application does not make mention of any security lighting to be used at the facility.

### Contamination

With regard to contamination, Council's Environmental Health Unit provided the following comments:

*'The proposed subject site is considered potentially contaminated due to its current use as a waste transfer station and historical use as a landfill. Anecdotal evidence from Council's Aerial Photography dated 2000, 2004, 2007 and 2009 indicates that the proposed location of the facility within the site has not been subjected to land filling activities. This is supported by advice received from Council's Waste Management Coordinator Adam Faulkner (conversation 6 July 2010). The proposed use is not anticipated to be impacted upon by potentially contaminated land from current and historical land uses.'*

### Impact upon the Existing Waste Transfer Station

The proposed development was referred to Council's Waste Management Unit, to determine if there would be any impact upon the existing on-site operations at the waste transfer station. The Waste Management Unit noted that the...*'proposed location of the facility will not interfere with the daily operations of the Tyalgum Waste & Recycling facility'*.

## **(c) Suitability of the site for the development**

### Consideration of Alternative Sites

The applicant provided the following analysis of alternative sites:

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

#### **1. Investigation of land around Tyalgum Cemetery, off Swift Road**

*Area not considered to be suitable for the erection of a telecommunications facility.*

#### **2. Farmhouse Lot 85 DP 755694, 1699 Tyalgum Road, Tyalgum**

*Unable to contact land owner after repeated efforts.*

#### **3. Tyalgum Water Reservoir, Lot 85 DP 755748, 85 Bray Street, Tyalgum**

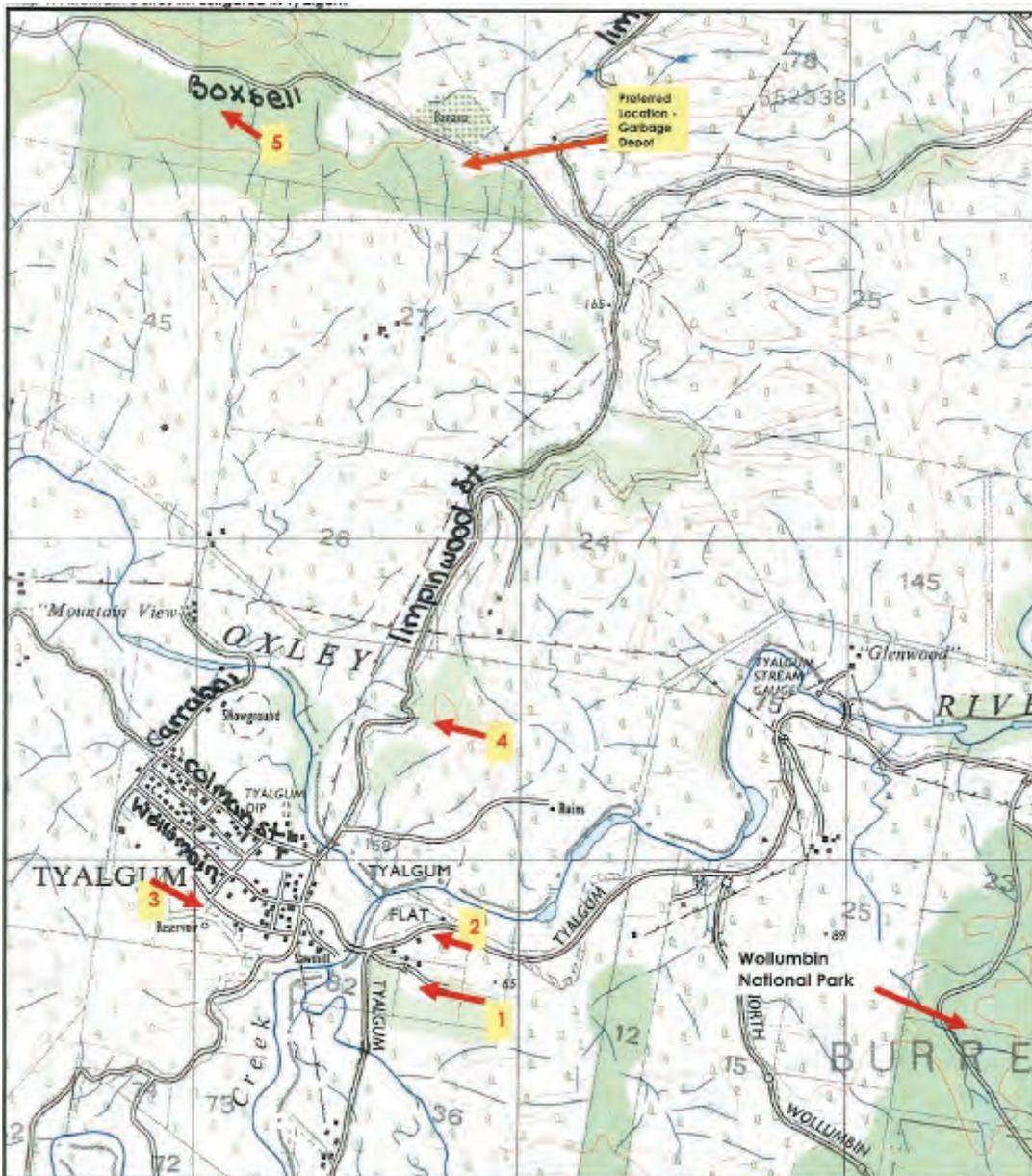
*The water reservoir site has the advantage of mature vegetation cover and close proximity to the township which would ensure the provision of reliable 3G services. However, at this point in time the Council owned garbage depot located on Lot 7306 DP 1132011 Boxsell Road is still the preferred option as this site will not only provide reliable 3G services but provide the 3G service to a wider portion of the surrounding rural community (due to the higher terrain elevation of the land at this location).*

**4. Land surrounding Chambray Place**

The site had the advantage of elevated terrain and proximity to the Tyalgum township which would ensure the provision of reliable 3G services. However, at this point in time the Lot 7306 DP 1132011 Boxsell Road is the preferred option due to its present use as a garbage depot facility by Tweed Shire Council. The elevation of land at Lot 7306 DP 1132011 is also greater than the land surrounding Chambray Place which will provide the 3G service to a wider portion of the surrounding rural community.

**5. Farmhouse West of Garbage depot, Lot 10 DP 1109367, Tyalgum**

Inability to obtain tenure approval from the property owner. This site would have entailed vegetation removal from the hillsides, which is a course of action preferentially avoided by Optus (if feasible).



**Figure 5: Alternative Sites Investigated by Optus**

*The garbage depot is preferred because after assessment and consideration of all factors in site selection the subject site had the most positive attributes:*

- *The advantage of elevated terrain which has the benefit of providing 3G signal not only to the Tyalgum township, but the surrounding rural residential properties located further out from the township;*
- *The 5(a) Special Uses zoning of the garbage compound. The zoning surrounding the garbage depot is 1(a) rural;*
- *Very tall mature trees within the compound combined with the undulating terrain assist in mitigating the visual impact within the immediate surrounding area;*
- *Minimal to no visual impact as seen from the Tyalgum township;*
- *The subject site avoids the need to locate in the main township of Tyalgum; and*
- *The subject site has the appropriate technical requirements needed for the proposer functioning of a mobile base station i.e. power source, road access, line of sight to another telecommunications facility achieved etc'.*

Council is not satisfied with the applicant's analysis of alternative sites. Option 3 (Tyalgum Water Reservoir) is regarded to be a suitable location, given its co-location ability upon an existing structure, providing coverage to the township.

The applicant's comment that the proposed development will have 'minimal to no visual impact' is not supported. As noted in the visual impact assessment above, the subject site is along a ridgeline, with the proposed 31.4m facility being approximately 10m above the canopy of the existing trees. With no vegetation behind the structure, the proposed facility will be highly visible from various locations within the Tyalgum township. The RFS requirement of a 10m APZ would also increase the level of visibility from the surrounding area.

**Option 5** is considered to be the most appropriate site. Although it is noted that the applicant was unable to secure tenure approval at the time, it became apparent during the assessment of this application that that was no longer the case. Not only has the land owner of Lot 10 DP 1109367 made a submission that his property (further up the ridge) is available for such use. It also became apparent that Lot 10 was the location of a Telstra facility (complying development) upon which Optus could co-locate upon. As noted elsewhere in this report, co-location between carriers should be undertaken, particularly when the facilities are proposed in such proximity to each other (approximately 620m apart).

The applicant has noted that a facility at Option 5...*'would have entailed vegetation removal from the hillsides'*. This is not the case for the proposed Telstra facility, suggesting that the Optus facility may have been proposed in a different location upon Lot 10. The information provided to date by Telstra notes that...*'no tree clearing is proposed'*, which provides further argument for co-location on Lot 10.

Given that Telstra cannot co-locate upon the Optus facility without a significant increase in height (which would exacerbate the potential visual impact from the

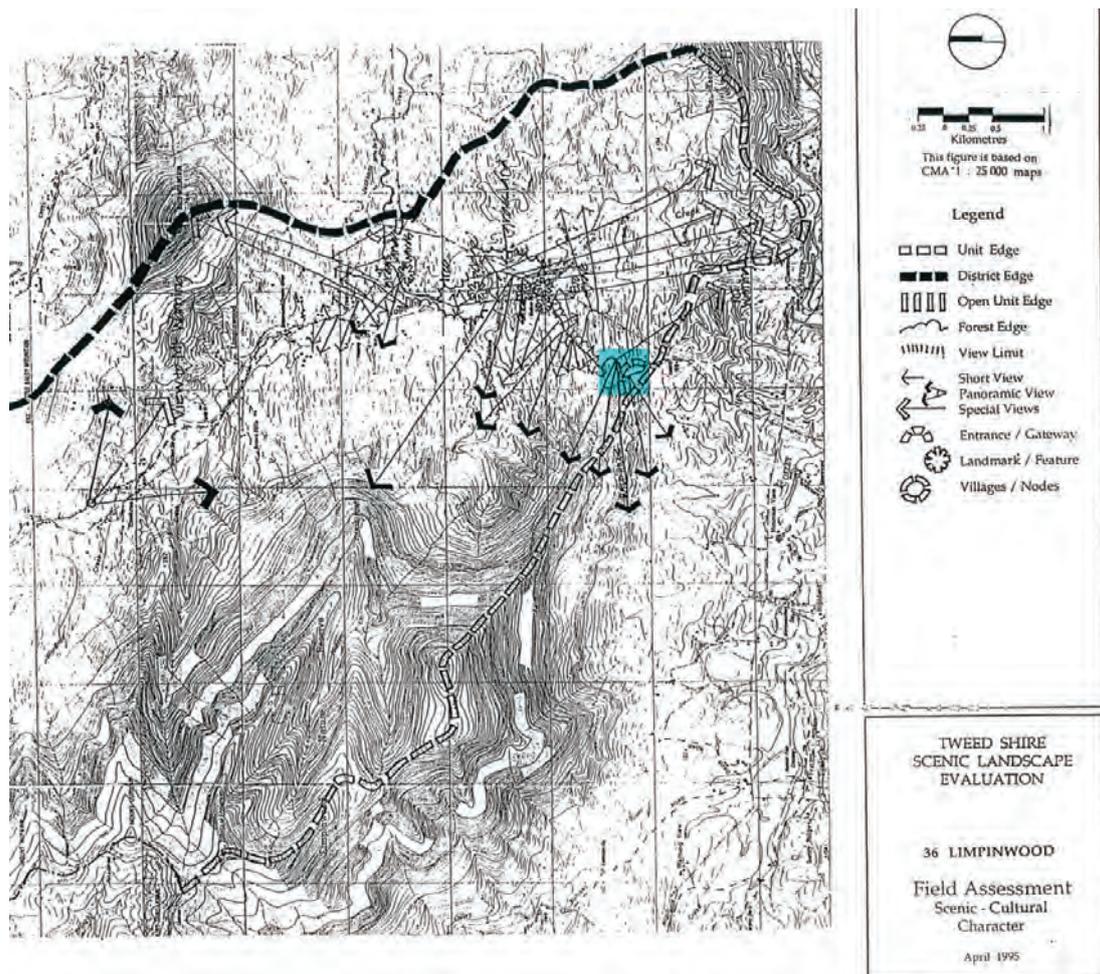
township), the Optus facility should be co-located upon the proposed Telstra facility. Given that the majority of the alternative sites have been discounted on account of the subject site having a higher elevation, the fact that the proposed Telstra facility has an even greater elevation (approximately 70m higher) demonstrates that the proposed development should not be supported. Rather, Optus should co-locate upon the Telstra facility proposed on Lot 10 DP 1109367 (Option 5).

As a result of a better site location being available for co-location purposes, the subject site is not considered to be suitable for the proposed Optus facility.

### Tweed Shire Scenic Landscape Evaluation

Catherine Brower's Tweed Shire Scenic Landscape Evaluation report (1995) was undertaken to: identify and analyse the scenic landscape of the Tweed Shire to determine its aesthetic and cultural heritage values; identify ways of protecting view corridors of high value; and to provide methods for the management of the scenic value of the shire.

The subject site is located on the edge of the Limpinwood and Tyalgum Creek areas (see Figure 6 below). The evaluation report identifies the Limpinwood area as having a Very High scenic quality and Tyalgum Creek as having a High scenic quality.



**Figure 6: Proposed site (highlighted in blue)**

In terms of scenic districts, the report identifies Tyalgum as a scenic district, with the following parameters of development:

- *Development to retain existing rural character where visible;*
- *Limit development along scenic roads and along creeks;*
- ***Development should be restricted from ridgelines and should not significantly open the existing forest canopy.***

With regard to Scenic Setting Units, the evaluation report notes the following parameters of development for Limpinwood:

- *Retain rural landscape character, setting and existing landuse;*
- *Preserve character of open grazing areas;*
- *Retain landscape setting of old farm buildings;*
- *Preserve significant vegetation – riverine forest, ridgeline and hillside vegetation, creek corridors; and*
- ***Development should not significantly impact on designated scenic routes and viewpoints.***

Given that the proposed development is located on a ridgeline and is considered to impact on the scenic value of the area, the subject site is not considered to be suitable for a telecommunications facility.

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

The application was advertised for a period of fourteen (14) days from Wednesday 9 June 2010 to Thursday 24 June 2010. During this period twenty-one submissions were received with regard to the application, with the majority citing concerns with human health and environmental value/health, as well as impact upon a site of Aboriginal cultural heritage. Thus there is strong opposition to this site for a mobile phone tower. In response to the various objecting submissions the following assessment of the common issues raised is summarised below.

Objection	Response
Health concerns from electromagnetic energy generated from the facility	Council's Environmental Health Unit has assessed the proposed development in terms of EME requirements, with no objections.
Conflict of Interest – Council accepting lease money and giving approval	There is no conflict of interest. The subject site is owned by the Land and Property Management Authority (LPMA). Council manages the Crown Reserve, but all lease agreements would be between Optus and the LPMA.

Objection	Response
<p>Previous Councils have given a guarantee that the site would become a tourist scenic viewing parkland and picnic facility when the waste management facility closed. The site allows magnificent views of the Tyalgum and Limpinwood Valleys, Mount Warning and the Eungella Ranges.</p>	<p>This issue was put forward to Council's Director Community and Natural Resources, who advised that he was not aware of any such proposals. It was also noted that the waste facility is a transfer station and there are no current plans to close it down. The scenic value of the subject site is acknowledged, as noted within the body of this report.</p>
<p>The site is an Aboriginal Heritage and Sacred Site, to which a Telecommunications Facility would be in breach of the protection afforded under Commonwealth Legislation.</p>	<p>As noted in the report above, the applicant was required to undertake an extensive Aboriginal Cultural Heritage Investigation. The report concludes that there is a low probability that further undetected cultural heritage material may remain in the study area. A number of recommendations were made to assist in protecting and managing the cultural heritage value of the study area.</p>
<p>This area was set aside for perpetual use by the community as a horse and stock rest area – it belongs to the community and not the Council.</p>	<p>As noted above, the site is owned by the LPMA, with Council managing the Crown reserve as a waste transfer station. Council has no current plans to close the waste facility down.</p>
<p>The farmland adjoining the site is held in various titles and carries the right to construct homes in close proximity to the ridge top. The proposed facility would be totally incompatible to the future development of a "Tyalgum Heights Estate". For Council to use proximity to a Telecommunications Facility as refusal for granting a home construction approval, would be subject to a very significant damages claim through the courts. Council should be aware of serious health dangers by Telecommunications Facilities emitting EMF. Any refusal would devalue property prices and be subject to compensation.</p>	<p>Any future proposal for subdivision or dwelling construction would be subject to merit assessment, with appropriate setbacks as required. All Telecommunications Carriers are required to be below the minimum Australian Standard in terms of EME, and is extremely unlikely that a future dwelling in the vicinity of the subject site would be refused on such grounds. See comments within the body of the report in terms of EME assessment. The consideration of property prices is not a Section 79C matter for consideration.</p>
<p>Council should assist in providing a more suitable site (possibly at the top end of Tyalgum Ridge Road) in isolation away from residences.</p>	<p>It is the responsibility of the applicant to undertake appropriate searches for alternative sites. See Alternative Site comments within the body of the report in this regard.</p>

Objection	Response
<p>The area is an important wildlife corridor, as witnessed recently with two sightings in the valley below of a relocation of a Regent Bower Bird from the Lamington Plateau, as well as a family of red-necked Wallabies coming down the same route.</p>	<p>Council's Ecologist has recognised the site as a regional fauna corridor linking Wollumbin National Park with Limpinwood Nature Reserve, which is mapped as "very high" ecological status under <i>Tweed Vegetation Management Strategy 2004</i>. Refer to the flora and fauna assessment in this regard, which does not support the proposed development.</p>
<p>Intention of building a future dwelling on the adjoining site, in close proximity to the proposal, when the refuse facility closes. Concern was raised over potential of refusing a dwelling due to emissions from the facility. Compensation would be sought if this is the case.</p>	<p>It is difficult to comment on a specific future dwelling, without specific details of the development. However, every application is assessed on merit. In terms of EME, the proposal is considered to be well within Australian Standards.</p>
<p>The owner of Lot 10 is prepared to offer a more suitable site that is about 150m higher, further up the ridge and unlikely to affect as many people.</p>	<p>Lot 10 is the location of the proposed Telstra tower. Council has repeated requested Optus to investigate co-location opportunities on Lot 10, particularly given its higher elevation. See co-location and alternative site comments, which do not support the proposed development.</p>

It should also be noted that Council Officers have had several verbal discussions with an objector, who for health reasons has been unable to submit a written objection to the proposed development. The main point of contention was the impact on the views, with regard to the subject site being a vantage / lookout point. This objector also raised the issue of other alternatives in terms of people using Skype or satellite internet options. All of the alternatives raised were valid points, but would involve major research as to whether they were viable / feasible options and as such was beyond the scope of the assessment of this application. When the possibility of co-location was discussed with the objector, they clearly indicated that the Telstra site was a better location, particularly if Optus could co-locate there.

**(e) Public interest**

Given the issues raised by the proposed development in relation to visual impact, flora / fauna impact, co-location opportunities and in light of the abovementioned submissions, it is not considered to be in the public interest to recommend approval of this application.

**OPTIONS:**

1. Refuse the application.
2. Approve the application in principle, providing appropriate reasons, and to bring forward a further report to the next Council meeting with recommended conditions of consent.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

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

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposed telecommunication tower located within the existing waste transfer station is considered to create an unacceptable level of impact in terms of visual amenity and flora and fauna. Given that the subject site is not considered to be suitable for the telecommunications facility and that co-location opportunities are available, the proposed development is not supported and is therefore recommended for refusal.

**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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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**7 [PR-CM] Development Application DA10/0516 for a Telecommunications Facility at Lot 17 DP 1157351, No. 57 Jabiru Drive, Cobaki Lakes**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA10/0516 Pt1**

**SUMMARY OF REPORT:**

Council has received a development application for the construction of a telecommunication facility at Lot 17 DP 1157351, No. 57 Jabiru Drive, Cobaki Lakes. The telecommunication facility proposed involves:

- One 30 metre high monopole with a triangular headframe (with space allowed on the headframe for an additional nine future panel antennas if required);
- Three panel antennas (2.63m x 0.3m x 0.115m) at 30 metres in standard factory colour;
- One Telstra equipment shelter (measuring 3.28m x 2.28m x 2.995m) within the proposed Telstra compound (measuring 6m x 10m);
- Construction and operational access will be via an existing track at the western end of Jabiru Drive, and a proposed Telstra track serving the facility.

The application was advertised for a period of fourteen (14) days from Wednesday 25 August 2010 to Wednesday 8 September 2010. During this period four (4) submissions were received, all of which are objections. The most common issues raised were regarding health and safety concerns from electromagnetic energy generated from the facility, depreciation of property value, the proposed access route and improper community consultation. An assessment of the issues raised is summarised within the body of this report.

The proposal has been assessed against the requirements of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), NSW Telecommunication Guideline including Broadband, the Environmental Planning and Assessment Act and all relevant Regional and Local planning documentation.

Following the assessment against the relevant heads of consideration, it is considered that the proposal will create a range of adverse environmental impacts, and it is therefore recommended that the application be refused.

**RECOMMENDATION:**

**That Development Application DA10/0516 for a telecommunications facility at Lot 17 DP 1157351, No. 57 Jabiru Drive Cobaki Lakes be refused for the following reasons:**

- 1. The proposed development is not considered to meet the requirements of s79C of the Environmental Planning and Assessment Act 1979 as it is likely to result in unacceptable environmental impact and the site is deemed unsuitable.**
- 2. The development is considered likely to impact on flora and fauna, particularly to threatened species, within this area of environmental significance and conservation value. On the basis the proposal is inconsistent with clause 4 of the TLEP, which seeks to determine whether the ecological integrity of the Tweed Shire will be retained.**
- 3. The development is considered likely to impact on flora and fauna, particularly to threatened species, within this area of environmental significance and conservation value. On this basis the proposal is inconsistent with clause 5 of the TLEP, which seeks to ensure ecologically sustainable development.**
- 4. On the basis of the lack of submitted information to indicate otherwise, the proposal is inconsistent with clause 54 of the TLEP which seeks to enable the protection of vegetation for reasons of amenity or ecology.**
- 5. The subject site contains known Koala habitat and on the basis of short-term high level and long-term ongoing disturbance associated with the development (including construction phase, site operation and maintenance, noise and vibration, lighting and the impact of electromagnetic energy), the proposal is considered to be inconsistent with the aims and objectives of the State Environmental Planning Policy 44 - Koala Habitat, which seeks to ensure the proper conservation and management of areas of natural vegetation that provide habitat for Koalas to ensure a permanent free-living population over their present range and reverse the current trend of Koala population decline.**
- 6. The proposed development is likely to result in disturbance impacts that are considered unacceptable for a site that is known to contain vulnerable species sensitive to disturbance and at threat from development in other parts of Tweed Shire. On this basis it is considered that the proposed development does not satisfy the provisions of Principle 4 of the NSW Telecommunications Facilities Guideline Including Broadband or the provisions of Clause 15 of the SEPP (Infrastructure) 2007 that requires such development to minimise disturbance to flora and fauna.**

**REPORT:**

**Applicant:** Telstra Corporation Limited  
**Owner:** Mr RW Staff and Mr R Standring  
**Location:** Lot 17 DP 1157351 No. 57 Jabiru Drive, Cobaki Lakes  
**Zoning:** 1(a) Rural  
**Cost:** \$230,000

**BACKGROUND:**

Council has received an application for the construction of a telecommunication facility at Lot 17 DP 1157351, No. 57 Jabiru Drive, Cobaki Lakes. The telecommunication facility proposal involves:

- One 30 metre high monopole with a triangular headframe (with space allowed on the headframe for an additional nine future panel antennas if required);
- Three panel antennas (2.63m x 0.3m x 0.115m) at 30 metres in standard factory colour;
- One Telstra equipment shelter (measuring 3.28m x 2.28m x 2.995m) within the proposed Telstra compound (measuring 6m x 10m);
- Telstra compound including security fence and access gates;
- Associated works such as foundations, running underground fibre and power routes;
- Construction and operational access will be via an existing track at the western end of Jabiru Drive, and a proposed Telstra track serving the facility (approximately 29 metres to the site).

Telstra have stated that the development is required to provide for 'NextG' mobile phone and wireless broadband coverage to the proposed new development of Cobaki Lake and will extend into Piggabeen. Telstra advise that the proposal will provide high quality mobile telecommunications services into the area and will form an integral part of the overall Telstra network.

The proposed site is located approximately 400 metres to the North West of Jabiru Drive on an elevated rural property. The subdivision pattern in this vicinity comprises of a mixture of small and large rural holdings used for both agricultural practices and residential occupation. The closest dwelling to the vicinity is approximately 500 metres to the South East on Jabiru Drive. The proposed location for the telecommunication facility is located on a large rural lot with a total site area of approximately 36 hectares. The lot is heavily vegetated with native species. Access to the proposed site would be achieved firstly via the existing driveway and secondly by a proposed access track.

The proponent has stated that the proposed site was preferred as opposed to other locations in the surrounding area for the following reasons:

- The landowner is willing to agree to commercial terms with Telstra;
- The location provides for sufficient height to achieve Radio Frequency (RF) objectives of the proposal;
- The Rural 1(a) zoning of the site was considered suitable;
- The size of the lot and scale of the works the current land use of the site will not be greatly impeded;

- There is adequate site access for construction and maintenance purposes;
- The site is located away from sensitive land uses;
- The site does not contain any known items of environmental or cultural heritage significance nor is identified as being located within a conservation area.

The application was advertised for a period of fourteen (14) days from Wednesday 25 August 2010 to Wednesday 8 September 2010. During this period four (4) submissions were received, all of which are objections. The most common issues raised were regarding health and safety concerns from electromagnetic energy generated from the facility; depreciation of property value; the proposed access route; and improper community consultation. An assessment of the issues raised is summarised within the body of this report.

Following an assessment of the development application against the relevant policy framework, it is considered that the proposed communication facility would enhance the telecommunications services in the surrounding locality. Further, it is considered that the location and design of the proposal is such that it would not impact on the visual amenity of the locality to such an extent to warrant refusal of the proposal. The proposal is also consistent with the requirements of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) with regard to Radio Frequency Electromagnetic Energy guidelines.

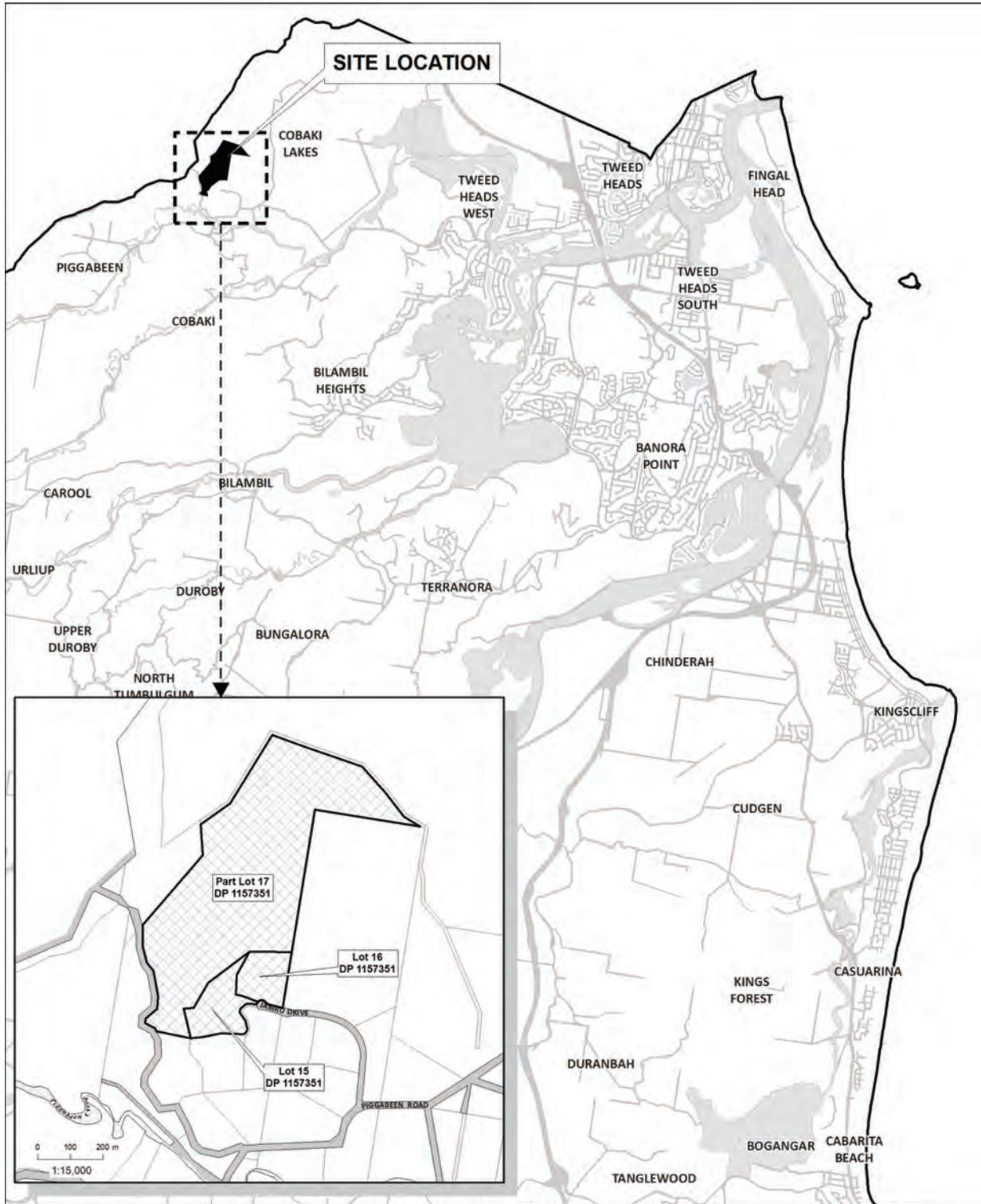
However, Council's Ecologist has advised that although the tower is proposed within an area that requires little clearing, the surrounding area is of high conservation significance, in particular for Koalas and arboreal marsupials and also likely for bats. NSW Rural Fire Service have advised that a 10m inner asset protection zone is usual for monopole structures and this matter was not factored in to the assessment. The site is immediately abutting crown land which forms the border reserve along the ridge line separating NSW from Qld and which provides wildlife corridor connectivity. The ecological value of the allotment is reflected in a Restriction on Title that states "*No trees shall be disturbed or removed from any lot burdened without the prior written approval of the Tweed Shire Council*" and by the proposed zoning within draft LEP 2010 of E2 Environmental Conservation.

The ecological assessment undertaken for the proposed development recorded one threatened fauna species and considered fifteen additional threatened fauna species as possible occurrences over time. The *Tweed Coast Koala Habitat Study* (Biolink 2011) concluded "*that the Tweed Coast Study Area's koala population is now in very serious trouble.*" Within the report it is also states that "*Population Viability Analysis carried out by Phillips et al. 2007 has determined that as little as a 2 – 3% increase in the naturally occurring mortality rate (as a function of total population size) due to incidental factors such as road mortality, dog attack or the stressors associated with disturbance generally, is sufficient to precipitate decline.*"

Council's Ecologist considers that the development will introduce disturbance to the site in a number of ways, as detailed further within the body of this report. However, given the dire situation in which Koalas north of the Tweed River are found, the presence of Koalas within and around the site and the disturbance very likely to arise from the proposal, the precautionary principle must be applied in preventing development that may have further detrimental impacts on an area where Koalas are shown to be surviving.

On this basis, the application is recommended for refusal.

**SITE DIAGRAM:**



**Locality Plan**

Lot 15 & 16 DP 1157351 and Part Lot 17 DP 1157351  
No.50, 55 & 57 Jabiru Drive, Cobaki Lakes

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 "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.

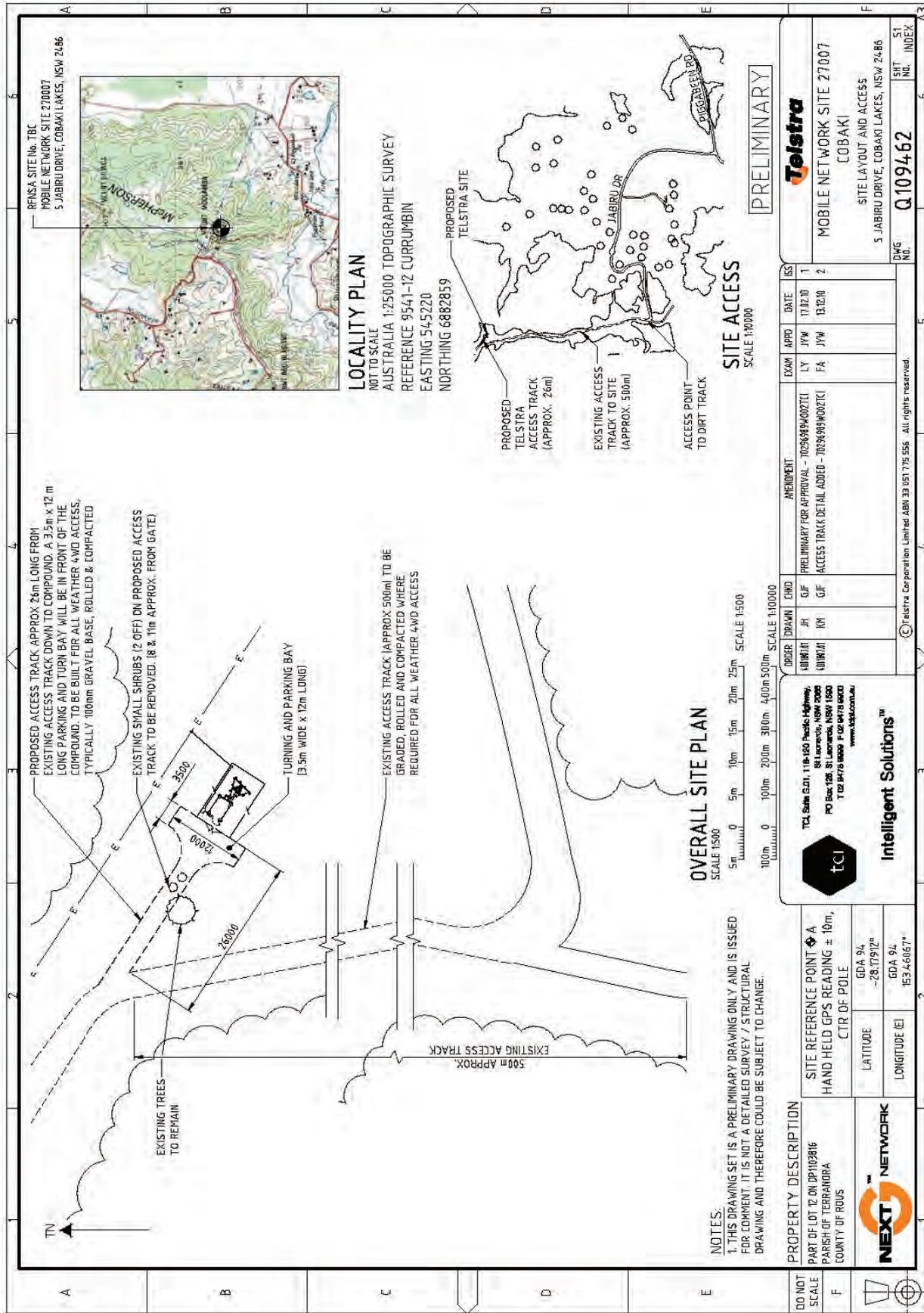
Cadastral: 03 June, 2011  
© Land and Property Management Authority (LPMA) & Tweed Shire Council.  
Boundaries shown should be considered approximate only.

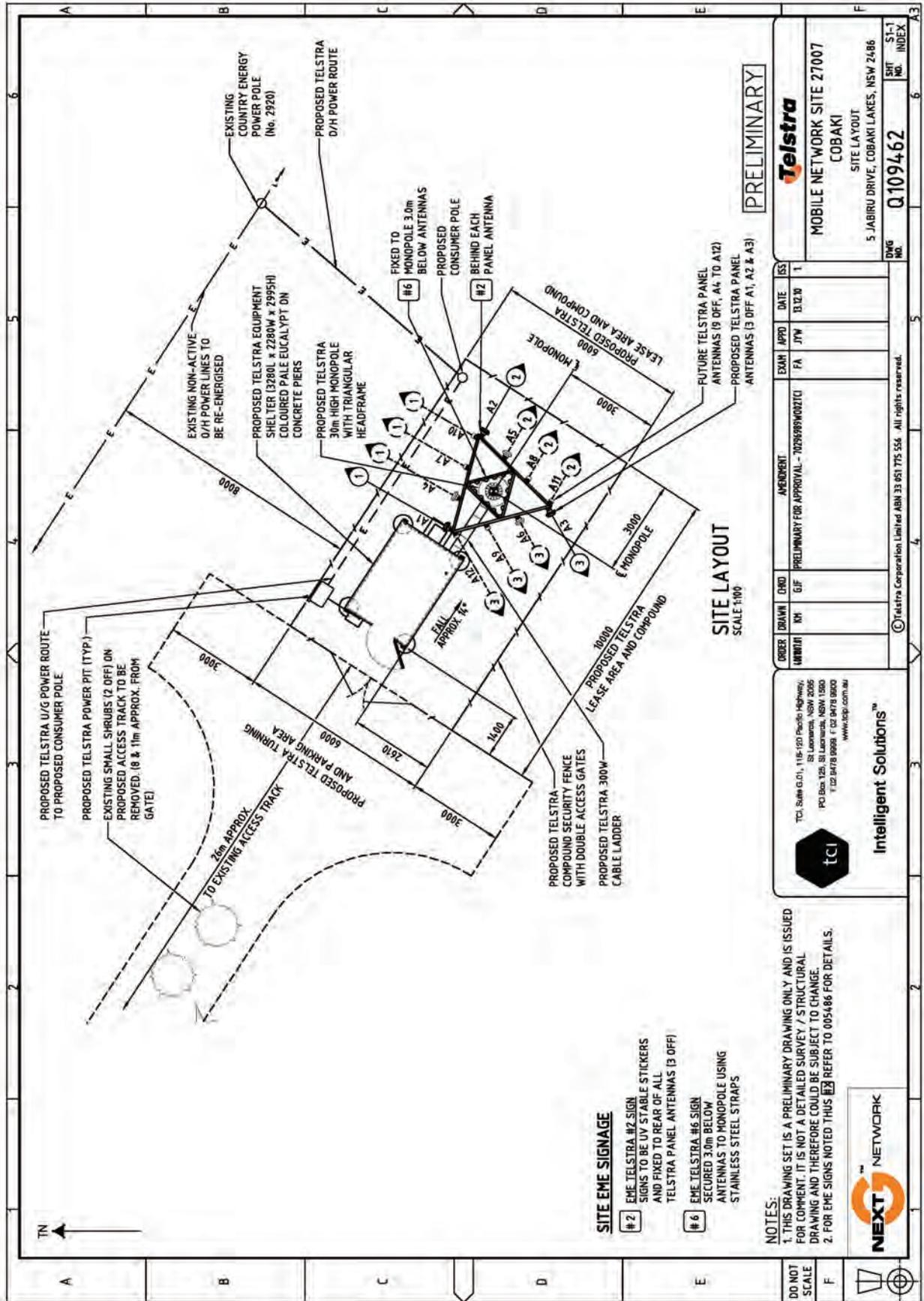


Civic and Cultural Centre  
3 Tumbulgum Road  
Murrumbidgee NSW 2484  
PO Box 818  
Murrumbidgee NSW 2484  
T | (02) 6670 2400 | 1300 292 872  
F | (02) 6670 2428  
W | www.tweed.nsw.gov.au  
E | planning@tweed.nsw.gov.au



DEVELOPMENT PLANS:





**SITE EME SIGNAGE**

- #2 EME TELSTRA #2 SIGN  
SIGNS TO BE UV STABLE STICKERS  
AND FIXED TO REAR OF ALL  
TELSTRA PANEL ANTENNAS (3 OFF)
- #6 EME TELSTRA #6 SIGN  
SECURED 30m BELOW  
ANTENNAS TO MONOPOLE USING  
STAINLESS STEEL STRAPS

**NOTES:**

1. THIS DRAWING SET IS A PRELIMINARY DRAWING ONLY AND IS ISSUED FOR COMMENT. IT IS NOT A DETAILED SURVEY / STRUCTURAL DRAWING AND THEREFORE COULD BE SUBJECT TO CHANGE.
2. FOR EME SIGNS NOTED THIS DRAWING REFER TO 005486 FOR DETAILS.

**PRELIMINARY**

**Telstra**  
MOBILE NETWORK SITE 27007  
COBAKI  
SITE LAYOUT  
5 JABIRU DRIVE, COBAKI LAKES, NSW 2486  
DRG NO. Q109462  
SHEET NO. S1-1  
INDEX

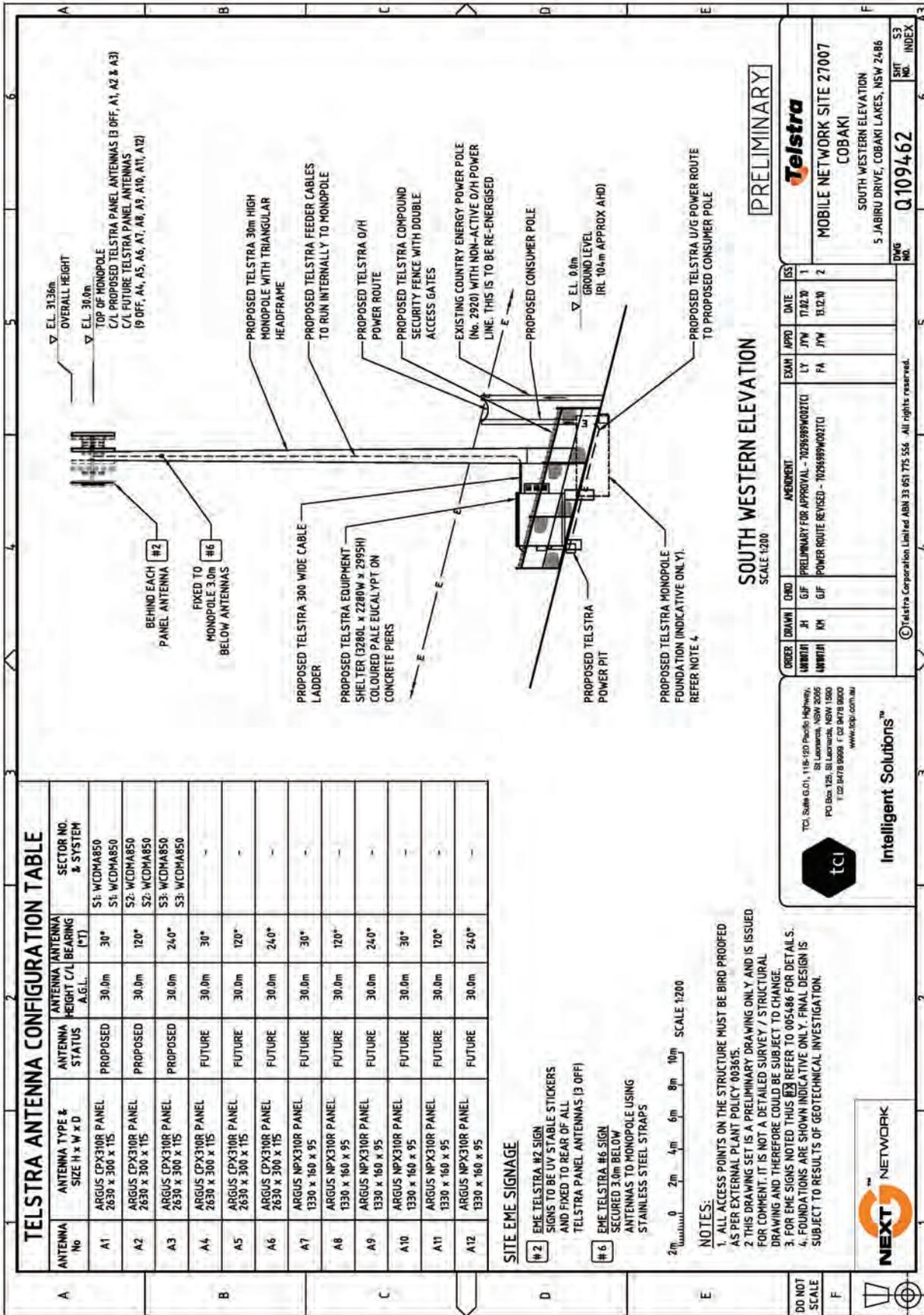
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					13/12/10	

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**DO NOT SCALE**

**NEXT NETWORK**

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**PRELIMINARY**

**SOUTH WESTERN ELEVATION**  
SCALE 1:200

**Telstra**  
MOBILE NETWORK SITE 27007  
COBAKI  
SOUTH WESTERN ELEVATION  
5 JABIRU DRIVE, COBAKI LAKES, NSW 2486

ORDER NO.	DATE	ISS
17102/09	17/02/09	1
17102/10	18/12/10	2

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**NEXT NETWORK**

Doc No. **Q109462** S3  
SIT No. INDEX

**SITE EME SIGNAGE**

- #2 EME TELSTRA #2 SIGN SIGNS TO BE UV STABLE STICKERS AND FIXED TO REAR OF ALL TELSTRA PANEL ANTENNAS (3 OFF)
- #6 EME TELSTRA #6 SIGN SECURED 3.0m BELOW ANTENNAS TO MONOPOLE USING STAINLESS STEEL STRAPS



- NOTES:**
- ALL ACCESS POINTS ON THE STRUCTURE MUST BE BIRD PROOFED AS PER EXTERNAL PLANT POLICY 003615.
  - THIS DRAWING SET IS A PRELIMINARY DRAWING ONLY AND IS ISSUED FOR COMMENT. IT IS NOT A DETAILED SURVEY / STRUCTURAL DRAWING AND THEREFORE COULD BE SUBJECT TO CHANGE.
  - FOR EME SIGNS NOTED THUS REFER TO 005486 FOR DETAIL S.
  - FOUNDATIONS ARE SHOWN INDICATIVE ONLY. FINAL DESIGN IS SUBJECT TO RESULTS OF GEOTECHNICAL INVESTIGATION.

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

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

**Tweed Local Environmental Plan 2000**

Clause 4 - Aims of the Plan

The main objective of Clause 4 is:

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

The subject proposal seeks consent for the erection of a telecommunications facility comprising of a 30 metre high monopole and ancillary infrastructure. In terms of the economic vitality the proposal will facilitate improved technological availability for the locality.

With regard to ecological integrity, the site is surrounded by an area of high conservation significance with a high number of threatened species and a high biodiversity value generally. The ecological importance of the subject site and surrounding area is detailed further within this report.

Some clearing of vegetation is proposed, particularly with regard to the creation of a 10 metre Asset protection Zone (APZ) for bush fire purposes. Other disturbance factors such as the construction phase, ongoing operation of the site (air conditioning units), flashing red lights and so on also have the potential to impact significantly on fauna species. As detailed further within this report electromagnetic energy is also a key factor in the determination of this application. Council's Ecologist has advised that every effort should be made to ensure any future stressors on the already fragile Koala population must be avoided.

It is considered therefore that the proposal will have a detrimental impact on the ecological integrity of the Tweed Shire and the application is inconsistent with this clause.

Clause 5 - Ecologically Sustainable Development

The objective of the LEP is to promote development that is consistent with the four principles of ecological sustainable development as follows:

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

The subject site and surrounding locality is recognised for its high conservation and biodiversity value. Council's Ecologist has advised that the proposal has the potential to impact significantly on threatened species, particularly the Koala.

Whilst the development itself is not considered likely to result in significant vegetation clearance, although impacts of the requirement for a 10m APZ is unknown on surrounding vegetation, it is the indirect impacts of construction, ongoing noise, electromagnetic energy and the low intensity red light and so on

which may impact significantly on fauna and threatened species within the locality. Therefore on the basis of the submitted information it is considered that the proposal would be inconsistent with the objective of this clause.

#### Clause 8 – Consent Considerations

The subject land is zoned 1(a) Rural and the proposed telecommunication facility is permissible with consent within this zone.

The primary objective of the 1(a) zone is to enable the ecologically sustainable development of land that is suitable primarily for agricultural and natural resource utilisation purposes and associated development and to protect rural character and amenity. One of the secondary objectives of the zone is to allow for development that is not suitable in or near urban areas.

In general it is considered that the proposal is consistent with the primary and secondary objectives of the zone as it would aid the technological advancement of this rural area while, in general, not compromising the rural character and amenity of the area. However, as detailed within this report, the proposal would have the potential to impact significantly on ecological factors and for this reason the application is recommended for refusal.

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

#### Clause 11 – Zone Objectives

##### *Primary objectives*

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

##### *Secondary objectives*

- *to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.*
- *to provide for development that is not suitable in or near urban areas.*
- *to prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.*
- *to provide non-urban breaks between settlements to give a physical and community identity to each settlement.*

The proposal is defined by the Tweed LEP 2000 as a Telecommunication Infrastructure (Facility). The proposal is considered permissible with development consent. It is acknowledged that the development would aid technological advancement in this rural locality whilst protecting the character and visual amenity of the locality. It is also considered that the proposal would not be suitable within an urban setting due to the visual impact of the monopole and perceived health impacts in close proximity to an urban population.

#### Clause 15 - Essential Services

Telstra was initially proposing to connect the proposed facility to the nearest fibre pit and existing Country Energy power pole located approximately 18 metres away from the proposed facility. However, the proponent has advised that a fibre route

pit is no longer required to be connected and this element has been removed from the plans.

Council's Development Engineer requested clarification with regard to the electricity easement encumbering the site, covering the overhead power lines. The proponent has advised that the proposed compound is to be located 10m from the existing power line and that the proposed site is not within an existing easement. Confirmation has been received from the proponent that consent will be granted from Country Energy should the development application be approved.

Council's Development Engineer has advised that as it appears Country Energy have no objections regarding the structure in close proximity to their own infrastructure and Council is therefore no longer concerned as a 'third party'.

When the facility is operational the site will be unmanned and therefore utility services such as telephone, water and sewerage would not be required.

#### Clause 16 - Height of Building

The site is identified on Council's Building Heights Map as being affected by a three (3) storey height limit. The proposed equipment shelter is single storey in height, with the associated tower being approximately 30m in height (please note: as per definition pursuant to Tweed LEP 2000, the monopole structure cannot be measured by storeys as there is no space between two floors).

Given the presence of vegetation of comparable height it is considered that the proposed development is consistent with this clause.

#### Clause 17 - Social Impact Assessment

Section A13 of the Tweed Shire DCP identifies the types of developments that require a social impact assessment. The proposed telecommunication tower is not identified as an item requiring social impact assessment. However the proposal did receive a number of submissions from the community objecting to the proposal, particularly with regard to the proposed location. The issues raised in the submissions are addressed later in this report.

#### Clause 35 - Acid Sulfate Soils

The subject site is mapped as containing Class 5 ASS. The proposed monopole tower is unlikely to lower the water table as the site and location of the facility is elevated. Council's Environmental Health Officers reviewed the application in relation to ASS and raised no objection. No further investigation is required in relation to ASS.

#### Other Specific Clauses

##### Clause 33 Obstacles to Aircraft

The objective of the clause is to ensure that development in the vicinity of Coolangatta and Murwillumbah Airports and en route flight paths does not increase the risk of obstacles to aircraft.

The proposal has been referred to the relevant aviation agencies:

- Planning Consultant for the Gold Coast Airport Pty Ltd (GCAPL)
- Gold Coast Airport Pty Ltd
- Civil Aviation Safety Authority (CASA)
- AirServices Australia (Airservices)

- Aviation and Airports Division, Department of Infrastructure and Transport.

The Department of Infrastructure and Transport have approved the proposal subject to conditions as detailed below:

- The mobile phone tower does not exceed a maximum height of 135.36m AHD including the attached antenna, aerials or other appurtenances;
- The tower is to be lit with a low intensity red obstacle light in accordance with the Manual of Standards for Part 139 of the Civil Aviation Safety Regulations;
- If the obstacle light is rendered unserviceable for any reason the proponent (Telstra) must ensure the light is repaired within 24 hours maximum for the continued safe operation of aircraft within the vicinity;
- A separate application must be submitted to GCA for any equipment or crane planned to be used in the installation of the mobile phone tower that exceeds the maximum height of the OLS at 82.42m AHD;
- Proponent is to notify GCA 48 hours prior to commencing work;
- Proponent must notify GCA upon completion of the communications tower;
- Finished height must be provided to GCA upon completion (in AHD), so that it can update its plans and other records for the Airport and its surrounds.

The required low intensity red obstacle light has the potential to impact on surrounding residential amenity. The proponent was requested to provide further information in relation to the effect of the low intensity red obstacle light on surrounding neighbours as well as consultation with the surrounding community on the adjoining ridgeline including Skyline Drive, Benson Street, Stott Street and Caffery Close.

In response the proponent has stated that *'community consultation has not been done as it has been deemed to be ineffective. The consultation will have no impact on whether or not the light is put in as it is required under the Airports (Protection of Airspace) Regulations 1996 and it has already been stated the light is low intensity and will point towards the sky, not towards any dwellings. Furthermore, we will do everything in our power to ensure that any neighbouring properties are not adversely affected by the low impact light'*.

However, as the facility is located approximately 80m AHD, and given the nature of surrounding topography, it is considered unlikely that the proposal will result in a detrimental impact on residential amenity from nearby properties located at a lower level (at approximately 30m – 0m AHD) in terms of distraction or glare from the light source. It is considered that the areas where the red obstacle light may be most prevalent will be from properties located at a height of 70m to 80m AHD. Such areas are located approximately 3.4km from the subject site on the adjacent ridgeline, in the vicinity of Piggabeen Road, Skyline Street, Benson Street and Stott Street.

On the basis of: the distance from potentially affected dwellings from the proposed facility; the nature of topography in the locality; and presence of vegetation of similar height surrounding the development, it is considered that the obstacle lighting will not impact on nearby residential amenity or the character of the area to such a detrimental extent to warrant refusal of the application. The

obstacle light is a Federal requirement and characteristic of development of this nature.

#### Clause 34 – Flooding

A small portion of the south of the subject site is flood prone land, being affected by the Probable Maximum Flood inundation level. The proposal is considered to be consistent with the clause as: the proposed structure is located on a hill which is above the flood level; the telecommunications facility will assist emergency services by providing telecommunications to the locality; and the configuration of the structure and ancillary works is unlikely to increase the risk of flood for residential development.

Further, the proponent has advised that 'the proposal is not expected to have a noticeable affect on ground levels or water flows and mitigation measures have been implemented to ensure runoff and erosion is reduced.

#### Clause 39A Bushfire Protection

The subject site is identified as being prone to bushfire.

The proposed development is not considered to create a significant adverse bushfire risk to warrant conditions or refusal.

The application was referred to the NSW Rural Fire Service for comment, pursuant to s79BA Environmental Planning and Assessment Act 1979. The NSW RFS have advised that conditions in relation to the creation and retention of a 10m asset protection zone (APZ) to be provided around the tower, buildings and associated infrastructure (in this case the equipment shelter) as well as the equipment shelter to comply with s8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'.

Council's Ecologist has advised that this matter was not factored in to the assessment and therefore Council is unable to determine the precise impact of this requirement on surrounding vegetation.

#### Clause 40 – Heritage provisions objectives

One of the objectives of the clause is to conserve the environmental heritage of the area of Tweed. The subject site has been identified as being '*Locations with a higher probability for containing sites of Cultural Significance*' within the Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan August 2006. Further, Council has been notified that the area is a 'cultural pathway' because of the ridge line and the likelihood that it would have been used as a path or track.

On this basis the proponent has been requested to provide information with this regard and have stated that: *the Tweed Byron Aboriginal Land Council has been consulted through the course of the Aboriginal Assessment of the above property due to the likelihood that the proposed site is part of an Aboriginal Cultural Pathway.*

A site inspection was undertaken with the proponent and Cyril Scott, Cultural Officer and Tweed Byron LALC on 13 October 2010 and a letter has since been received by Council confirming that '*the site may or may not be located in a culture pathway*' but '*due to recorded sites around this proposed area*' a recommendation has been made that a Tweed Byron Site Officer is to be on site when any stripping of grass or soil is carried out.

Should the proposed application be approved by Council, standard conditions of consent with regard to the protection of items of archaeological and cultural heritage shall be applied.

Clause 54 Tree Preservation Order

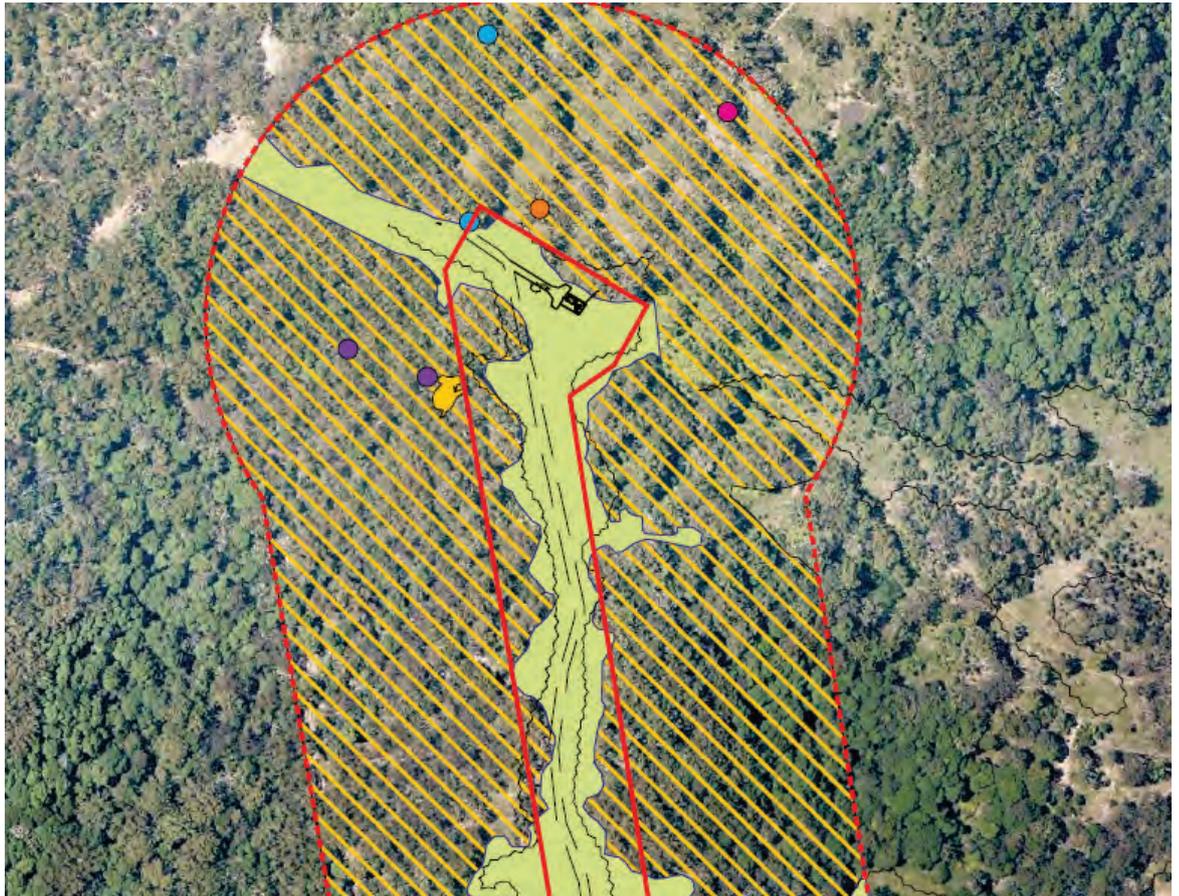
The subject site is affected by the Tree Preservation Order 2004 that states: *No trees shall be disturbed or removed from any lot burdened without the prior written approval of the Tweed Shire Council.*

The proponent has advised that a small amount of vegetation will be required to be removed for the establishment of the facility however this is anticipated to be low lying grass and scrub. Further clarification with this regard has been requested and an Ecological Assessment Report submitted to Council which advises that the majority of the subject site has been cleared of native vegetation with only minor clearing of regrowth required for the construction of the proposed track to the compound (approximately 29m).

The subject site is also affected by the Tree Preservation Order 2011 (Koala Habitat Study Area). The Ecological Assessment Report advises that the vegetation communities present on the subject site are tall open/closed Sclerophyll forest (*E. pilularis* / *E. microcorys* / *E. siderophloia*) and low closed grassland with scattered regrowth.

The site comprises of Open/Closed Sclerophyll Forest containing mature Blackbutt (*Eucalyptus pilularis*), Tallowwood (*E. microcorys*) and Northern Grey Iron Bark (*E. siderophloia*) with scattered occurrences of Grey Gum (*E. propinqua*), Brushbox (*Lophostemon confertus*), Forest Red Gum (*E. tereticornis*), White Mahogany (*E. acmenoides*) and Pink Bloodwood (*Corymbia intermedia*).

The ecological assessment states that Koala food tree species listed under Schedule 2 of SEPP 14 – Koala Habitat Protection (i.e. Tallowwood and Forest Red Gum) occur sporadically throughout the surrounding forested areas and one (1) species of threatened fauna, the Koala, was recorded on the site approximately 60m to the south-west of the proposed compound with a small number of scats recorded in two (2) other locations within the study area, as illustrated in Figure 1.



**Figure 1: Extract from the ecological assessment illustrating female Koala location and presence of significant remnant hollow-bearing trees (orange, pink, purple dots) and trees with Koala scats (blue dots) in relation to the proposed development.**

The ecological assessment advises that the proposed development will not result in the removal of any Koala food trees however there may be an impact to the Koala during the construction and occupation of the site. However, after construction, human occupation is likely to be limited to infrequent maintenance visits. The assessment suggests amelioration for fauna such as 10km/hr speed limit observed on the access road; no dogs to be allowed on the site; and all rubbish to be disposed responsibly.

However, Council's Ecologist has advised that the ecological assessment provided a very rapid 'snapshot' of potential fauna utilisation of the site and surrounds. The ecological consultant has nominated Tree Protection Zones of 7m around two species of Eucalypt adjacent the site, which would require pruning. Given a 10m inner asset protection zone requirement, retention of these trees is questionable.

Therefore on the basis of the lack of submitted information, Council is unable to advise whether the proposal would be consistent with this clause.

### **State Environmental Planning Policies**

#### **SEPP (North Coast Regional Environmental Plan) 1988**

##### **Clause 12: Impact on agricultural activities**

The council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development

on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

Due to the topography of the site and as it is heavily vegetated, it is considered that the development will be unlikely to cause a loss of prime crop or pasture land.

#### SEPP No. 44 - Koala Habitat Protection

The aims of the SEPP are to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

The submitted ecological assessment advises that there are a number of flora species listed as Koala food trees under the SEPP on the subject site. Further, one (1) female Koala was recorded 60m south-west of the proposed facility and a small number of scats recorded in the vicinity of the site.

The ecological assessment has incorrectly stated that the site is less than 1 hectare and therefore the provisions of the SEPP are not triggered. This is incorrect as the allotment is some 35 hectares in size. Council's Ecologist has advised that given the species list for the site contains three of the tree species listed on Schedule 2 of the SEPP, the study area is very likely to be regarded as Potential Koala Habitat. Given recent and historical records of Koalas (including sightings of a female very near the proposal) in the immediate vicinity, the site must be considered as containing core Koala habitat and thus requiring the preparation of a Koala Plan of management. This has not been undertaken.

The construction phase, on-going noise, disturbance and lighting associated with the operation of the site as well as electromagnetic energy also have the potential to impact significantly on surrounding Koala populations. Such impacts are discussed further within this report.

#### SEPP 71 (Coastal Protection)

The site lies just outside of the coastal zone and therefore considerations are not required. However, Council's Ecologist has advised that there is the potential for a cumulative impact on the environment, which may have broader implications on fauna within SEPP 71 designated land.

#### SEPP (Infrastructure) 2007

One of the aims of this Policy is to provide greater flexibility in the location of infrastructure and service facilities. The proposed development is classified under Division 21 as development that requires consent from Council. The SEPP stipulates:

##### **115 Development permitted with consent**

- (1) *Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.*
- (2) *(Repealed)*
- (3) *Before determining a development application for development to which this clause applies, **the consent authority must take into consideration any guidelines concerning site selection, design,***

***construction or operating principles for telecommunications facilities that are issued by the Director-General for the purposes of this clause and published in the Gazette.***

Therefore the proponent is applying for consent to erect the telecommunications tower and details relating to site selection, design, construction and operating principles have been provided with the development application documentation.

The guidelines referred to in Clause 115(3) of the SEPP are found within the *NSW Telecommunications Facilities Guideline Including Broadband July 2010*. Section 2 of the Guideline is specific to site selection, design, construction and operation principles for telecommunications facilities and **requires development carried out under Clause 115 of the SEPP to be consistent with the principles set out in the Guideline** in order to follow best practice.

NSW Telecommunications Facilities Guideline Including Broadband

Principle 1: *A telecommunications facility is to be designed and sited to minimise visual impact.*

Principle 2: *Telecommunications facilities should be co-located wherever practical.*

Principle 3: *Health standards for exposure to radio emissions will be met.*

Principle 4: *Minimise disturbance and risk, and maximise compliance.*

Principle 1 (Visual Impact)

- (e) *A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.*
- (g) *A telecommunications facility should be located so as to minimise or avoid the obstruction of a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.*

It is, in general, considered that the facility has been located and designed as far as practically possible to respond appropriately to rural landscape setting. As detailed further within this report such development will undoubtedly impact on the visual amenity of the locality however given the nature of surrounding vegetation and topography the facility will not impact on the visual amenity of the locality to such an extent so as to warrant refusal of the proposal.

Principle 2 (Co-location)

- (e) *If a facility is proposed not to be co-located the proponent must demonstrate that co-location is not practicable.*

*Note: Co-location is 'not practicable' where there is no existing tower or other suitable telecommunications facility that can provide equivalent site technical specifications including meeting requirements for coverage objectives, radio traffic capacity demands and sufficient call quality.*

The Telecommunications Act and Code of Practice encourage co-location of facilities, thus it is very likely that should a tower be approved in the location proposed in the application, at least two other telecommunications providers would co-locate. The application states that whilst three antenna will be initially installed, there is room for an additional nine antenna and at least three carriers could be expected to occupy the site. Each additional provider would require

their own small building and additions to the tower, such that there would be regular disturbance over an extended period as well as ongoing disturbance for maintenance purposes. The co-location of facilities generally does not require development consent.

Whilst the potential for co-location may satisfy the general provisions of the Act there are significant concerns about the broader implications that further development and disturbance may have on fauna and flora in the vicinity.

Principle 3 (Health Standards)

- (a) *A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.*
- (b) *An EME Environmental Report shall be produced by the proponent of development to which the Mobile Phone Network Code applies in terms of design, siting of facilities and notifications. The Report is to be in the format required by the Australian Radiation Protection Nuclear Safety Agency. It is to show the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and demonstrate compliance with the Mobile Phone Networks Code.*

As noted within this report, an EME report has been submitted detailing the estimated maximum cumulative EME levels produced by the proposal. Council's Environmental Health Unit is satisfied that the proposed development is well within emissions standards. Therefore, the proposed development is considered to be consistent with Principle 3 of the Guidelines.

Principle 4 (Minimise disturbance)

- (k) *Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.*

The proponent has detailed that it is unlikely that any native vegetation will require removal as the majority of the site of the proposed telecommunication facility has already been cleared. Council's Ecologist has advised that some clearing of regrowth native vegetation is required for track formation and compound construction, including some excavation. As detailed previously, the ecological consultant has nominated Tree Protection Zones of 7m around two species of Eucalypt adjacent the site however given the requirement for an inner asset protection zone, retention of these trees is questionable.

Construction will involve noise and disturbance in the short-term with a crane required to place the monopole. In general it is considered that the proposed development is consistent with the Principles of the NSW Telecommunications Facilities Guidelines.

Ongoing noise will be generated from air-conditioning units associated with the compound and occasional site visits for maintenance purposes. A flashing red light is proposed for the top of the tower as a warning to aeroplanes approaching Coolangatta airport, meaning conditions for nocturnal fauna in the surrounding forest would be significantly and permanently altered.

Although the actual proposed development footprint would be relatively minor in horizontal on-ground distance, the main impact of concern to local wildlife is disturbance, including noise and vibration and potential physical damage to habitat whilst a very large crane manoeuvres a tower of 30m height into place. Examination of the site reveals that vegetation is very close to the track and overhanging the tower site such that at least some vegetation is likely to require removal and in all reality a number of smaller trees would be affected during placement. Initial disturbance would be exacerbated by the placement of an air conditioning unit which would run continually within an environment which currently experiences only an occasional very gentle noise from surrounding areas and few visits for maintenance purposes (the applicant has stated the Country Energy line is not in operation).

In short, disturbance impacts of an initial short-term but high level, coupled with additional short-term impacts as other telecommunications companies co-locate (as detailed further within this report), in combination with ongoing disturbance for maintenance and repairs and air-conditioning units, is not considered acceptable for a site that is known to contain vulnerable species sensitive to disturbance and at threat from development in other parts of the coast.

On this basis it is considered that the proposed development does not satisfy the provisions of Principle 4 of the NSW Telecommunications Facilities Guideline Including Broadband.

#### SEPP (Rural Lands) 2008

One of the aims of this Policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. It is considered that the proposed development is consistent with the aims of this Policy in that it will improve the telecommunication network in the locality.

#### Telecommunications Act 1997

Part 1 of Schedule 3 of the Telecommunications Act authorises a carrier to enter on land and exercise any of the following powers:

- Inspect the land
- Install a facility
- Maintain a facility

A Carrier's power to install a facility is contingent upon:

- a) The Carrier being authorised to do so by a Facility Installation Permit, or
- b) The facility being a low-impact facility (as defined by the *Telecommunications (Low Impact Facilities) Determination 1997* (as amended), or
- c) The facility being temporary and used for a defence organisation for defence purposes, or
- d) If other conditions are satisfied in relation to the facility concerned.

The proponent (Telstra) does not hold a Facility Installation Permit and the proposed development is not a temporary facility for use by a defence organisation or for defence purposes. Further, as the proposal involves the installation of a 30m monopole it does not constitute a low-impact facility under

the *Telecommunications (Low-Impact Facilities) Determination 1997* (as amended).

On this basis the proponent is not empowered to undertake the proposed works without approval under NSW legislation and therefore must obtain development consent from Tweed Shire Council.

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

The Draft Tweed Local Environmental Plan 2010 is currently on exhibition. In this Draft the site is nominated within the E2 Environmental Conservation Zone. The objectives of the zone are as follows:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

The proposed development is defined as a 'telecommunications facility' which is classified as prohibited development under the provisions of the E2 Zone within the Draft LEP.

The proponent advises that numerous sites were selected as potential candidate sites within the Cobaki Lakes area and that the subject site was selected on the basis of radio frequency suitability, land use, property and planning factors.

However, the site's high conservation value has been recognised within the Draft LEP which, as it currently stands, would prohibit the development in this location. However, it is acknowledged that this does not constitute a material consideration in the determination of the development application as the document has yet to be formerly gazetted.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

Access is via the existing access track off Jabiru Drive and subsequently to the proposed built access track to the site compound (measuring approximately 29m). The proponent has advised that:

- three (3) additional vehicle movements per day during construction are anticipated;
- construction would be completed within approximately five (5) weeks;
- there would be a 'minor increase' in traffic volume on the surrounding roads during construction however such impacts would be 'very minor and short term in duration';
- Road closures will not be required;
- mobile phone base stations are of low maintenance, unmanned and remotely operated therefore the proposed facility will not require parking facilities.

Clarification with regard to site access, precise location of track and turning facilities were requested by Council's Development Engineer. Further clarification has been received with this regard and Council's Development Engineer has raised no further objection.

A3-Development of Flood Liable Land

As previously detailed a small section of the southern portion of the site is flood prone land. However, the access and location of the telecommunications facility is not prone to flooding and therefore no further consideration or conditions are required with this regard.

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

Not applicable to the proposed development.

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

The subject site lies just outside of the coastal zone and is located approximately 5.5km from the coast. Therefore considerations of the Tweed Shire Coastline Management Plan are not required. However, it is considered that the potential exists for a cumulative impact on the environment that may impact on the values that make the Tweed coastline important in a local, regional and national sense.

**(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**

Visual amenity

The proposed monopole is 30m in height and located on the top of an existing hill. Some level of screening is afforded to the development from existing mature tree species that are located on the hill top which the proponent advises are approximately 20m – 25m in height.

The proponents have advised that there would be ‘minimal potential visual impact’ as a result of the proposed development, however it is expected that any impact will be ameliorated by the following measures incorporated into the design of the facility’:

- A monopole structure rather than a lattice tower (slim-line form and reduced bulk);
- The facility will be set back from surrounding road frontages and residential dwellings;
- Further amelioration measures (painting the monopole) are available however standard galvanised finish considered most suitable so neutral colour will blend in with sky (equipment shelter to be painted eucalyptus green);
- When viewed from certain directions (particularly from the east) the visible volume of the structure will be significantly reduced due to the presence of surrounding vegetation;
- No additional parabolic antennas or overhead electricity cables required.

However as advised by the proponent ‘the proposed facility is designed with the objective of minimising potential visual impact as far as possible, whilst at the same time achieving the required RF coverage objectives. Therefore a certain level of visual impact will arise from a result of the proposed development.



**Figure 2: Site of proposed facility (shown in red) to the northwest at approximately 90m – 100m AHD and low-lying nature of surrounding topography. Proposed monopole will be particularly prominent from adjacent ridgeline to the south-east (approximately 60m – 80m AHD).**

The proposed monopole will extend approximately 4-5m above the existing tree canopy and so will be visible within the immediate locality. However, views of the top part of the site will, in general, be limited to distant views, as the topography of the area will limit visibility from nearby residential properties. The hilltop location rises steeply from Jabiru Drive, as illustrated in Figure 2, and therefore may limit the top of the tower being directly visible from the closest residential properties.

It is considered that the existing tree canopy as well as the topography of the site and surrounding area will reduce the overall prominence and visual impact of the proposal so as not to warrant refusal of the proposed development. This is detailed further within this report.

#### Access, Transport and Traffic

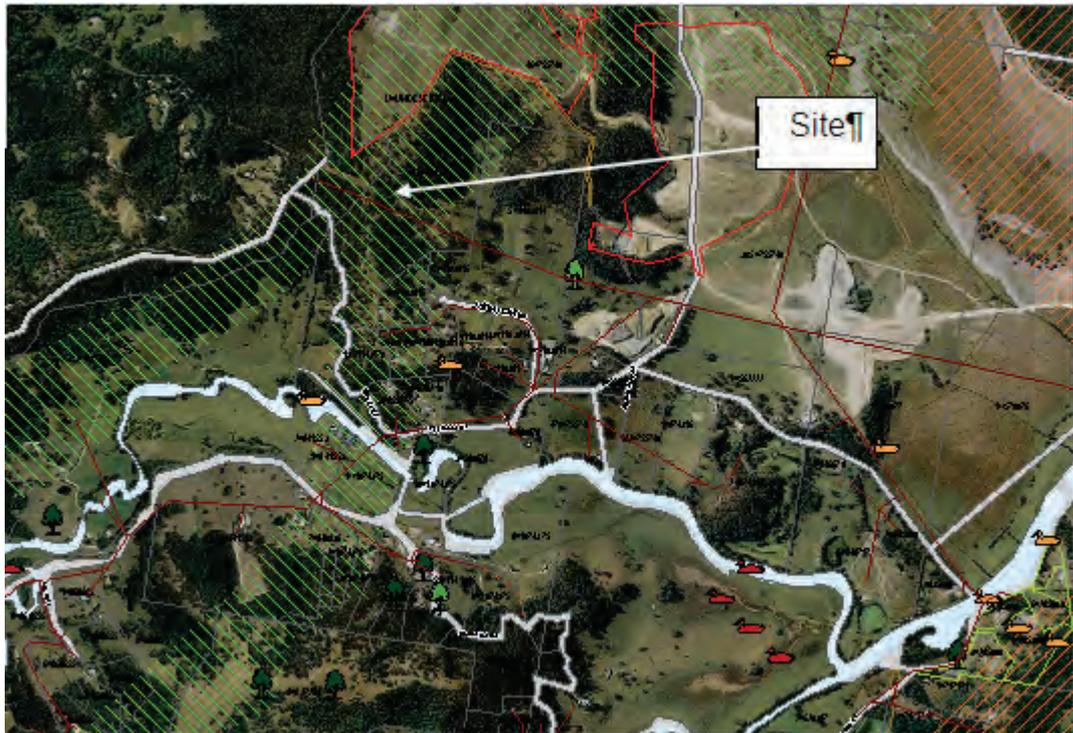
Access is proposed from the existing Jabiru Drive and from an access track to be constructed measuring approximately 29m in length. The development application has been referred to Council's Development Engineer who has advised that access arrangements are satisfactory. It is considered that, once the construction phase is complete, the development would be unlikely to generate any significant volumes of traffic within the locality.

#### Flora and Fauna

The majority of the site is mapped under the Tweed Vegetation Management Strategy 2004 as being 'Sclerophyll Open Forests on Substrate Bedrock' with sections being 'substantially cleared of native vegetation' and 'not assessed'. As previously detailed within this report clarification with regard to proposed vegetation clearance has been received by Council whereby the ecological consultant has advised that the proposal will have a minimal impact on native fauna or flora.

As previously detailed the Cobaki Lakes area contains a diverse range of habitats from lowland wetlands and floodplains to elevated ridges above 100m AHD, with a corresponding high diversity of vegetation communities. The National Parks

and Wildlife Service Wildlife Atlas database contains 583 records of forty-one threatened flora species and 1178 records of fifty-four threatened fauna species, as well as one Endangered Population within a ten kilometre radius of the subject site. The locality includes numerous mapped wildlife corridors, which have particular importance in linking lowland with elevated areas. Significant habitat removal has occurred under previous development consents over the Cobaki Lakes major development site, which lies immediately to the north of the subject site and has impacted part of the McPherson range corridor and links. Remaining habitat areas are considered critical to sustaining wildlife populations as illustrated in Figure 3.



**Figure 3: The proposed site is centrally located within a mapped sub-regional wildlife corridor and surrounded by numerous records of threatened species represented as tree and duck symbols here (red and dark green being Endangered and orange and light green being Vulnerable).**

The ecological assessment undertaken for the proposed development recorded one threatened fauna species and considered fifteen additional threatened fauna species as possible occurrences over time, whilst recognising that the survey was limited by both time (1 day and 3.5 hours night) and by season (Autumn, when little flowering or fruiting was occurring). Significantly, the survey recorded a female Koala 60m to the south-west of the site and Koala scats on the edge of the subject site. A number of protected arboreal mammals dependent on hollows (possums) were also recorded, along with four species of amphibians (one exotic); four species of reptile; four species of mammals (one exotic) and twenty-five species of birds.

Council's Ecologist has advised that on-ground targeted fauna survey investigations undertaken in accordance with DECC draft guidelines 2004 (recognised as the standard for ecologists in NSW) and over varying weather conditions (such as rain for amphibians species) and seasons (flowering and fruiting resources) is likely to result in numerous additional species, including

threatened species. The same applies for a systematic flora survey. A particular concern in the survey investigation is the lack of echo-location signal analysis to reveal the presence of microchiropteran bat species likely to use the site and potentially most directly affected by EME due to its potential for reduction in prey (insect) populations and their smaller body size. However, of most concern for the subject location at present is the Koala.

The *Tweed Coast Koala Habitat Study* (Biolink 2011) concluded *that the Tweed Coast Study Area's Koala population is now in very serious trouble*. The report states that for the northern Koala Management Area (being north of the Tweed River and thus isolated from any other Koala populations to the south): *there is a need to determine what actions (if any) can be enacted ... to avoid what otherwise appears to be an inexorable trajectory towards localised extinction within a timeframe of 5 – 10 years*.

Within the report it is also stated that *Population Viability Analysis carried out by Phillips et al. 2007 has determined that as little as a 2 – 3% increase in the naturally occurring mortality rate (as a function of total population size) due to incidental factors such as road mortality, dog attack or the stressors associated with disturbance generally, is sufficient to precipitate decline*. It is considered that the development will introduce disturbance to the site in a number of ways, as previously detailed within this report.

The Koala Habitat Study summarises as follows: *The preceding prognosis reinforces not just the need to remove and/or minimise known and potential threatening processes from those areas known to be currently occupied, but also to effectively buffer such areas from further adverse impact, facilitate recovery and accommodate the need for population expansion, as well as ensuring that effective habitat linkages are in place to facilitate ongoing recruitment processes*. In a planning context, the report states *... there is a need to not only recognise currently occupied areas as core koala habitat and implement management accordingly, but also for areas of adjoining high quality (Primary/Secondary A) koala habitat as well as identified linkage areas to be afforded the highest importance and an equal level of protection*.

The intent to provide a higher level of protection to this site is illustrated by the proposed zoning of the site in LEP 2010 to E2 Environmental Protection. Recent and historical sightings of koalas within the immediate locality means the area must be regarded as core Koala habitat. How Koalas are using the site; the size, stability and distribution of any Koala population through the landscape; and actions contributing to their success or otherwise are factors which have not been considered within the ecological assessment. Recent Koala activity has been recorded to the north-west (JWA 2009), east (Benwell and Lewis 2007) and the north-east (Biolink, 2011) of the site, with records from 2004 and 2006 to the south.

Given the dire situation in which the Koalas north of the Tweed River are found, the unknown factors listed above, the presence of Koalas within and around the site and the disturbance impact very likely to arise from the proposal, the precautionary principle must be applied in preventing development that may have a further detrimental impacts on an area where Koalas are shown to be surviving.

#### Noise

Some level of noise will be generated during the construction phase for the proposed monopole. During the operation phase of the monopole noise

associated with use of air conditioning plants servicing the equipment shelter will be generated, which is considered likely to impact on fauna within the vicinity of the subject site as previously detailed.

The air conditioning units may operate during the night and contribute to background noise levels. The development application was referred to Council's Environmental Health Unit who have advised that given the location of the site and negligible operational noise any noise impacts may be controlled via suitable conditions of consent.

#### Lighting

The application does not make mention of any security lighting to be used at the facility. There is a concern that additional lighting would impact further on surrounding fauna.

#### Contamination

The development application has been referred to Council's Environmental Health Department who have advised that analysis of previous land uses through aerial photography did not reveal any potentially contaminating activities and therefore contamination is not considered a constrain for the proposed development.

#### Radiofrequency (RF) Electromagnetic Energy (EME)

In response to concerns raised from surrounding residents with regard to exposure to Radio Frequency, the proponent has stated:

*"The further a base station is built from the residential it is designed to provide coverage for, the base station will need to operate at a higher power which would actually increase exposure (albeit these levels are still very low and below the standard). In most circumstances the best location to build base stations in order to minimise emissions is closest to where those services are required."*

*Therefore, the best way tor reduce emissions is to build base stations in the most technically effective locations for network coverage [...] there is no science-based reason to set up exclusion zones for mobile phone base stations around land uses such as schools and residential areas.*

The application has been referred to Council's Environmental Health Unit with this regard who has advised the following:

*"The 2002 Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Radiation Protection Standard 'Maximum Exposure Levels to Radiofrequency Fields -3 kHz to 300 GHz' sets public and occupational limits of exposure to EME fields.*

*The Australian Communications and Media Authority (ACMA – formerly Australian Communications Authority) has the regulatory responsibility to mandate exposure limits for continuous exposure to the general public in order to protect the health and safety of persons exposed to RF EME from radiocommunication transmitters.*

*In order to fill this regulatory responsibility, ACMA adopted the ARPANSA limits into the Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003 and the licence conditions for radiocommunications transmitters. All licensees of transmitter installations (like mobile phone base stations) are required to comply with the public*

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

*A Summary of Estimated RF EME Levels around the Proposed Mobile Phone Base Station at 5 Jabiru Dr, Cobaki (NSA Site No 2486009) dated 19/2/10 has been provided. The report appears to have been prepared in accordance with the ACMA requirements. The report indicates that the maximum EME level at 1.5m ground level is estimated to be 0.24% of the ARPANSA public exposure limits. The report demonstrates that the predicted emissions produced by the proposed facility are well within these standards. "*

On this basis Council's Environmental Health Unit have advised that no further considerations are required with regard to RF EME and its impact on human populations.

With regard to the impact of electromagnetic emissions on fauna populations a recent literature review undertaken for a proposed tower on the Tweed Coast (Phillips et al 2009) stated that *"it is difficult to unreservedly reject arguments indicating some relationship between EME sourced from mobile telecommunications facilities and adverse effects on non-human biological organisms"*. The consultant cited evidence of a relationship of effect inversely proportional to size, i.e. a greater effect on smaller (and also structurally more simple) organisms such as insects.

The report concluded as follows:

### ***Conclusions and Recommendations***

*Ecological systems and the organisms that comprise them are complex biological entities. Primary consideration of consent authorities in most Australian States is whether or not the extent of any impact from EME is significant enough to bring about localised extinction events and/or reductions in such range parameters as area of occupancy. Based on the preceding review we would conclude that there is not enough evidence to answer this question unequivocally. Moreover, ecosystem response will invariably differ dependent on specific location and its associated disturbance history, species assemblages and level of biological complexity therein, and the extent of exposure over time.*

*Are there likely to be impacts from EME at a localised population level? Again, the information provided herein would suggest that yes – there will be. Unfortunately though, research has not kept pace with technological advances and thus it can only be surmised that earlier technologies, and particularly those operating at the lower end of the frequency spectrum utilised for telecommunication purposes have the potential for greater impact than do more modern technologies which tend to operate at lower power levels, at higher frequencies and with less modulation, the end result of which is that the extent of power density fields and/or intensity windows having the potential to adversely impact on biological organisms is reduced. There is some evidence to support such a claim, recent work by Sommer et al (2007) reporting no significant differences between survivorship and disease severity code in mice chronically exposed to UMTS modulated EME. Regardless and notwithstanding such research indicating a potential*

*for lesser impact, the weight of evidence would suggest that some impact is likely but perhaps within smaller lobes of influence than that which could be nominally associated with lower frequency bandwidths.*

*We consider the critical question to be whether or not the potential impacts of EME on non-human, biological organisms is significant at a level that may also compromise the functioning of ecological communities as a whole – for which we must again conclude there is currently no scientific evidence to indicate that this is the case. This conclusion must remain qualified however, because we must also conclude on the basis of existing knowledge that some localised, small-scale impacts are likely to occur, and speculate that such impacts will likely manifest themselves as decreases in animal activity, abundance and general biodiversity values generally within a likely area of influence that may extend in a mostly horizontal plane up to 50m from the power source (based on available power density projections), the intensity and potential influence of which will vary depending on the height from the ground. As a hypothesis such speculation is readily testable and we would urge organisations engaged in the expansion of telecommunications infrastructure to address the widening gap between technological advance and the ability of research to provide informed opinion on likely ecological impact as opposed to that singularly focused on the welfare of humans. In the interim, we would argue that sufficient data exists to warrant application of the precautionary principle such that the installation of telecommunications facilities in areas where there are high conservation and/or biodiversity values should be avoided if at all possible.*

The 50 metre “area of influence” referred to above was determined on a different carrier’s bandwidth and on only one carrier’s antennas being present on the monopole. As previously stated co-location of carriers has not been considered and is likely to extend the area of influence significantly.

Council’s Ecologist has advised that EME effects are still to be quantified but enough peer-reviewed scientific evidence exists to conclude that some impact at a population level is likely on species of smaller body weight that reside mainly at higher levels in tree canopies and are thus more exposed to the emissions. As the Northern Koala Management Area requires significant concerted effort already to prevent extinction from small fragmented population areas under high mortality stress, any future stressors must be avoided.

#### Acid Sulfate Soils

The site has been assessed as being Class 5 ASS Council’s Environmental Health Officers has determined that the subject application does not require an ASS Management Plan.

#### Aircraft Impacts

As previously detailed within this report the application has been referred to the Department of Infrastructure and Transport who have approved the application subject to a number of conditions of consent. Providing the development is carried out in accordance with the relevant conditions it is considered that the proposal will not interfere with the safety, efficiency or regularity of existing or future air transport operations.

### **(c) Suitability of the site for the development**

#### Surrounding Landuses/Development

The site is located in a rural area where the nearest residential dwelling is approximately 430m to the southeast of the proposed facility. Surrounding land uses comprise rural-residential lots, agricultural land (grazing) and cleared land subject to the Cobaki residential subdivision.

The site of the proposed facility is heavily vegetated and it is considered that the existing vegetation, to a certain extent, will provide a visual screen to the subject proposal, particularly coupled with the elevated nature of the hill top that will limit views to the monopole from the immediate vicinity.

The elevated nature of the subject site affords the desired level of coverage to the proposed telecommunication tower and will therefore improve telecommunications service for the locality. For these reasons the site is, in general, considered to be suitable for the proposal. However, as previously detailed the proposal has the potential to impact significantly on fauna within the locality, which is recognised for its high biodiversity and conservation value. For this reason refusal of the development application is recommended.

#### Tweed Shire Scenic Landscape Evaluation

Catherine Brower's Tweed Shire Scenic Landscape Evaluation report (1995) was undertaken to: identify and analyse the scenic landscape of the Tweed Shire to determine its aesthetic and cultural heritage values; identify ways of protecting view corridors of high value; and to provide methods for the management of the scenic value of the shire.

The subject site is located within the McPherson Ranges on the edge of the Cobaki locality. The evaluation report identifies the Cobaki area, within the district of Terranora, as having a Medium scenic quality.

In terms of scenic management, the report identifies Cobaki as a scenic district due to its naturalness in proximity to Tweed Heads/Coolangatta; isolated paddocks in the hinterland; and the natural setting of the broadwater. The document sets the following parameters of development:

- Housing could occur out of sight up side valleys as clusters or villages (not rural residential);
- **Maintain naturalness of backdrop hills;**
- Restrict waterside development to preserve naturalness.

The proposed telecommunication facility will be visible from within the locality given it will protrude by approximately 4-5m above the existing vegetation canopy. Therefore it is arguable that the proposal will undoubtedly impact on the 'naturalness of backdrop hills' with the introduction of a modern, man-made structure on the ridge line.

As previously detailed the nature of surrounding vegetation and topography is such that the proposed monopole will not be particularly prominent within the immediate locality. When viewed from the south-east toward the McPherson Ranges the scene comprises relatively flat and cleared farmland with phone lines, electricity cables and the like clearly visible. The recently approved subdivision at Cobaki for a residential development of 10,000 dwellings is also acknowledged; this will dramatically alter the existing verdant and rural landscape character within the vicinity of the subject site.

Whilst the proposed monopole will be visible within the surrounding locality as well as from the adjacent ridge line (approximately 3.4km to the south east of the subject site), it is considered that the perceived impact to landscape character on this area of the Tweed Shire is not in itself, a reason for refusal given the difficulty in prioritising the maintenance of 'naturalness' with the requirement for improved telecommunication services.

Flora and Fauna

The Cobaki Lakes area has very high biodiversity values and is essential for wildlife corridor connections. Large areas of conservation land free of anthropogenic impacts and connected with other similar areas are more and more important to remain so in the face of loss of habitat from ongoing coastal development. The site has been shown to be of importance to threatened species.

It is acknowledged that whilst the development footprint is reasonably small, disturbance impacts are likely to be high during the construction and ongoing maintenance provisions. Further, co-location of other carriers is likely to lead to ongoing disturbance, particularly to shy and cryptic species adversely affected by such impacts, and in particular through flashing light reflections throughout the night.

Should these impacts be enough for species to avoid the site, they are likely to be pushed out of the relatively safe forested corridor into more marginal country where more risk occurs to their safety.

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

A total of four (4) submissions have been received as a result of the proposed development. The major objections have been outlined below:

Objection	Response
<p><b>Health and Safety:</b></p> <ul style="list-style-type: none"> <li>• Such towers are seen as health risks, especially to young children;</li> <li>• Evidence to the contrary of the WHO (documented causes of cancer clusters near mobile phone towers; longevity studies yet to be completed; other countries have exclusion zones);</li> <li>• Lack of knowledge of long-term effects of EME on people (links to brain tumours and cancer).</li> </ul>	<p>Radiofrequency Electro Magnetic Emissions (RF-EME) from the operation of the Base Station have been assessed and a report provided dated 19/12/10. The report indicates that the maximum EME level at 1.5m ground level is estimated to be 0.24% of the Australian Radiation and Nuclear Safety Agency (ARPANSA) public exposure limits. The report demonstrates that the predicted emissions produced by the proposal are within these standards. Council's Environmental Health Unit have advised that no further consideration with regard to RF-EME is required.</p>

Objection	Response
<p><b>Depreciation of Property Value:</b></p> <ul style="list-style-type: none"> <li>• Will decrease property values in the area greatly due to perceived health issues and visual impact.</li> </ul>	<p>The proponent has advised that there is <i>no evidence to show that mobile phone installations have negative impacts on property values [...]. Land that is close to local amenities [and subsequently] has good mobile coverage is likely to be more desirable than an area with poor coverage.</i></p> <p>A perceived devaluation of property prices is not a material planning consideration under section 79C of the Environmental Planning and Assessment Act 1979.</p>
<p><b>Access Track:</b></p> <ul style="list-style-type: none"> <li>• Impact on the private road that is currently used and maintained by 4 residents only;</li> <li>• Heavy machinery to be used would damage private track;</li> <li>• With exception of land owner, all other landowners are refusing permission for the private driveway to be used;</li> <li>• Access track very steep and designed for residential vehicles only;</li> <li>• Residents not prepared to be financially disadvantaged as a result of commercial vehicles degrading the track;</li> <li>• Health and safety of other track users due to heavy commercial vehicles.</li> </ul>	<p>The proponent has advised that the road leading from Jabiru Drive to the lots in question is a registered easement for right of carriageway and have included a copy of this easement for reference with the application details. This easement allows 'full and free right for every person who is at any time entitled to an estate or interest in possession of the land in question'.</p> <p>The easement states that owners of the lot shall maintain the carriageway and keep it in good repair and condition. It has been advised that Telstra agree to repair any damage that may occur during construction and that in relation to safety, the easement is a carriageway for vehicle access and road and safety rules will still apply.</p>
<p><b>Community consultation:</b></p> <ul style="list-style-type: none"> <li>• The applicants have failed to carry out effective community consultation;</li> <li>• Such an objection is unethical;</li> <li>• No evidence of surrounding land owners (Lots 9 and 10 Jabiru Drive) being consulted;</li> <li>• Consultation that was carried out was selective, exclusive and incomplete;</li> </ul>	<p>In response to the submissions the proponent has stated: <i>we note that inconsistency between Council's Policy on Pre-DA consultation and the intent of the recently gazetted NSW SEPP Infrastructure Amendment (Telecommunication Facilities) 2010 and NSW Telecommunication Facilities Guideline including Broadband. [...] Provisions for mandated Pre-application consultation are not included [within the SEPP Infrastructure]. Council's resolution to mandate pre-application</i></p>

Objection	Response
<ul style="list-style-type: none"> <li>• Applicants stated that alternative sites not suitable as they would be likely to face opposition from the community however effective and comprehensive consultation would have revealed this.</li> </ul>	<p><i>consultation and its decision to refuse to accept a [DA] is inconsistent with the [EP and AA 1979]. Council's policy is discriminatory [and...] given the location of the proposed facility and character of the area it is considered that Telstra have gone beyond what is required in terms of pre-DA consultation.</i></p> <p>Telstra have completed the following pre-DA consultation:</p> <ul style="list-style-type: none"> <li>• Newspaper advertisements in the Tweed Link, Tweed Sun and the Tweed Daily News on 8/13 July and 15/20 July 2010;</li> <li>• Letter box drops &amp; door knocks (7 July 2010) to surrounding homes/businesses (vacant rural lots, vacant houses, wholesale nursery, golf club, residential properties) that could be affected;</li> <li>• Community meeting was not held as it was <i>considered excessive given the rural context of the area and the location of the facility</i>'.</li> </ul> <p>Whilst a community meeting is not a statutory requirement as set out in the EP &amp; A Act 1979, the <i>NSW Telecommunication Facilities Guideline including Broadband</i> requires that a carrier should <i>have regard to Council's views on consultation</i>. Whilst it is unfortunate that a community meeting was not carried out the proponent has undergone letter drops and advertised the proposal in two (2) concurrent publications which is considered to be acceptable in this instance.</p>
<p><b>Air Safety:</b></p> <ul style="list-style-type: none"> <li>• Proposal penetrates the Obstacle Limitation Surface (OLS) by 52.78m;</li> <li>• Disregard for safety of air operators and passengers as well as surrounding communities.</li> </ul>	<p>The subject proposal was referred to the relevant authorities for comment in regards to the potential conflict with flight activities. As previously detailed within this report the relevant bodies have approved the application subject to a number of conditions of consent.</p>

<b>Objection</b>	<b>Response</b>
<b>Lack of time to dispute:</b> <ul style="list-style-type: none"><li>• Timeframe allocated to comment was not sufficient to allow the wider community the ability to gain a knowledge and understanding.</li></ul>	The timeframe for the notification period for the development was conducted in accordance with the Environmental Planning and Assessment Act 1979.

**(e) Public interest**

The submissions have been considered within the body of this report. Council currently has no specific policies in relation to telecommunication tower developments. The proposal is a permissible form of development in the 1(a) zone and therefore can be assessed by Council.

The concerns in regard to health risks are acknowledged and have been considered within the body of this report. Current research indicates that the potential for health implications from EME levels is minimal. In this instance Council relies on the relevant standards from ARPANSA and other authorities. Council's Environmental Health Officers deemed the submitted information and reporting on the potential health risks of the monopole to be consistent with outlined Australian standards. With regard to human populations the proposed development is consistent with all relevant guidelines and proposed to be conducted in accordance with outlined Australian standards. Further, the proposed telecommunication facility will provide for improved telecommunications service for the locality and newly approved residential subdivision at Cobaki.

However, it is considered that, on the basis of the submitted information, the proposed development will impact on the ecological integrity of the subject site and surrounding locality, which would not be in the public interest, particularly with regard to ensuring that the environmental quality and biological diversity is maintained for future generations.

**OPTIONS:**

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

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

In general it is considered that the proposed telecommunication facility will enhance telecommunications services in the locality, with particular regard to the recently approved residential subdivision at Cobaki. The location and design of the proposal is considered suitable without any significant adverse impacts on the natural and built environments in terms of: significant native vegetation clearance (although the precise impact of the 10m APZ is unknown); visual impact; or health impacts to human populations, so as to warrant refusal of the proposal.

However, this report has set out the significant impact of the proposed development on ecological integrity within the subject site and surrounding locality. This is particularly prevalent given the high environmental significance and conservation value of the area as well as the dire situation of Koala populations, particularly to the north of the Tweed River. For these reasons it is considered that the site is unsuitable for the proposed development due to the potential impact on fauna including threatened species.

**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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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**8 [PR-CM] Development Application DA10/0636 for a Residential Flat Building (6 Units) at Lot 14 Section 5 DP 758571, No. 204 Marine Parade, Kingscliff**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA10/0636 Pt1**

**SUMMARY OF REPORT:**

The subject application seeks consent for the construction of a residential flat building comprising six (6), three (3) bedroom units. The proposed building is three (3) storeys in height and provides for basement car parking with access off Kingscliff Lane. The subject site covers a total area of 834m<sup>2</sup> whilst the total area of the development is 995m<sup>2</sup> with the area of each individual unit varying between 140m<sup>2</sup> and 156m<sup>2</sup>.

The application includes a SEPP 1 objection in relation to Clause 32B of the North Coast Regional Environmental Plan 1988 (NCREP) relating to overshadowing. In this regard, it is referred to Council for determination pursuant to the Department of Planning issued circular dated 14 November 2008.

The proposed development is considered to demonstrate compliance with the relevant planning instruments, apart from the proposed SEPP 1 objection. However it is considered that sufficient justification has been provided in this instance and the application is recommended for conditional approval.

**RECOMMENDATION:**

**That:**

- A. State Environmental Planning Policy No. 1 objection to Clause 32B of North Coast Regional Environmental Plan regarding the overshadowing of a reserve be supported and the concurrence of the Director-General of the Department of Planning be assumed.**
- B. That Development Application DA10/0636 for a small residential flat building (6 units) at Lot 14 Section 5 DP 758571, No. 204 Marine Parade, Kingscliff 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;**
  - Drawing No's DA34, DA 35, DA37 Issue A**
  - Drawing No's DA04, DA09, DA14, DA15, DA36 Issue B**

- Drawing No's DA00 - DA03, DA05- DA08, DA10, DA11, DA13 DA17 Issue C
- Drawing No's DA12 Issue D

prepared by ARCHITECTURE Pty Ltd and dated 10/08/2010, except where varied by the conditions of consent.

[GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

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

[GEN0135]

4. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

5. 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]]

6. This development consent does not include demolition of the existing structures on the subject site. A separate approval will need to be obtained for this purpose, as statutorily required.

[GEN0305]

7. Prior to the issue of a Construction Certificate, design verification from a qualified designer must be submitted to the certifying authority. The statement must verify that the plans and specifications achieve or improve the urban design/architectural design quality of the development for which development consent was granted, having regard to the design quality principles within State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

[PCC0045]

8. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

[PCC0585]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

9. The developer shall provide 14 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to Tweed Shire

Council and approved by the General Manager or his delegate prior to the issue of a construction certificate.

Bicycle parking is to be provided at a rate specified in Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking code.

[PCC0065]

**10. Section 94 Contributions**

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

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

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

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

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

**(a) West Kingscliff – Open Space:**

1.458 ET @ \$2386 per ET **\$3,479**

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

DCP Section B4

S94 Plan No. 7

**(b) Shirewide Library Facilities:**

1.458 ET @ \$792 per ET **\$1,155**

(\$792 base rate + \$0 indexation)

S94 Plan No. 11

**(c) Bus Shelters:**

1.458 ET @ \$60 per ET **\$87**

(\$60 base rate + \$0 indexation)

S94 Plan No. 12

**(d) Eviron Cemetery:**

1.458 ET @ \$120 per ET **\$175**

(\$101 base rate + \$19 indexation)

S94 Plan No. 13

- (e) **Extensions to Council Administration Offices  
& Technical Support Facilities**  
1.458 ET @ \$1759.9 per ET **\$2,565.93**  
(\$1759.9 base rate + \$0 indexation)  
S94 Plan No. 18
- (f) **Cycleways:**  
1.458 ET @ \$447 per ET **\$652**  
(\$447 base rate + \$0 indexation)  
S94 Plan No. 22
- (g) **Regional Open Space (Casual)**  
1.458 ET @ \$1031 per ET **\$1,503**  
(\$1031 base rate + \$0 indexation)  
S94 Plan No. 26
- (h) **Regional Open Space (Structured):**  
1.458 ET @ \$3619 per ET **\$5,277**  
(\$3619 base rate + \$0 indexation)  
S94 Plan No. 26

[PCC0215]

**11. Section 94 Contributions**

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

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

**These charges 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.**

**Heavy Haulage Component**

**Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-**

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

**where:**

**\$Con** <sub>TRCP - Heavy</sub> heavy haulage contribution

and:

**Prod.** projected demand for extractive material to be hauled to the site over life of project in tonnes

**Dist.** average haulage distance of product on Shire roads  
(trip one way)

**\$Unit** the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

**Admin.** Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

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

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

Water DSP5:	2 ET @ \$11020 per ET	\$22,040
Sewer Kingscliff:	2.5 ET @ \$5295 per ET	\$13,237.50

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

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

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

[PCC0265]

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

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

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

[PCC0275]

14. 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]

15. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

16. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

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

- (a) Removal of existing laybacks and provision of a new driveway access in accordance with Section A2 - "Site Access and Parking Code" of Councils consolidated Tweed Development Control Plan and Councils "Driveway Access to Property - Part 1" Design Specification June 2004.
- (b) Construction of a 1.2m wide concrete ribbon footpath along the full frontage of the site to Marine Parade in accordance with Councils Development Design and Construction Specifications.

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

- Stormwater drainage

- **Water and sewerage works**
- **Sediment and erosion control plans**
- **Location of all services/conduits**
- **Traffic control plan**

[PCC0895]

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

[PCC0955]

19. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
  - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
  - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.
  - (d) Specific Requirements to be detailed within the Construction certificate application include:
  - (e) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.
  - (f) Runoff from all hardstand areas, (including car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's *Development Design Specification D7 - Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with an s68 Stormwater Application for approval prior to issue of a Construction Certificate.

- (g) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly

[PCC1105]

**20. Stormwater**

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

[PCC1135]

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

- connection of a private stormwater drain to a public stormwater drain

- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so have 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]

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

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

[PCC1155]

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

All stormwater must initially be directed to the DCP. Details are to be submitted with the S68 stormwater application.

[PCC1165]

24. Medium density/integrated developments, excluding developments containing less than four attached or detached dwellings and having a Building Code classification of 1a, will be required to provide a single bulk water service at the road frontage. Any individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

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

**Where Council is requested to issue a construction certificate for civil works associated with this 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.**

[PCC1195]

- 26. Prior to the issue of a Construction Certificate, a construction waste management plan is to be provided to Council. The Waste Management Plan is to include:**

- a) The type of waste generated during construction.**
- b) The method and location of waste storage on site.**
- c) How any recyclable materials will be managed.**
- d) The location of the disposal facility for residual waste.**

**During the construction phase it is the responsibility of the site manager to ensure that the above management measures are inspected and maintained on a daily basis.**

[PCCNS01]

#### **PRIOR TO COMMENCEMENT OF WORK**

- 27. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.**

[PCW0005]

- 28. 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]

29. 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]

30. 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]

- 31. 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]

- 32. 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]

- 33. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[PCW0375]

- 34. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land or is likely to effect the integrity of the adjoining land, the person causing the excavation to be made must comply with the following:

- (a) The person must, at the person's own expense:

- (i) preserve and protect the building / property from damage; and
  - (ii) if necessary, underpin and support the building in an approved manner.
- (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0765]

35. 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]

36. 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]

37. Prior to the commencement of any works on the site, the applicant is to receive approval for the demolition of the existing structures on the site.

[PCWNS01]

#### **DURING CONSTRUCTION**

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

[DUR0005]

39. The provision of 14 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

40. 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]

41. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

42. 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]

43. 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]

44. 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]

45. 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]

46. 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]

47. A survey certificate from a Registered Surveyor is to be submitted to the Principal Certifying Authority at garage slab or footing stage, prior to pouring concrete, to confirm that the approved driveway gradients will be achieved.

[DUR0475]

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

[DUR0815]

49. 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]

50. Provision to be made for the designation of 1 (one) durable and pervious car wash-down area/s. The area/s must be appropriately sized and identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system. Surface runoff must be discharged into the landscaped areas or sewer network in accordance with Councils Trade Waste Agreement.

[DUR0975]

51. 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]

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

[DUR0995]

53. 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]

54. A concrete footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Marine Parade in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

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

[DUR1735]

55. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or

property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

56. 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]

57. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

58. During construction, a “satisfactory inspection report” is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

59. A certificate from a suitably qualified practicing structural engineer shall be submitted to Council and the Principle Certifying Authority within seven (7) days of the site being excavated certifying the adequacy of the sheet piling or other retaining method used to support adjoining properties.

[DUR1965]

60. **Swimming Pools (Building)**

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 – 2007 & AS 1926.3 -2003. (Refer Council's web site [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au))
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

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

[DUR2085]

62. 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]

63. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".  
[DUR2195]
64. The site shall not be dewatered, unless separate written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.  
[DUR2425]
65. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.  
[DUR2445]
66. 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]
67. 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]
68. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.  
[DUR2505]
69. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.  
[DUR2535]
70. 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]
71. 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]

72. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter.

[DUR2615]

73. Prior to the issue of an Occupation Certificate, design verification from a qualified designer must be submitted to the certifying authority. The statement must verify that the residential flat development achieves the urban design / architectural design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles within State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

[POC0015]

#### PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

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

[POC0165]

76. 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]

77. 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]

78. 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]

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

[POC0745]

80. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

81. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.

[POC0865]

82. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

83. 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]

## USE

84. 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]

85. 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]

86. 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]

87. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0435]

88. **Swimming Pools (Building)**

(a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

(b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

(c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times.

[USE1295]

89. The dwellings are for permanent residential occupation only.

[USENS01]

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

1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'
2. Water, electricity and gas are to comply with the following requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**REPORT:**

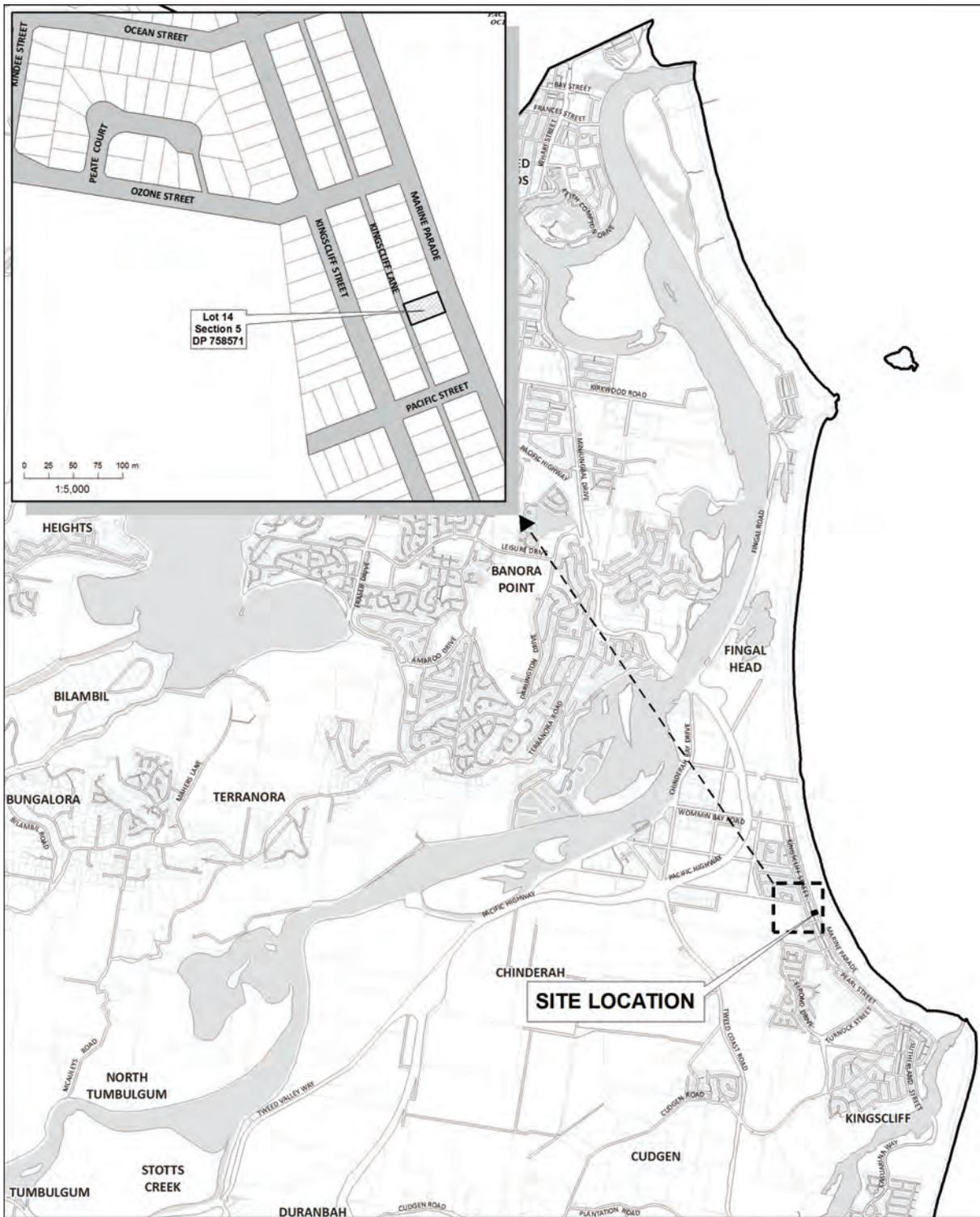
**Applicant:** L Cameron and J Reeve  
**Owner:** Mr Luke S Cameron & Mr John A Reeve  
**Location:** Lot 14 Section 5 DP 758571, No. 204 Marine Parade Kingscliff  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$2,000,000

**BACKGROUND:**

The site is comprised of one (1) regular shape lot and possesses frontage to both Marine Parade and Kingscliff Lane of approximately 22.169 and metres 22.827 metres respectively. The site has a total area of 834m<sup>2</sup>. The subject site is located in between existing residential units and a residential dwelling along the Marine Parade and opposite the parkland and the beach.

At present, the Lot contains a total of seven (7) small residential units within two (2) detached single storey buildings, which includes six (6) studio units and one (1) one bedroom unit. These existing structures will need to be demolished to enable construction of the proposal. A separate application is to be submitted for their demolition at a later time.

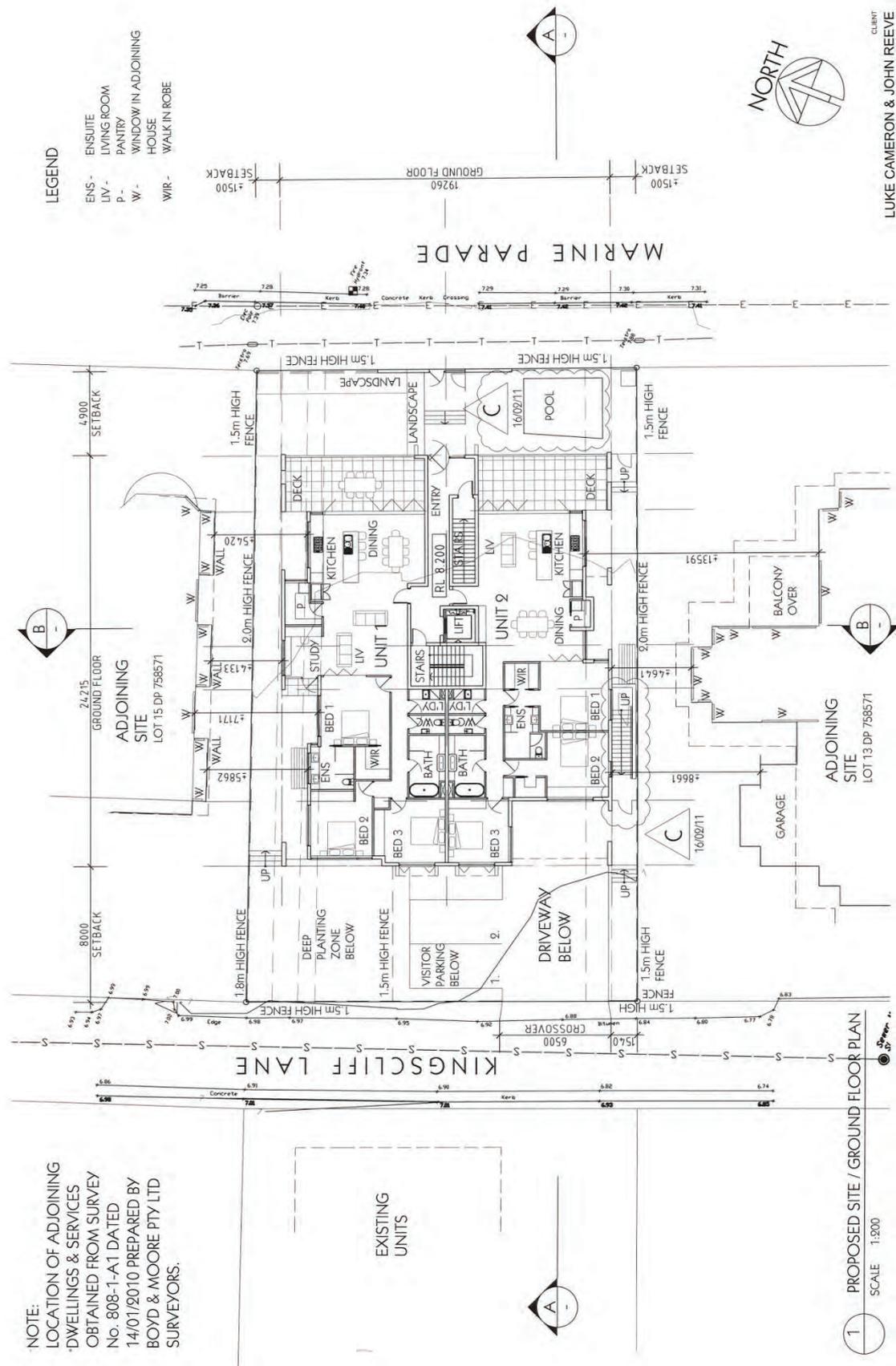
**SITE DIAGRAM:**



**Locality Plan**  
 Lot 14 Section 5 DP 758571  
 No. 204 Marine Parade, Kingscliff

<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 survey or construction purposes and prior to any excavations a "Dial 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: 07 June, 2011                  © Land and Property Management Authority (LPMA) &amp; Tweed Shire Council.                  Boundaries shown should be considered approximate only.</p>	<p>0 0.25 0.5 0.75 1 Km                  1:50,000 @ A4 Portrait                  DO NOT SCALE                  COPY ONLY - NOT CERTIFIED</p> <p>Map Projection: Universal Transverse Mercator                  Horizontal Datum: Geodetic Datum of Australia 1994                  Grid: Map Grid of Australia, Zone 56</p>	<p>Civic and Cultural Centre                  3 Tumbulgum Road                  Murrumbidgee NSW 2484                  PO Box 816                  Murrumbidgee 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>	 <p><b>TWEED</b> SHIRE COUNCIL</p>
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DEVELOPMENT PLANS:



NOTE:  
 LOCATION OF ADJOINING DWELLINGS & SERVICES OBTAINED FROM SURVEY NO. 808-1-A1 DATED 14/01/2010 PREPARED BY BOYD & MOORE PTY LTD SURVEYORS.

LEGEND

- ENS - ENSUITE
- LIV - LIVING ROOM
- PAN - PANTRY
- W - WINDOW IN ADJOINING HOUSE
- WIR - WALK IN ROBE



1 PROPOSED SITE / GROUND FLOOR PLAN  
 SCALE 1:200

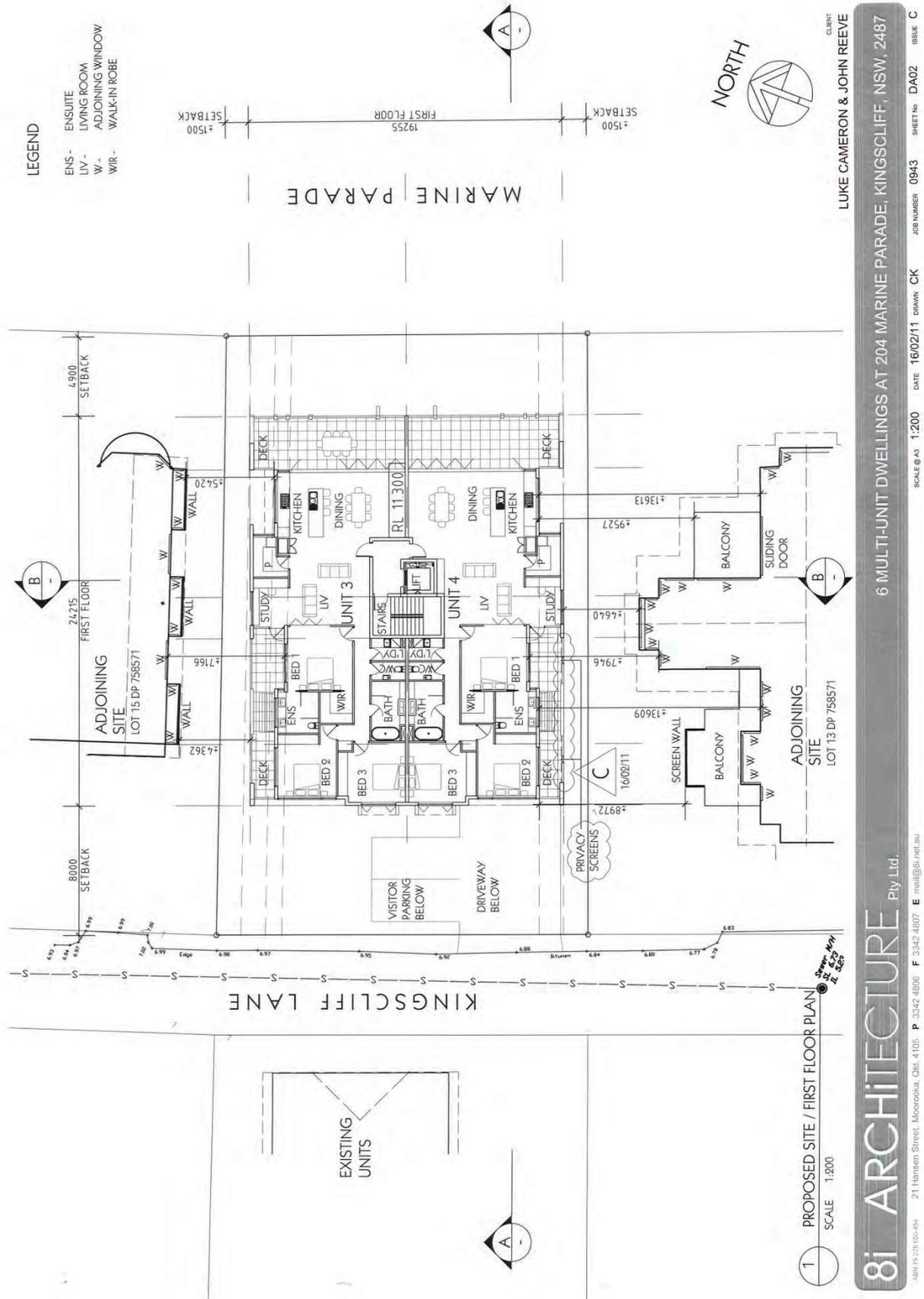
**8i ARCHITECTURE** Pty Ltd.

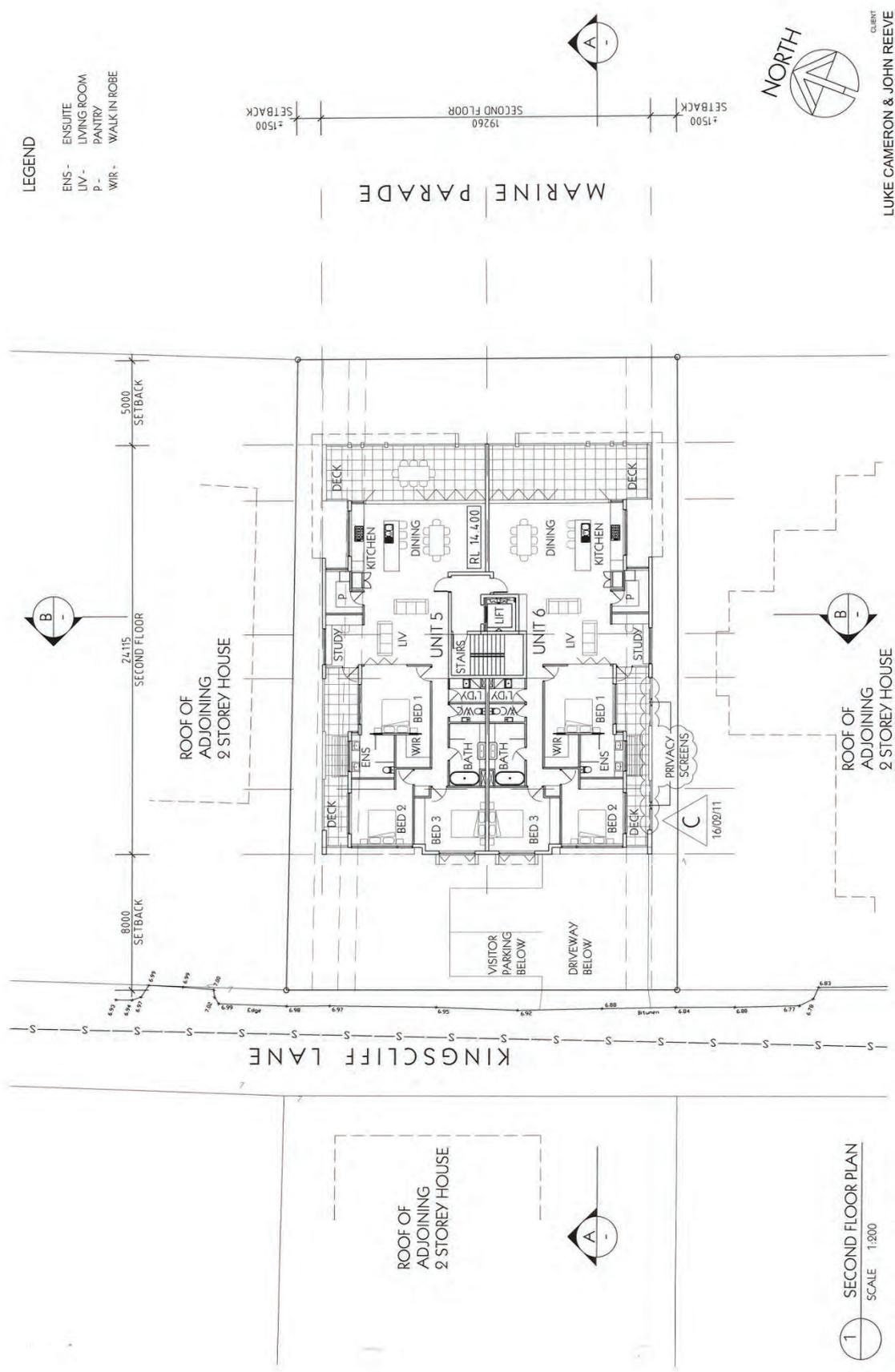
21 Hansen Street, Macrossan, Qld. 4105 P 3342 4806 F 3342 4807 E mail@8i.net.au

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

SCALE @ A3 1:200 DATE 16/02/11 DRAWN CK JOB NUMBER 0943 SHEET No DA01 ISSUE C

CLIENT LUKE CAMERON & JOHN REEVE





**LEGEND**

- ENS - ENSUITE
- LIV - LIVING ROOM
- P - PANTRY
- WIR - WALK IN ROBE



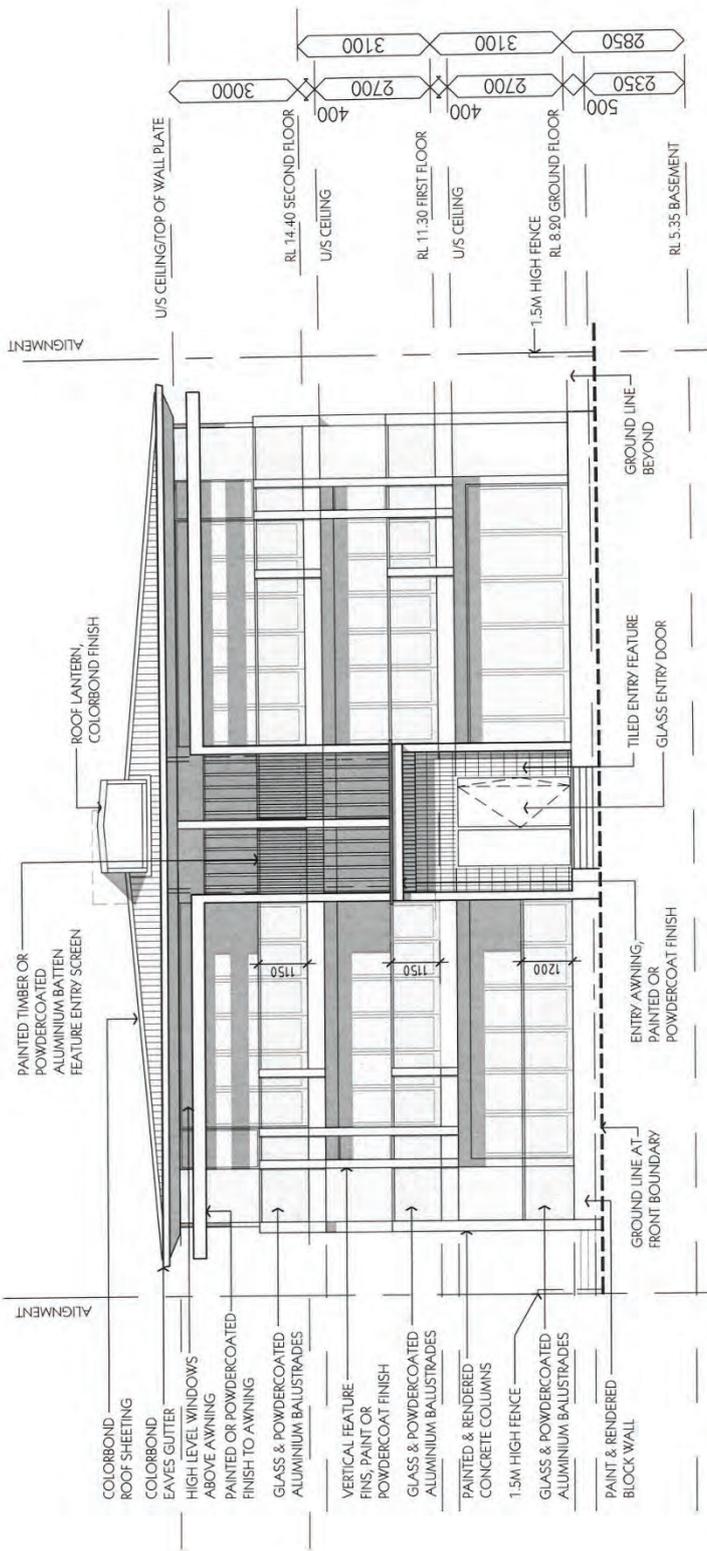
1 SECOND FLOOR PLAN  
SCALE 1:200

CLIENT  
**LUKE CAMERON & JOHN REEVE**

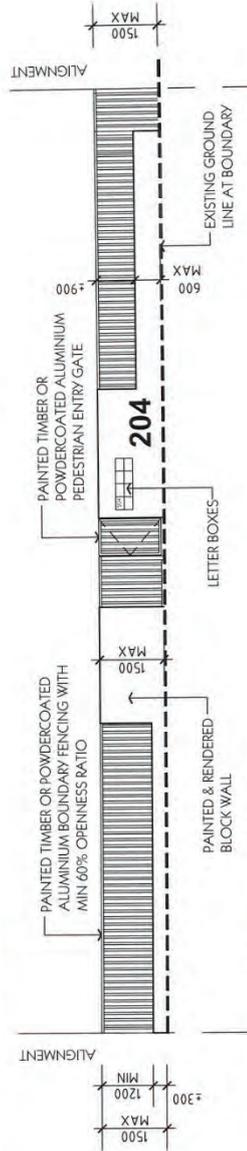
6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

SCALE @ A3 1:200 DATE 16/02/11 DRAWN CK JOB NUMBER 0943 SHEET NO DA03 ISSUE C

**8i ARCHITECTURE** Pty Ltd.  
21 Hansgen Street, Moolooka, Qld, 4105 P 3342 4806 F 3342 4807 E mail@8i.net.au



1 PROPOSED EAST ELEVATION - MARINE PARADE  
SCALE 1:100



2 PROPOSED FENCE ELEVATION - MARINE PARADE  
SCALE 1:100

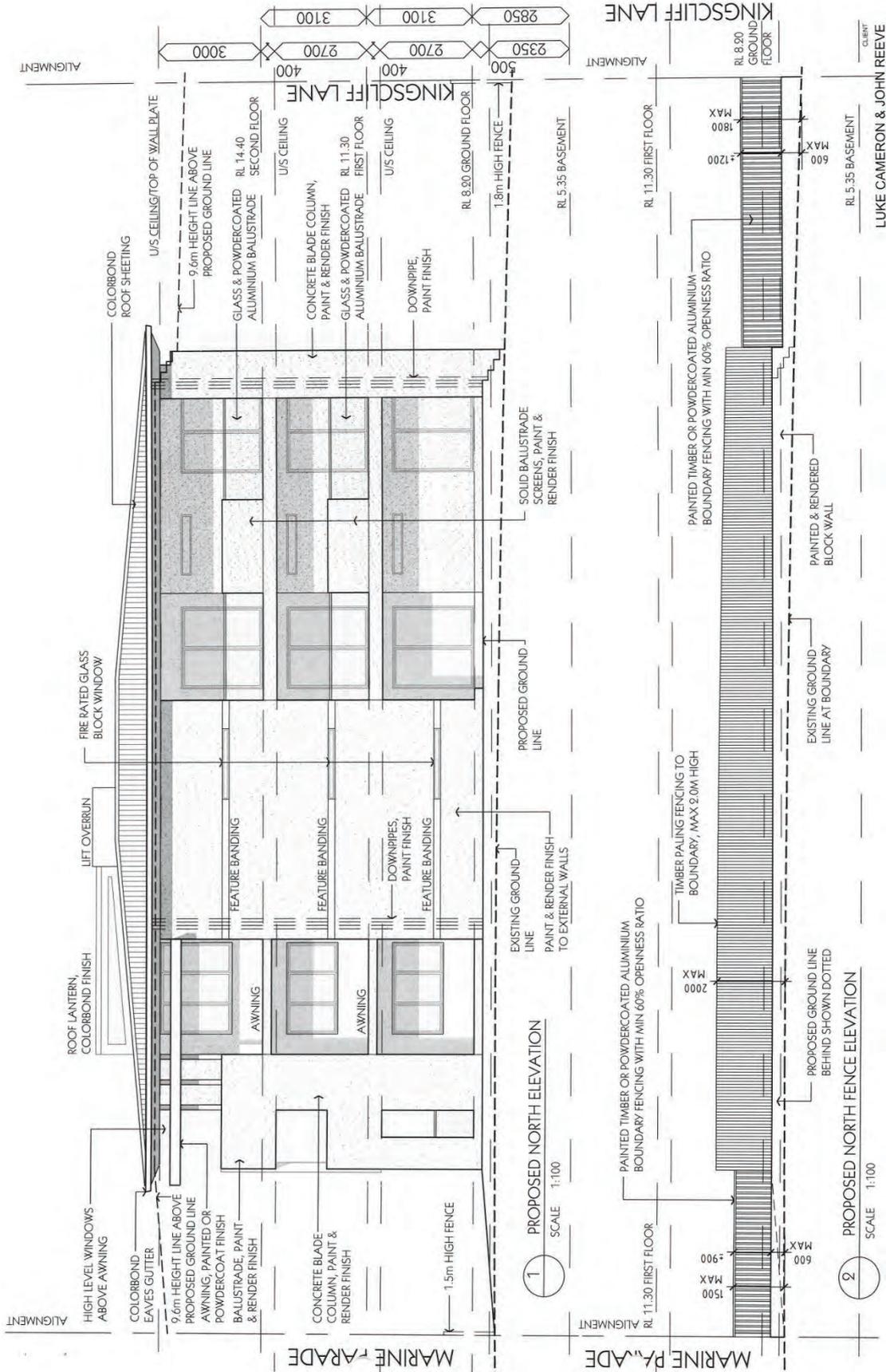
CLIENT  
LUKE CAMERON & JOHN REEVE

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

8i ARCHITECTURE Pty Ltd.

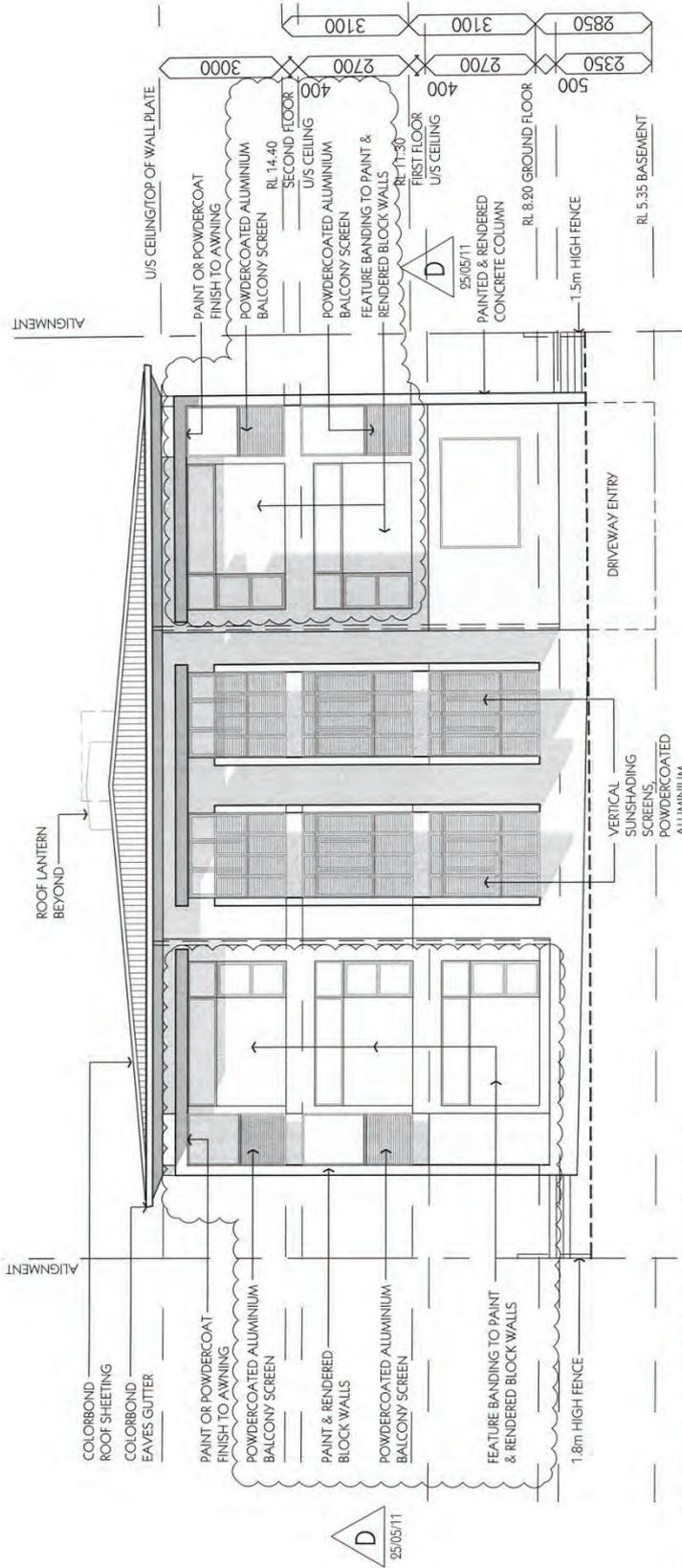
SCALE @ A3 1:100 DATE 16.02.11 DRAWN CK JOB NUMBER 0943 SHEET No DA10 ISSUE C

ABN 75,291,500,154 21 Hinssen Street, Moorooka, Qld. 4105 P 3342 4806 F 3342 4807 E mail@8i.net.au

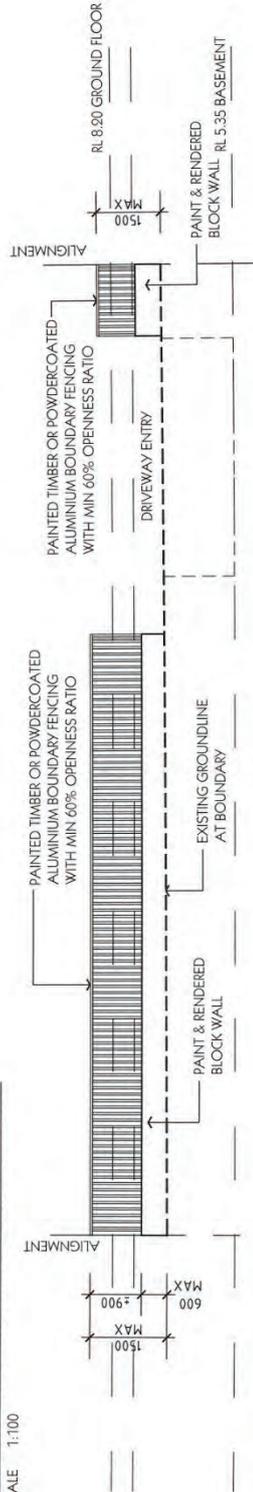


8i ARCHITECTURE Pty Ltd.  
 21 Habersham Street, Macquarie, Qld, 4105 P 3342 4806 F 3342 4807 E mail@8i.net.au

6 MULTI-JUNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487



1 PROPOSED WEST ELEVATION - KINGSCLIFF LANE  
SCALE 1:100



2 PROPOSED WEST FENCE ELEVATION - KINGSCLIFF LANE  
SCALE 1:100

CLIENT  
LUKE CAMERON & JOHN REEVE

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

8i ARCHITECTURE Ply. Ltd.

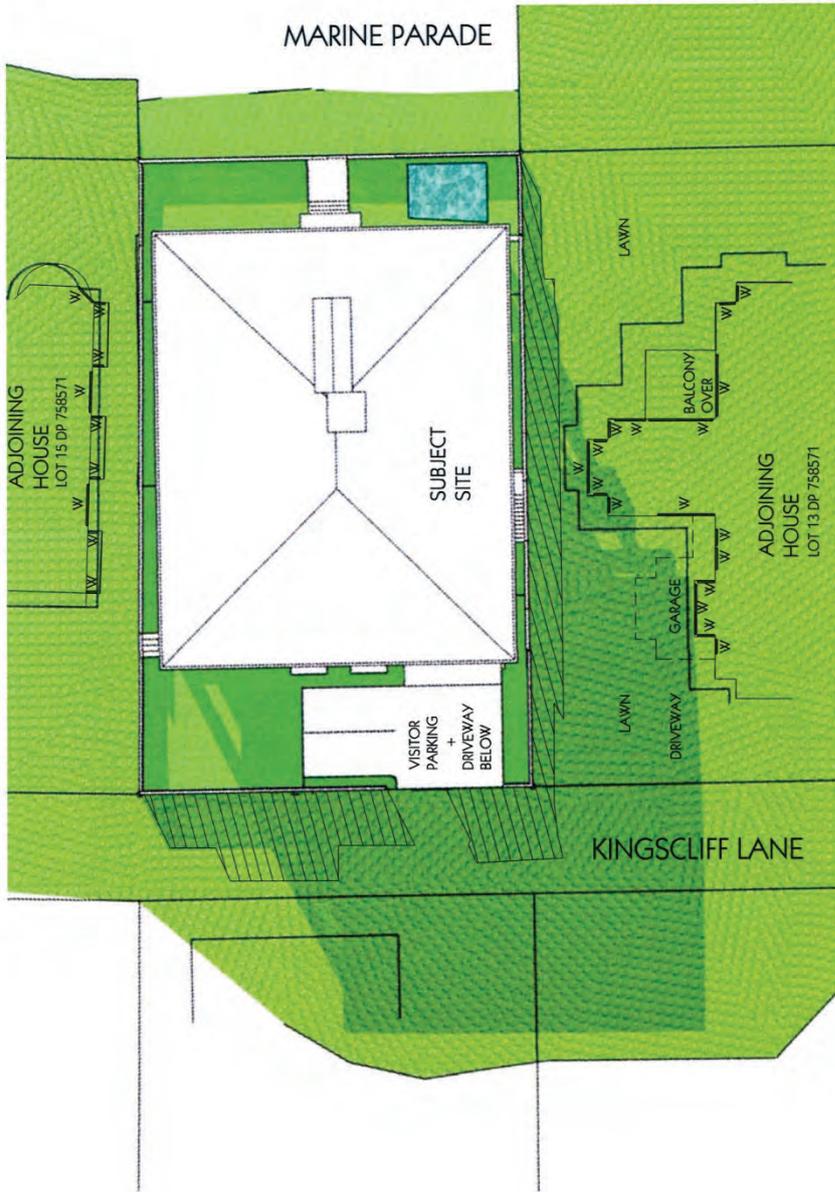
21 Hansen Street, Morooka Old. A105 P 3342 4806 F 3342 4807 E mail@8i.net.au

SCALE @ A3 1:100 DATE 25.05.11 DRAWN CK

JOB NUMBER 0943 SHEET NO DA12 ISSUE D



NOTE:  
 LOCATION, HEIGHT AND  
 SPREAD OF EXISTING TREES  
 OBTAINED FROM SURVEY  
 No. 808-2-A1 DATED  
 08/01/2011 PREPARED BY  
 BOYD & MOORE PTY LTD  
 SURVEYORS.



LEGEND

- W - EXISTING WINDOWS ON ADJOINING HOUSE
- EXISTING SHADOWING
- PROPOSED SHADOWING



CLIENT  
 LUKE CAMERON & JOHN REEVE

1 PROPOSED SHADOW DIAGRAM AT 21ST JUNE - MID-WINTER  
 SCALE NTS 9 a11

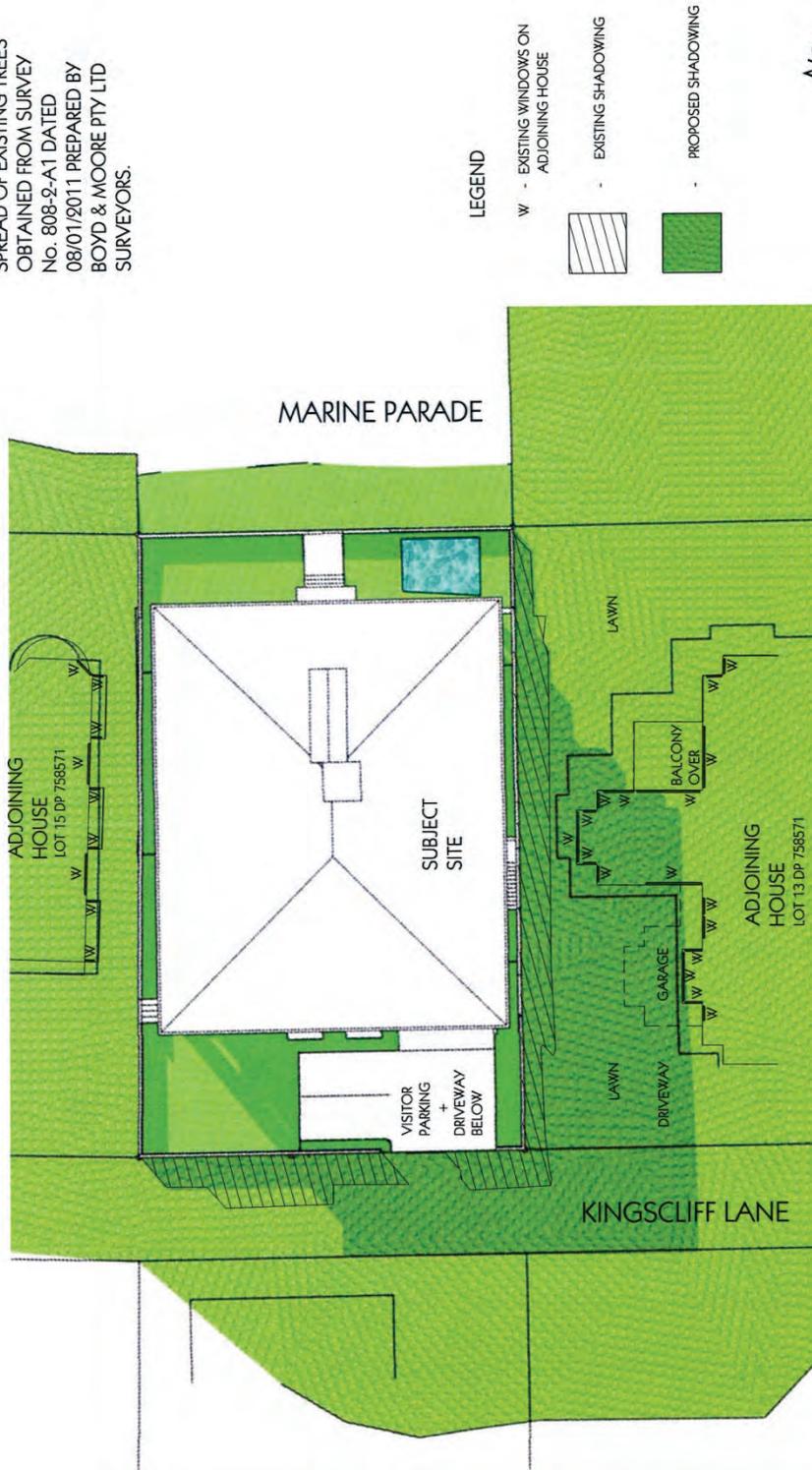
**8i** ARCHITECTURE Pty Ltd.

ABN 15 279 050 454 21 Hanslem Street, Macquokka, Qld, 4105 P 3342 4806 F 3342 4807 E mail@8i.net.au

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

SCALE @ A3 NTS DATE 17.05.11 DRAWN KY SHEET No DA20 ISSUE C

NOTE:  
 LOCATION, HEIGHT AND  
 SPREAD OF EXISTING TREES  
 OBTAINED FROM SURVEY  
 No. 808-2-A1 DATED  
 08/01/2011 PREPARED BY  
 BOYD & MOORE PTY LTD  
 SURVEYORS.



LEGEND

- W - EXISTING WINDOWS ON ADJOINING HOUSE
- [Hatched Box] - EXISTING SHADOWING
- [Green Box] - PROPOSED SHADOWING



2 PROPOSED SHADOW DIAGRAM AT 21ST JUNE - MID-WINTER  
 SCALE NTS 10 am

CLIENT  
 LUKE CAMERON & JOHN REEVE

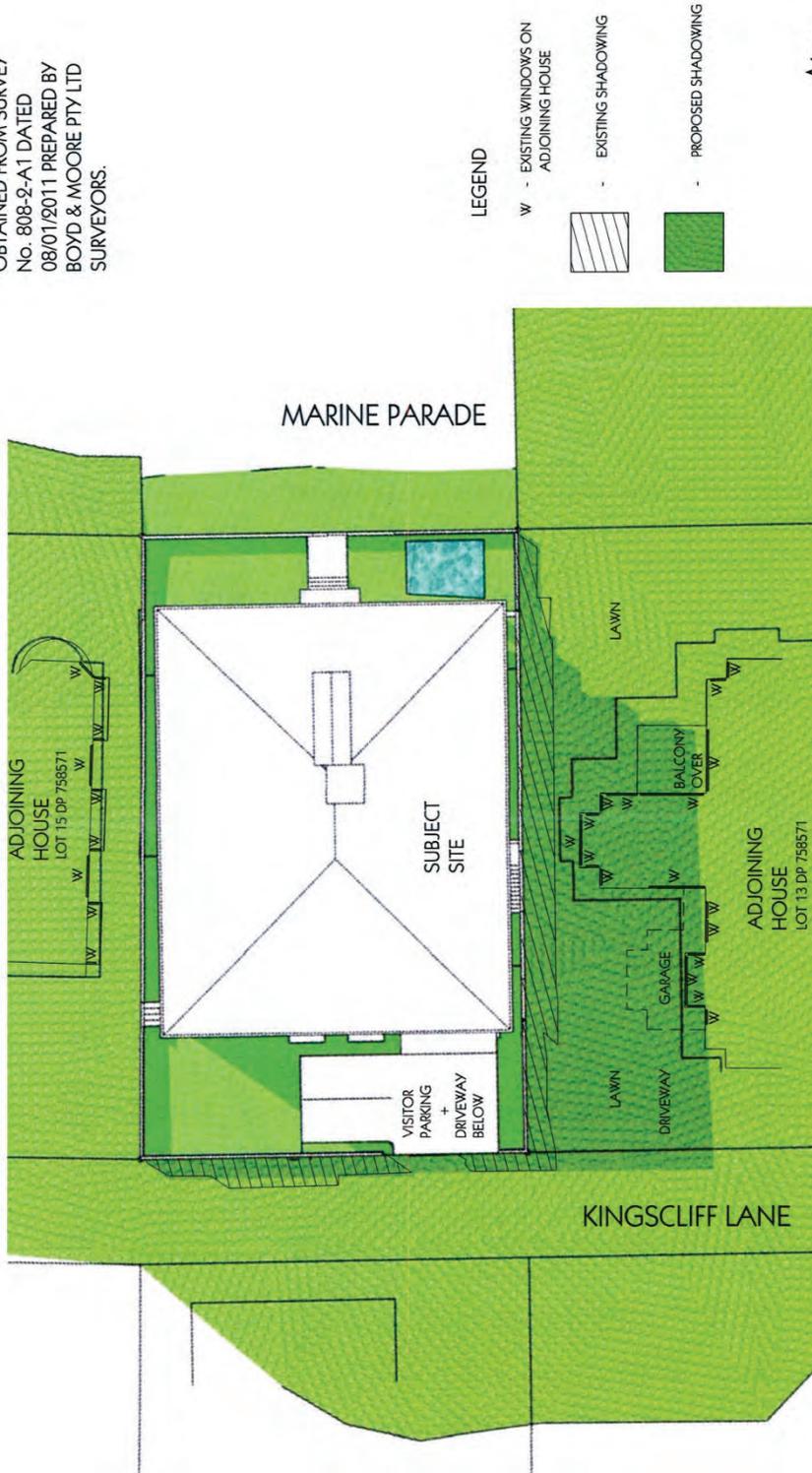
6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

**8i ARCHITECTURE** Pty Ltd.

ABN 75 270 050 464 21 Hansen Street, Morooka, Qld., 4105 P 3542 4806 F 3542 4807 E mail@8i.net.au

SCALE @ A3 NTS DATE 17.05.11 DRAWN KY JOB NUMBER 0943 SHEET No DA21 ISSUE C

NOTE:  
 LOCATION, HEIGHT AND  
 SPREAD OF EXISTING TREES  
 OBTAINED FROM SURVEY  
 No. 808-2-A1 DATED  
 08/01/2011 PREPARED BY  
 BOYD & MOORE PTY LTD  
 SURVEYORS.



3 PROPOSED SHADOW DIAGRAM AT 21ST JUNE - MID-WINTER  
 SCALE NTS 11 am

**8i ARCHITECTURE** Pty Ltd.

ABN 75 279 600 454 21 Hansam Street, Moorooka, Qld, 4105 P 3342 4806 F 3342 4807 E mail@8i.net.au

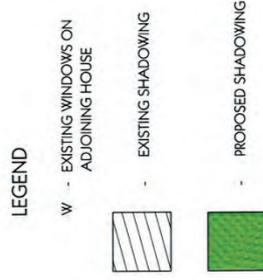
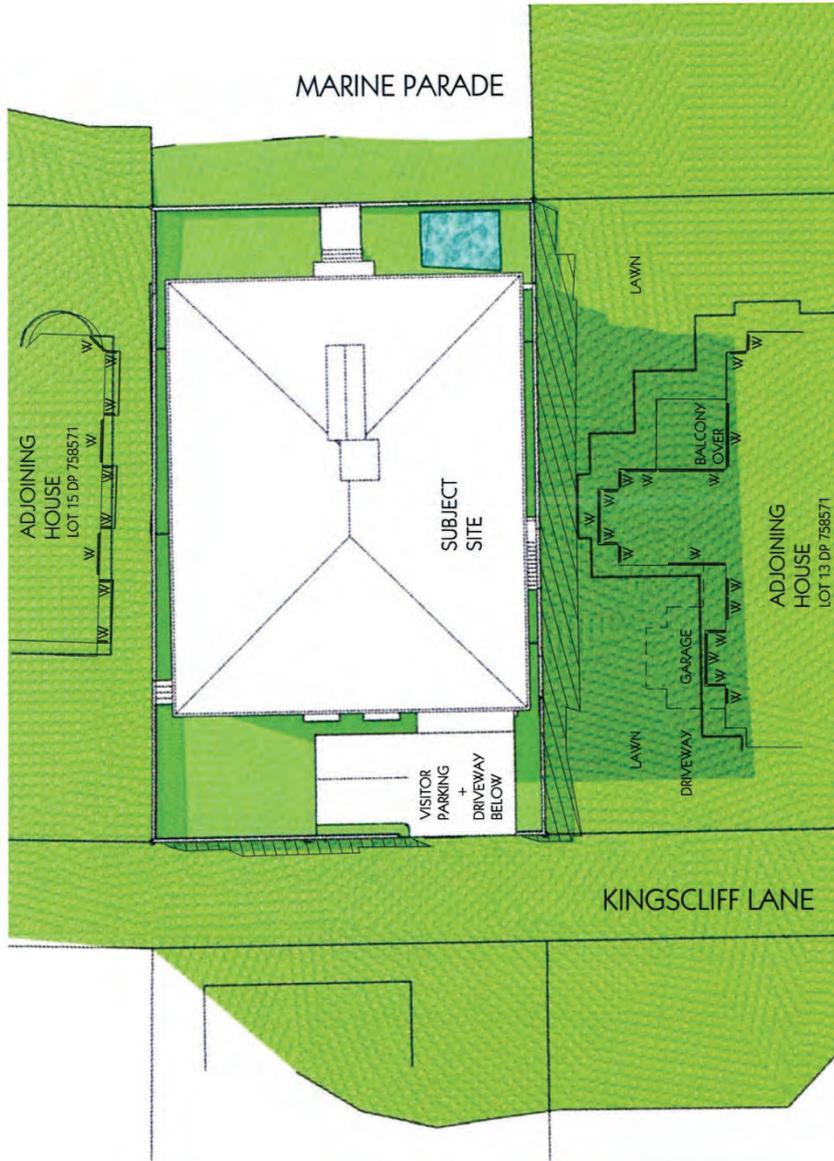
SCALE @ A3 NTS DATE 17.05.11 DRAWN KY JOB NUMBER 0943 SHEET No DA22 ISSUE C

CLIENT  
 LUKE CAMERON & JOHN REEVE

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487



NOTE:  
 LOCATION, HEIGHT AND  
 SPREAD OF EXISTING TREES  
 OBTAINED FROM SURVEY  
 NO. 808-2-A1 DATED  
 08/01/2011 PREPARED BY  
 BOYD & MOORE PTY LTD  
 SURVEYORS.



4 PROPOSED SHADOW DIAGRAM AT 21ST JUNE - MID-WINTER  
 SCALE NTS 12 pm

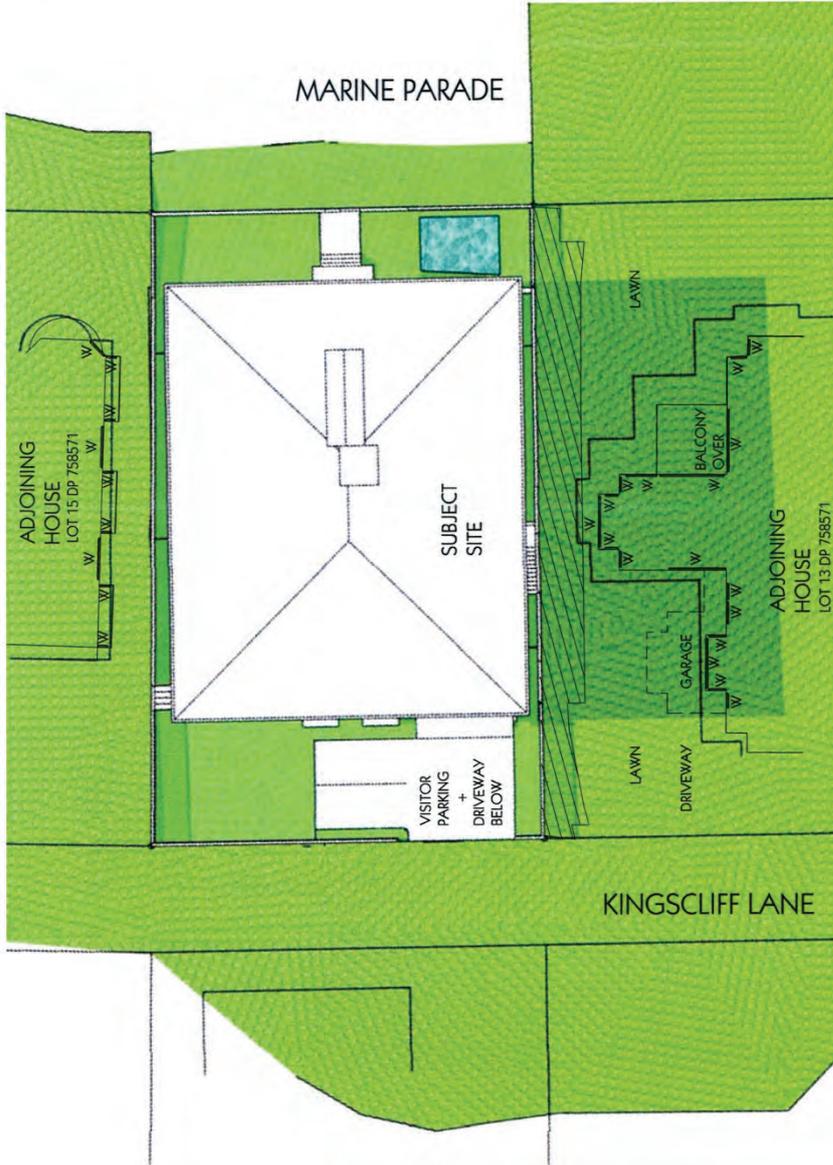
CLIENT  
 LUKE CAMERON & JOHN REEVE

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

8i ARCHITECTURE Pty Ltd.

AWK 75 279 050 454 21 Hansen Street, Morooka, Qld., 4105 P 3342 4806 F 3342 4807 E mail@8i.net.au  
 SCALE: A3 NTS DATE 17.05.11 DRAWN KY JOB NUMBER 0943 SHEET No DA23 ISSUE C

NOTE:  
 LOCATION, HEIGHT AND  
 SPREAD OF EXISTING TREES  
 OBTAINED FROM SURVEY  
 No. 808-2-A1 DATED  
 08/01/2011 PREPARED BY  
 BOYD & MOORE PTY LTD  
 SURVEYORS.



LEGEND

- W - EXISTING WINDOWS ON ADJOINING HOUSE
- EXISTING SHADOWING
- PROPOSED SHADOWING



5 PROPOSED SHADOW DIAGRAM AT 21ST JUNE - MID-WINTER  
 SCALE NTS 1 pm

CLIENT  
 LUKE CAMERON & JOHN REEVE

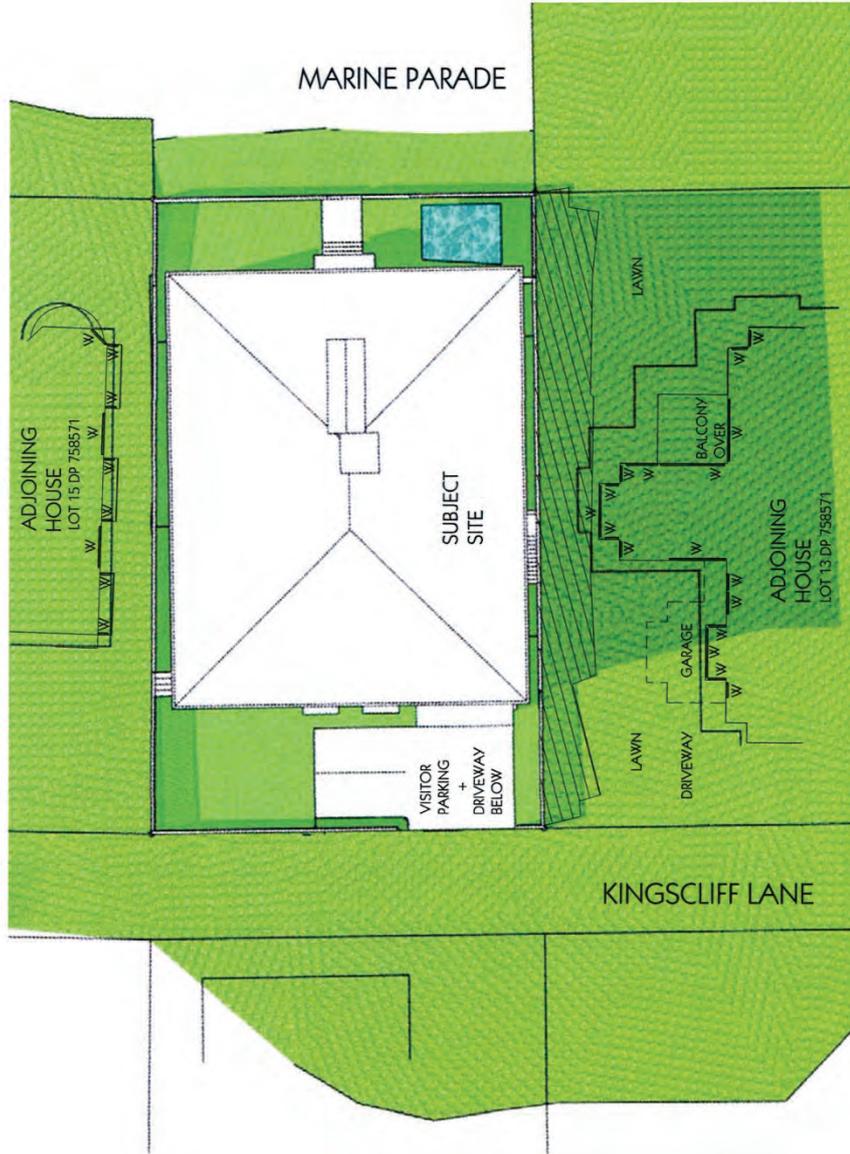
8i ARCHITECTURE Pty Ltd.

ABN 75 279 650 654 21 Hanslem Street, Moorooka, Qld, 41105 P 3342 4895 F 3342 4897 E mail@8i.net.au

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

SCALE @ A3 NTS DATE 17.05.11 DRAWN KY JOB NUMBER 0943 SHEET No. DA24 ISSUE C

NOTE:  
 LOCATION, HEIGHT AND  
 SPREAD OF EXISTING TREES  
 OBTAINED FROM SURVEY  
 NO. 808-2-A1 DATED  
 08/01/2011 PREPARED BY  
 BOYD & MOORE PTY LTD  
 SURVEYORS.



LEGEND

- W - EXISTING WINDOWS ON ADJOINING HOUSE
- EXISTING SHADOWING
- PROPOSED SHADOWING



6 PROPOSED SHADOW DIAGRAM AT 21ST JUNE - MID-WINTER  
 SCALE NTS 2 pm

CLIENT  
 LUKE CAMERON & JOHN REEVE

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

**8i ARCHITECTURE** Pty Ltd.

ABN 75 270 660 644 21 Hansen Street, Murrumbidgee, NSW, 2572 P 3342 4806 F 3342 4807 E mail@8i.net.au

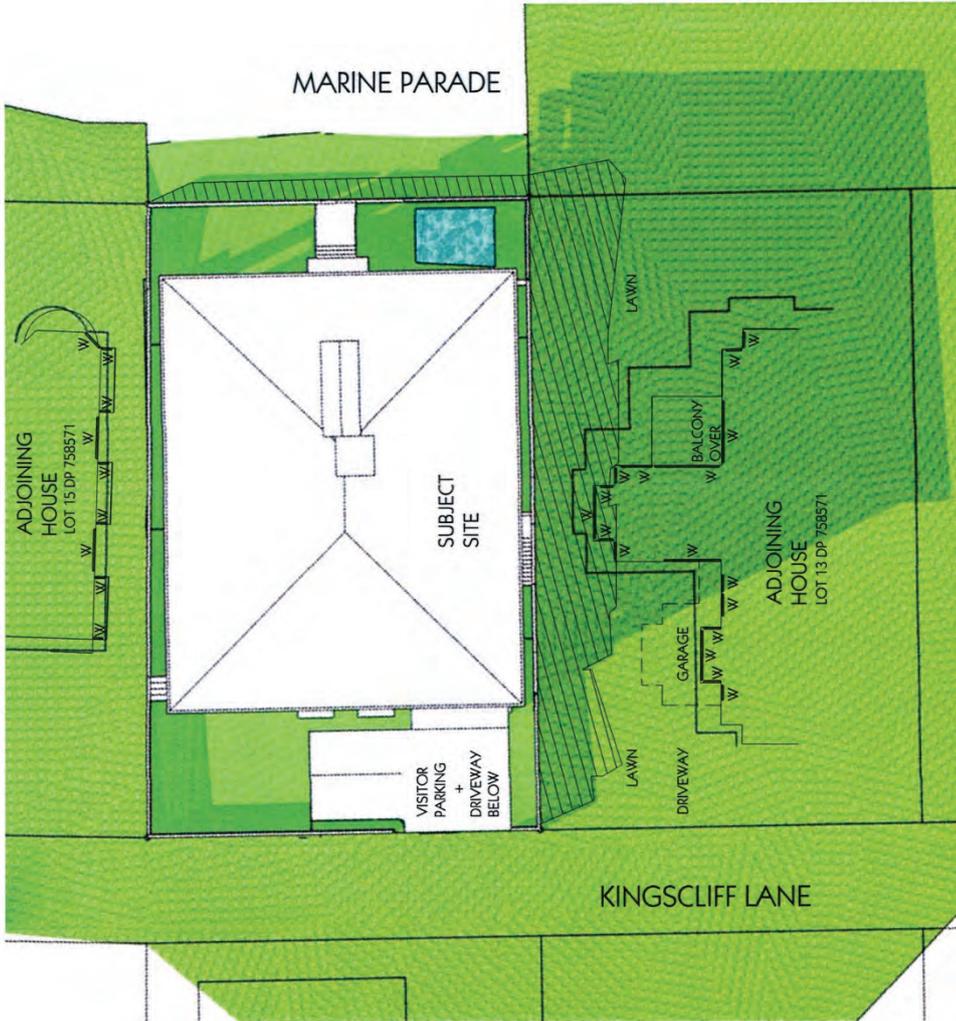
SCALE @ A3 NTS DATE 17.05.11 DRAWN KY JOB NUMBER 0943 SHEET No DA25 ISSUE C

NOTE:  
 LOCATION, HEIGHT AND  
 SPREAD OF EXISTING TREES  
 OBTAINED FROM SURVEY  
 No. 808-2-A1 DATED  
 08/01/2011 PREPARED BY  
 BOYD & MOORE PTY LTD  
 SURVEYORS.

- LEGEND
- W - EXISTING WINDOWS ON ADJOINING HOUSE
  - EXISTING SHADOWING
  - PROPOSED SHADOWING



CLIENT  
 LUKE CAMERON & JOHN REEVE



7 PROPOSED SHADOW DIAGRAM AT 21ST JUNE - MID-WINTER  
 SCALE NTS 3 pm

8i ARCHITECTURE Pty Ltd.  
 ABN 75,279,950,454 21 Hansam Street, Moorooka, Qld, 41105 P 3342 4806 F 3342 4807 E mail@8i.net.au

SCALE @ A3 NTS DATE 17.05.11 DRAWN KY JOB NUMBER 0943 SHEET No. DA26 ISSUE C

6 MULTI-UNIT DWELLINGS AT 204 MARINE PARADE, KINGSCLIFF, NSW, 2487

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

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

**Tweed Local Environmental Plan 2000**

Clause 4 - Aims of the Plan

The vision for the Tweed Shire is:

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

The subject proposal is for development of six 3 bedroom units and will contribute to urban consolidation without significantly altering the character of the existing locality. It is considered that the proposal is not detrimental to the vision of the Tweed Shire.

Clause 5 - Ecologically Sustainable Development

The four principles of ecologically sustainable development are the precautionary principle, inter-generational equity, conservation of biological diversity and ecological integrity and improved valuation, and pricing and incentive mechanisms. The subject proposal is consistent with the four principles of ESD.

Clause 8 - Zone objectives

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

The subject land is zoned 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. Multi dwelling housing is permissible with consent from Council. The primary objective of this zone is:

*To provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.*

It is considered that the proposed development is consistent with the primary objective of the zone.

(b) *it has considered those other aims and objectives of this plan that are relevant to the development, and*

The proposal is consistent with other aims and objectives of the Tweed LEP 2000 as outlined elsewhere in this report.

In particular, it is noted that the proposal is consistent with the secondary objectives of the 2(b) Medium Density Residential zone which are:

- *To allow for non-residential development which supports the residential use of the locality.*
- *To allow for tourist accommodation that is compatible with the character of the surrounding locality.*
- *To discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub-regional centre.*

- (c) *it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*

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

#### Clause 15 - Essential Services

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. The subject land has the benefit of services and is considered able to support the proposed development.

#### Clause 16 - Height of Building

Clause 16 of the TLEP requires development to be undertaken in accordance with building height requirements. This is a three storey development in a three storey height limitation area and therefore in accordance with this Clause.

#### Clause 17 - Social Impact Assessment

Clause 17 of the TLEP requires consideration of development that may have a significant social or economic impact. The proposal is considered have positive social impacts in the form of provision of housing options within close proximity to the Kingscliff Town Centre and associated services.

#### Clause 35 - Acid Sulfate Soils

The subject site is located in an area identified as Class 5. The application is supported by an Acid Sulfate Soil Assessment prepared by Border-Tech dated May 2010. The assessment concludes that the site is not impacted by actual or potential acid sulfate soils beyond the maximum depth of excavation. The report has been prepared in general accordance with NSW Acid Sulfate Soil Advisory Committee (ASSMAC) Guidelines 1998 and is considered adequate by Council's Environmental Health Officer. The proposal is compliant with Clause 35.

#### Other Specific Clauses

##### Clause 11- Zone Objectives

The subject site is located within the 2(b) Medium Density zone. The objectives of the 2(b) Medium Density zone are identified as follows:

##### *Primary objective*

- *To provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.*

##### *Secondary objectives*

- *To allow for non-residential development which supports the residential use of the locality.*
- *To allow for tourist accommodation that is compatible with the character of the surrounding locality.*
- *To discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub-regional centre.*

The proposal falls within the definition of multi dwelling housing under Tweed Local Environmental Plan 2000 and is permissible with consent in the subject zone. The proposed development is consistent with the objectives and underlying intent of the 2(b) zone.

#### Clause 34 – Flooding

The subject site is not identified as subject to 1 in 100 years inundation, however does fall within the area subject to probable maximum flood between the 7.9m AHD and 8.0m AHD contour lines. The proposal has a habitable floor level of 8.2m AHD and is above the PMF height. The site also has access to Marine Parade which is mapped above the PMF level and provides permanent evacuation routes to land above PMF level. The proposed development is consistent with the provisions of the A3 and Clause 34

#### Clause 39 – Remediation of Contaminated Land

Clause 39 of the TLEP aims to ensure that contaminated land is adequately remediated prior to development occurring. Council's Environmental Health Officer has advised that it is unlikely that potentially contaminating activities have been undertaken on the site. The proposal is compliant with SEPP 55 remediation of land and Clause 39.

#### 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"*. The site is mapped as being partially located within the bush fire prone area buffer of 30 to 100 metres.

The application was referred to the NSW Rural Fire Service on this basis. The NSW Rural Fire Service provided advice in accordance with Section 79BA of the Environmental Planning & Assessment Act 1979, that the proposal should have the conditions nominated added to the consent.

The proposal is considered to comply with the objective of the Clause, and the recommend conditions from the NSW Rural Fire Service to be added to the consent.

### **State Environmental Planning Policies**

#### **SEPP (North Coast Regional Environmental Plan) 1988**

##### Clause 32B: Coastal Lands

The subject site falls within the area to which the Policy applies and this clause is applicable to the proposal.

This Clause states that the following must be addressed:

(2) *In determining an application for consent to carryout development on land to which the Coastal Policy applies, the Council shall take into account*

a) *The NSW Coastal Government Policy;*

The Coastal Policy contains a number of strategic actions relevant to development control as follows:

*1.3.2 & 1.3.8 Stormwater Quality* – A Stormwater Management Plan has been prepared. This has been reviewed by Council's Development Engineer who has applied relevant conditions of consent.

*2.1.4 Acid Sulfate Soils* - An Acid Sulfate Soil investigation has been conducted. The assessment concludes that the site is not impacted by actual or potential acid sulfate soils beyond the maximum depth of excavation. The report has been prepared in general accordance with NSW Acid Sulfate Soil Advisory Committee (ASSMAC) Guidelines 1998 and is considered adequate by Council's Environmental Health Officer.

*3.2.1 North Coast Design Guidelines* - See below.

*3.2.4 Design and Location Principles* – The proposed development is not considered to be inconsistent with these principles.

*b) The Coastline Management Manual: and*

The preparation of a Coastline Management Plan is yet to be completed by Council. Notwithstanding, the subject site is not identified as being affected by coastal processes within the recently completed Coastline Hazard Definition Study.

*c) The North Coast Design Guidelines*

The provisions of these guidelines have been incorporated into the design and form of the proposed structure, with particular reference to the articulation, variation, selected materials and sustainability principles contained within the attached design plans.

(3) *The Council shall not consent to the carryout of development which would impede public access to the foreshore area,*

The site is separated from the any public foreshore access point. No impact to public access with result.

(4)*The Council shall not consent to the carrying out of development*

*a) On urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie. if carrying out the development would result in beaches and adjacent open space being overshadowed before 3 pm mid-winter (standard time) or 6.30 pm mid-summer (daylight saving time): or*

The proposal does not result in adjacent open space being overshadowed before 3pm midwinter (standard time), but does cast shadow prior to 6.30pm midsummer (daylight saving time). A SEPP No.1 objection to the development standard has been submitted.

The proposed development cause's overshadowing of the adjacent 6(a) open space land. The approximate area of overshadowing caused at 6.30pm December is 343.3m<sup>2</sup>. The applicant provided justification to vary this development standard. The variation and justification is supported.

The proposal is generally considered to be consistent with the relevant provision of Clause 32B, with the exception of subclause (4) (a). However, the applicant has provided valid justification stating that strict compliance with the standard is considered both unjustifiable and unnecessary in the context of the proposed development.

#### Clause 43: Residential development

This Clause states that:

(1) *The council shall not grant consent to development for residential purposes unless:*

(a) *it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,*

The proposed density is considered to be a reasonable response to the existing land use character of the area and will not result in the creation of any adverse physical impacts upon the locality.

(b) *it is satisfied that the proposed road widths are not excessive for the function of the road,*

The existing road widths are no excessive and are suitable for the proposed development.

(c) *it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,*

Not Applicable

(d) *it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and*

The existing road network and the location of the subject site allow for public transport opportunities within the close vicinity.

(e) *it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.*

A Sedimentation and Erosion Management Plan has been prepared. This has been reviewed by Council's Development Engineer who has advised that the erosion control proposed meets the minimum requirements for the area of development.

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

#### SEPP No. 1 - Development Standards

State Environmental Planning Policy No. 1 provides a mechanism in which a variation to a statutory development standard can be assessed and supported.

This policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

The subject application contains a SEPP 1 objection in relation to:

#### **NORTH COAST REGIONAL ENVIRONMENTAL PLAN - REG 32B**

##### **Development control-coastal lands**

##### **32B Development control-coastal lands**

(1) *This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.*

- (2) *In determining an application for consent to carry out development on such land, the council must take into account:*
  - (a) *the NSW Coastal Policy 1997,*
  - (b) *the Coastline Management Manual, and*
  - (c) *the North Coast: Design Guidelines.*
- (3) *The council must not consent to the carrying out of development which would impede public access to the foreshore.*
- (4) **The council must not consent to the carrying out of development:**
  - (a) ***on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time)***

The proposed development causes overshadowing of the adjacent 6(a) open space land. The approximate area of overshadowing caused at 6.30pm December is 343.3m<sup>2</sup>.

A new 5 part test was outlined by Chief Justice Preston in recent decision *Wehbe v Pittwater Council* (2007) NSW LEC 827. He also rephrased the assessment process as follows:

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.***

The applicant provided the following reasons as to why the standard was considered to unreasonable and unnecessary in their particular case:

- *The extent of overshadowing at the prescribed time is considered to be minor in scale, relative to the overall size of the foreshore reserve;*
- *That area subject to overshadowing is no active recreation area or beach and is located adjacent to the at grade car parking within the Marine Parade Road reserve.*
- *The proposed overshadowing in no way precludes the future use or reclassification of the adjacent reserve;*
- *The overshadowing is minor at 6.30pm midsummer and is non existent at 3 pm midwinter.*
- *The proposal does not overshadow the beach.*

With regard to the above, it is considered that there is sufficient justification for the objection, as outlined further below.

2. ***The consent authority must be of the opinion that “granting of consent to that development application is consistent with the aims of this Policy as set out in clause 3”.***

The aims of the policy are as follows:

*“This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be*

*unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act”.*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*

The proposed development will not affect the proper management, conservation of natural resources as it is proposed within an existing residential environment. The proposed development is considered to be an orderly and economic use of the land. The proposal is consistent with the established development in the area.

- 3. *The consent authority must be satisfied that a consideration of the matters in clause 8(a) “whether non-compliance with the development standard raises any matters of significance for State or regional environmental planning; and (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.***

It is considered that the proposed overshadowing is relatively minor and will not raise any matters for state or regional planning. The overshadowing will not impede the overall objectives of the clause. It will not reduce the quality of the useable foreshore area for the benefit and enjoyment of the public.

Preston expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

- 1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;***

In accordance, with the judgment by Chief Justice Preston “development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives.” Therefore in accordance with Clause 32B of the NCREP the development is relatively minor and will not be detrimental to future development in the area.

- 2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;***

This is not considered relevant to the subject proposal as the underlying objective and purpose of Clause 32B of the North Coast Regional Plan are considered relevant.

- 3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;***

It is considered that non-compliance with Clause 32B of the NCREP will not undermine the underlying objectives of the clauses.

- 4. *The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;***

The standard has not been virtually abandoned or destroyed by Council.

5. ***The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.***

This is not relevant to the subject development; however the zoning and height limitation in areas adjoining the foreshore will inevitably result in some overshadowing.

With regard to the justification provided by the applicant above it is considered that the SEPP 1 objection in relation to 32B of the NCREP is acceptable in this instance.

SEPP No. 55 - Remediation of Land

Clause 7 requires that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, based on a preliminary investigation of the land carried out in accordance with the Contaminated Land Planning Guidelines.

The Contaminated Land Planning Guidelines (Department of Urban Affairs and Planning, Environment Protection Authority, 1998) provide information relating to preliminary contamination investigations. In addition, Council has adopted a Contaminated Land Policy, which contains details of the information required to be submitted with applications for development. Section 3.4.1 of the Policy requires the applicant to provide responses to the following questions:

1. *Please specify all land uses to which the site has been put, including the current use.*  

The site is currently improved by seven (7) small residential units within four (4) detached buildings. There have been no other uses that the applicant is aware of.
2. *Is the proponent aware of uses to which properties adjoining the site have been put? If so, please specify.*  

All adjoining parcels were developed at the same time as the parent parcel.
3. *Do any of the uses correlate with the potentially contaminated activity set out in table 1 in schedule 1 of this policy?*  

No.
4. *If the answer to 3 is yes - has there been any testing or assessment of the site and, if so, what were the results?*  

Not Applicable
5. *Is the proponent aware of any contamination on the site?*  

No.
6. *Has any remediation work been taken in respect to contamination, which is or may have been present on the site? (Carried out voluntarily or ordered by government agency)?*  

No.

The information provided above is consistent with the requirements of SEPP 55 – Remediation of Land. The results of pre-demolition testing undertaken by Bordertech indicate that the site has not been subject to any potentially contaminating activities listed under Table 1 of the NSW Contaminated Lands Planning Guidelines or as set out in ANZECC/NHMRC “Guidelines for the Assessment and Management of Contaminated Sites”.

Furthermore, Council’s Environmental Health Officer has advised that it is unlikely that potentially contaminating activities have been undertaken on the site. The proposed development of the site and the proposal is considered to be consistent with the relevant provisions of SEPP No.55.

#### SEPP No. 65 - Design Quality of Residential Flat Development

This SEPP applies to buildings incorporating four (4) or more units and three (3) or more storeys. In this regard SEPP 65 applies to the proposal. Clause 30 of SEPP No.65 requires the consent authority to consider each of the ten (10) design quality principles when determining a development application for a residential flat building.

##### *Principle 1: Context*

*Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.*

*Responding to context involves identifying the desirable elements of a location’s current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.*

The subject site is rectangular in shape and is bounded by Marine Parade to the East, by Kingscliff Lane to the West, a two storey detached house to the north and another two storey detached house to the south.

The site is relatively flat and is currently occupied by a dilapidated single storey residential flat building.

The site is located across the road from extensive parklands adjoining the sand dunes and ocean. The site enjoys good views with a high level of visual amenity.

The surrounding properties are developed for residential purposes comprising of varying size, scale, height and density. It is noted that older properties in Kingscliff are being gradually redeveloped for higher density purposes consistent with the provisions of Tweed Shire Council’s Planning Controls and the objectives for the 2(b) Medium Density Zone.

In terms of the greater surrounding area, a mixture of residential development of varying density and form is present, ranging from detached residential dwellings to residential flats buildings with similar scale and form. The areas character is clearly in a state of transition from the existing low density to the desired future medium density.

The proposal is similar in nature to the adjoining developments and therefore is appropriate development of the site.

##### *Principle 2: Scale*

*Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.*

*Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.*

The proposal is for a three storey building, similar in scale and height to other existing residential flat buildings in the nearby vicinity. The proposal complies with the Building Height Controls outlined by Part C, Section A1 of the Tweed Development Control Plan and is consistent with the general scale of the existing streetscape.

The overall building scale is reduced through articulation of the balconies, screening, awnings and stepping of the façade. The hipped roof has been adopted to reduce building bulk at the edges and keep the apparent overall height to a minimum.

*Principle 3: Built form*

*Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.*

*Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.*

The proposed development achieves an appropriate built form for the site and addresses Marine Parade by way of a clearly defined entry area. This entry area articulates the building facade by breaking up the elevation into three distinct components. This break-up gives emphasis to the public entry to the middle of the site while private areas to either side of the entry door are clearly delineated.

Horizontal awnings on the upper level facing Marine Parade give further articulation to the street facade.

Deck areas facing the Marine Parade contribute to casual surveillance of the area and allows activation and interaction between the building and the street.

The elevation fronting Kingscliff Lane has been given equal design consideration to that of the Marine Parade elevation with provision of articulation and visual interest through screening and awning elements. This face of the building will be subjected to western afternoon sun, but the building design responds to this by adjustable screens and smaller window openings. This allows casual surveillance of the lane for security purposes without compromising the privacy and thermal comfort of the building residents.

The entry to the common basement is recessed into the face of the Kingscliff Lane elevation and is ramped below street level so not to present a harsh flat fronted face to the Lane.

The rear elevation of the building has been broken up into smaller vertical elements which help to reduce the apparent width of the overall building.

Both side elevations of the building (north and south) have been designed to ensure good articulation of the building edge. Deep recessed balconies will ensure good shadowing to these faces, while feature banding and glass block windows aid in providing further articulation to the wall within the middle of the elevation. A mix of glass and solid balustrades further break down of the overall scale of the building.

*Principle 4: Density*

*Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of Apartments or residents).*

*Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.*

The development proposes 6 units over a site area of 835m<sup>2</sup>. A total Floor Space Ratio of 995m<sup>2</sup> is proposed which is consistent with the allowable 1002m<sup>2</sup> (1.2:1 of site area).

The density of the proposal is comparable to other similarly scaled developments on Marine Parade in the nearby vicinity of the site and will not result in a building form of an overbearing or incompatible scale.

*Principle 5: Resource, energy and water efficiency*

*Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.*

*Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.*

The proposed development has been assessed against the Building Sustainability Index (BASIX) and meets the requirements for sustainability set out by the NSW Government.

The proposal has been designed to include a number of passive design principals in the planning of the building such as:

- North East and South East orientation to living areas to all units to optimise solar access, daylight penetration and reduction of artificial lighting requirements.
- Orientation to allow for good access to cooling breezes to reduce artificial cooling requirements.
- Cross Ventilation to all units allowing reduction in artificial cooling requirements.
- Proposed selection of materials with good thermal mass and insulation properties to reduce artificial heating and cooling requirements.
- Openable and fixed sun screening particularly to the west to mitigate the adverse effects of unwanted solar gain.
- Minimal glazing to the west to reduce exposure to unwanted afternoon solar gain.
- Awnings to shade northern glazing to minimise unwanted direct heat gain during summer.

*Principle 6: Landscape*

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.*

*Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.*

*Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.*

The proposed landscaping design allows for adequate Deep Soil Zones to be provided to both the front and rear of the development whilst optimising the use of the garden areas by the residents. These deep soil zones will allow more significant plants to establish and contribute to the amenity of both the building's residents and the adjoining public areas. The landscaping will also provide a more amenable microclimate by reducing pavements.

Proposed plantings are to be suitable for the ocean front location and will generally be native species.

The proposed landscaping has been designed to provide adequate levels of privacy and separation between the ground floor dwellings and the public areas within the development.

#### *Principle 7: Amenity*

*Good design provides amenity through the physical, spatial and environmental quality of a development.*

*Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.*

The proposed GFA for each unit is a minimum of 141m<sup>2</sup> thus allowing all rooms to be house like proportions, adequate in size for the intended occupants.

Each unit is provided with a primary deck area that is oriented to take advantage of the available ocean views, cooling summer breezes and winter solar gain.

These primary deck areas are suitably separated from the neighbouring units' decks so as to maintain privacy between units.

Each unit is provided with either a secondary service deck or a ground level outdoor area for clothes drying. These decks will provide increased separation between the proposed units and the adjoining houses to reduce privacy, amenity and acoustic issues.

Living areas are located to maximize availability of ocean views whilst also being located to allow maximum winter sun penetration and summer cooling breezes for ventilation.

Storage is provided throughout the units. Additional storage is provided to each unit's individual lockup garage. A communal swimming pool is to be provided for the enjoyment and common use of all residents.

*Principle 8: Safety and security*

*Good design optimises safety and security, both internal to the development and for the public domain.*

*This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.*

The main pedestrian entry point accessible from Marine Parade is clearly visible from the street allowing safe entry and exit from the building.

The common entry lobby will only be accessible by way of key or intercom security from the individual units.

Each of the proposed decks and living areas overlook Marine Parade allowing passive and casual surveillance of the street and common entry area. In addition to this, the proposal has been modified in order to allow casual surveillance to Kingscliff Lane.

Access to the common garage area will also be way of remote key operation security roller door. Each unit is provided with individual lock up garages within the basement carpark.

Private ground floor outdoor spaces will be clearly delineated by way of fencing.

High quality lighting will be installed throughout the development to assist in securing the area at night.

*Principle 9: Social dimensions and housing affordability*

*Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.*

*New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.*

*New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.*

The proposal is located within an existing residential neighbourhood. Access to all necessary facilities is the same as currently exist for the existing adjoining multi-unit developments.

The proposal includes 6 x 3 bedroom units. The unit mix and apartment sizes are considered appropriate for the area.

*Principle 10: Aesthetics*

*Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.*

The proposed development is consistent with other unit developments within the surrounding neighbourhood.

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Proposed materials and textures have been selected to allow for variation in material and colour whilst being appropriate for the residential seaside location.

Selected materials include robust and easily maintained materials such as rendered and painted concrete block to the majority of external walls with marine grade colorbond steel to the roof and eaves gutters.

Feature tiles to wall of the entry area will add a richness of material and an added dimension of quality to the development whilst making the entry itself clearly defined and visible from the street.

Aluminium framed glass balustrades will minimise the visual clutter and the long term maintenance requirements of the building.

Sunshading and screening will be of materials that can withstand the harsh seaside environment whilst also being chosen to minimise the long term maintenance requirements.

Selected materials to the landscaped areas will be chosen to offer textural variety and of an appropriate colour to blend with the natural environment.

The articulation of the building has been designed so as to soften and add visual interest to the elevations, ensuring the building is in keeping with the current and future residential nature of the surrounds.

In this regard, the applicant has provided a comprehensive assessment of the proposal against the relevant design quality principles. It is considered that the design of the proposed development exhibits suitable regard for these principles and demonstrates good practice in urban design. The modern appearance of the building is in keeping with the existing character of the area.

#### SEPP No 71 – Coastal Protection

#### **SEPP 71 – Matters for Consideration**

(a) The aims of this Policy set out in Clause 2:

The proposed development is considered to be consistent with the aims of the policy as set out in clause 2.

(b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved

The proposal development will not alter or restrict the public's access to the foreshore reserve areas located adjacent to the Pacific Ocean.

(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability

The proposal does not generated any additional opportunities to improve public access to foreshore reserve areas and the like, nor are there any physical opportunities to do so given the spatial separation between the site and foreshore reserve.

(d) The suitability of the development given its type, location and design and its relationship with the surrounding area

The proposed development is sited and designed in general accord with the relevant Council controls and is considered unlikely to create any form of adverse imposition upon the immediate area in terms of size, scale or usage.

The design of the development is contemporary in nature incorporating a variety of elements consistent with current design trends for the area.

- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore

The proposal includes a SEPP No.1 objection to the development standard prescribed by the NCREP. The proposal casts a minor shadow on the public open space adjacent to Marine Parade prior to 6.30pm day light savings time mid summer.

The proposed variation is minor and will not result in any significant overshadowing impacts upon Coastal foreshore areas.

- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities

The proposal is unlikely to impact upon the scenic quality of the NSW coast, with the development being spatially separated from the Beach and Ocean. The proposal is consistent with the built environment of the Kingscliff area.

- (g) measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats;

The proposal will not have an adverse impact upon threatened species. The subject site has been significantly developed over time for urban purposes and contains little vegetation or native habitat.

- (h) measures to conserve fish (within the meaning of Part 7A of the *Fisheries Management Act 1994*) and marine vegetation (within the meaning of that Act), and their habitats

The proposal is unlikely to have an adverse impact upon marine environments or habitats. Stormwater is to be appropriately treated in accordance with Councils requirements.

- (i) existing wildlife corridors and the impact of development on these corridors,  
The proposal will not have an adverse impact upon wildlife corridors or the like.

- (j) the likely impact of coastal process and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards;

The subject site is not located within an area affected by Coastal Erosion (WBM Coastline Hazard Definition Study), and is landward of the defined Coastal Erosion Zones. The development is unlikely to have an adverse impact upon Coastal Processes or be affected by Coastal Processes

- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities;

Not applicable.

- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;

The subject site is not identified as a cultural place or the like.

- (m) likely impacts of development on the water quality of coastal waterbodies,  
The proposal is unlikely to adversely impact upon the water quality of nearby waterways. Appropriate erosion and sediment controls will be put in place to ensure no sediment impacts on local waterways.
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,  
The subject site is not identified as land containing items of heritage, archaeological or historical significance.
- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities;  
Not applicable.
- (p) only in cases in which a development application in relation to proposed development is determined:
- (i) the cumulative impacts of the proposed development on the environment; and  
No cumulative impacts are likely as a result of the proposed development.
- (ii) measures to ensure that water and energy usage by the proposed development is efficient.

Appropriate measures have been adopted in terms of design to minimise energy usage including the orientation of the building to maximise solar access and allow natural light to filter into all dwellings. A BASIX certificate has been prepared and is attached at Appendix K to this submission.

It is considered the proposed development does not offend or compromise the intent or specific provisions of State Environmental Planning Policy No.71 – Coastal Protection.

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

The draft Tweed Local Environmental Plan 2010 zones the site R3 - Medium Density Residential.

This zone permits 'Multi dwelling housing' with development consent and as such, the proposed use remains consistent with the desired future use of the subject locality.

The draft LEP designates a Maximum Building Height of 13.6 metres and a Floor Space Ratio of 2:1. The height of the building will be 11.4 metres above finished ground level and the proposed FSR is 0.99:1. As such the proposal is considered to be generally consistent with the provisions of this Draft LEP.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

Overall, the proposed development generally complies with the provisions of *Section A1 - Residential and Tourist Development Code (Part C - Residential Flat Buildings and Shop-top)*

A number of variations to A1 provisions were requested as follows:

Design Control 2– Site Configuration – Deep Soil Zones – Control e &g.

*Control e; “Front Deep Soil Zones are to be the width of the site boundary minus the driveway width and the pathway width by the front setback depth.”*

*Control g; ‘Deep Soil Zones cannot be covered by impervious surfaces such as concrete, terraces, outbuildings or other structures.’*

The proposal includes the provision of a 23m<sup>2</sup> pool within the front setback on the deep soil zone. The applicant has submitted a variation report regarding this matter. The following includes extracts from this report:

The proposed pool provides an area of 23m<sup>2</sup> within the front deep soil zone. As such a variation assessed against the objectives is respectfully sought. The proposal is considered to effectively meet the objectives, the following comments are provided:

*Objectives*

- *To ensure that land retains its ability to permeate water.*

Council is directed to the Design Plans under Appendix A. The sites ability to permeate water will not be effected. As shown on plan DA17 a compliant impervious area of 60% is achieved in accord with Councils controls. The proposed is compliant with this objective.

- *To ensure that each building lot has a deep soil zone of adequate area and dimension.*

The proposed front deep soil zone excluding the allowable pedestrian access and proposed pool provides an area of approximately 75.8m<sup>2</sup>. Comparatively, a strictly compliant front deep soil zone (which is allowed to include impervious areas comprising a pedestrian access path and driveway) provides an equivalent front deep soil zone of 71.85m<sup>2</sup> (assuming a driveway of 5.5m wide by the front setback back depth of 4.9m). The inclusion of a pool does not result in a front deep soil zone of an area less than that allowed under a strictly compliant zone. The site's advantage in having rear lane access enables the development to provide an additional common facility for the use of residents with not impact to locality and without compromising the underlying objectives of the deep soil zone controls. The proposal effectively meets the objective.

- *To retain and enhance fauna and flora corridors throughout suburban areas.*

Council is directed to the Statement of Landscape Intent under Appendix G of the SEE. Flora and Fauna corridors are not compromised by the proposal with the Statement of Landscape Intent demonstrating the use of many native species and extensive plantings. The proposed is compliant with this objective.

- *To provide space for mature tree growth and vegetation.*

Council is directed to the Statement of Landscape Intent under Appendix H. The proposal incorporates and provides amply space for mature tree growth and vegetation within the site. The proposal is compliant with this objective.

- *To retain existing mature vegetation.*

No vegetation which could be considered mature is currently located onsite. The location of a pool within the front deep soil zone has no relevance in this instance. It is given the proposal does not compromise this objective.

Assessment of applicant's variation report.

In this instance the proposed swimming pool would not result in any additional impervious area to the front setback than that allowable for a front driveway and footpath. As vehicular access to the building is provided from Kingscliff Lane to the rear of the site it is considered that the proposed variation provides an adequate outcome to the site and does not reduce the area of the front Deep Soil Zone below that which is ordinarily required.

Overall, it is considered that the variations required are unlikely to result in unacceptable direct or cumulative impacts on the subject site or adjoining properties.

Accordingly, in the circumstances of this case non-compliance with the development control is justified. It is concluded that the variation request is considered not likely to negate the public interest and remain consistent with the broader objectives of the TLEP 2000.

Design Control 5– Building Footprint and Attics, Orientation and Separation – Building Separation – Control h.

*Control h; “3m minimum separation between walls containing primary windows/ doors sleeping rooms (on the ground level only) to shared driveways, carports and garages.”*

The proposal includes the provision of a fixed window to Bedroom 2 of Unit 2 facing the common driveway. The following comments are provided in relation to this;

Bedroom 2 of Unit 2 includes a fixed window facing the common driveway. The proposed windows are required to ensure compliance with the requirements of the Building Code of Australia. The following comments are provided against the objective:

- *To maintain privacy between dwellings*

The proposed window is to be treated with frosted or obscured glass to ensure the bedroom maintains privacy. The objective and controls does not prohibit the use of 'built' or technology' items to provide compliance and as such the proposal is considered to comply with the objective.

Assessment of applicant's variation report.

The proposed variation would not result in any negative impact arising from the proposal and it is considered that the methods outlined to achieve privacy are acceptable. The variation is unlikely to result in unacceptable direct or cumulative impacts on the subject site or adjoining properties. Accordingly, in the circumstances of this case, non-compliance with the development control is justified. It is concluded that the variation request is considered minor and not likely to negate the public interest.

Design Control 7– Building Amenity – Sunlight Access – Control b.

*Control b; “Dwellings on allotments which have a side boundary with a northerly aspect are to be designed to maximise sunlight access to internal living areas by increasing the setback of these areas. In these cases a minimum side setback of 4 metres is required.”*

It should be noted that this setback applied only to living room windows and/ or doors facing the side boundaries, as specified on p34 of this DCP. The following comments are provided against the objective:

*"The attached 'complying plans' demonstrate the resulting alternative if a 4m setback is applied along the length of living and dining rooms for units 1, 3 and 5; refer mark up 3. The 'complying design' requires 17.5m of GFA to be deleted from each level. This is achieved by removing the study and walk in pantry and compacting the kitchen and living room. The 'complying design' has a significant impact on unit usability and demonstrates a variation to Design Control 7 - Building Amenity - Sunlight Access - Control is warranted.*

*The livability issues of particular note have been highlighted by the project Architect and summarised as following dot point; it is also noted a number of the design changes required brings into question the proposals compliance with SEPP65. Variations to SEPP65 are clearly more significant than the proposed minor setback variation of 928mm.*

- The complying design requires the study and walk in pantry to be deleted which would have otherwise contributed significantly to the usability of the unit;*
- The kitchen layout in this alternate scheme is significantly reduced to that of the preferred option (no walk in pantry therefore much less storage, a much smaller island bench which was always going to be a saleable feature of the unit and overall the reduced kitchen size doesn't fit with the overall intent for high quality residential flat and unit designs.*
- Setting the external wall of the dining and living room back to the 4m setback line also removes any possibility that the living and dining areas can be interchangeable should the unit occupant wish (2.8m is just too narrow to fit a lounge chair and television wall).*
- Setting the external wall of the dining and living room back to the 4m setback line that this scheme does, makes for a much narrower dining room (at 2.87m wide is not what would be expected of such a unit or any unit really, making access to the deck from the living room very tight and effectively disconnects the two areas.*
- Setting the external wall of the dining and living room back to the 4m setback line also requires narrowing of the Bi-fold door to the front balcony, given the ocean views, this is a major loss of amenity to the unit.*
- By removing the study and walk in pantry as this scheme does, and reducing the width of the door facing the ocean creates more focus from the living areas over the northern side boundary, effectively reducing privacy of the adjoining neighbour.*

*Overall, the alternative scheme results in a significant loss of liveability within units 1, 3 & 5 and achieves nothing in the way of compliance with the two (2) relevant objectives underlying the design control, this is adequately proved by the previously submitted ABSA certificate which demonstrates the proposal provides heating and cooling loads significantly lower than the allowed maximums, there by proving the proposal passive design elements.*

*The 'complying design' only results in a loss of building amenity and achieves nothing in the way of greater compliance with the underlying objectives of Design Control 7 Building Amenity - Sunlight Access - Control b.*

Assessment of applicant's variation report.

The proposed variation results in the provision of a study to within approximately 1.5m of the side boundary. This study is provided with a glass block window. Compliant plans would require this window to be located a distance of 4m from the side boundary but there would be no requirement for the materials used to be glass block. It is considered in this instance that the increase in usability of the unit, allayed with no net negative impact in relation to overlooking from this room due to the provision of the block window, that the proposed variation is acceptable in this instance.

Design Control 2– Site Configuration – Topography, Cut and Fill – Control h.

*Control h; "Cut areas are to be set back from the boundaries at least 900mm; fill areas are to be setback from the boundary a minimum of 1.5m."*

The second egress stairs proposed by the applicant to ensure compliance with BCA is located adjacent to the south side boundary, in contravention of this policy. The following comments are provided against the objective:

*"An alternative complying location for the second egress stair has been thoroughly investigated and 'complying drawing' generated to show the alternative option, refer mark up sheets 1 & 2. While the alternative option resolves the non compliance with Design Control 2 - Site Configuration - Topography, Cut & Fill - Control B, it introduces three additional variations to the controls of Section A1 of TDCP 2008, sees a significant reduction to the usability of two of the basement garages and results in structural design issues. Specifically the 'complying design':*

- Introduces a non compliance with Design Control 2 - Site Configuration - Deep Soil Zones - Control c. The rear deep soil zone becomes non compliance at 8.4m by 6.6m. Currently the proposal is compliant at 8.0m by 6.9m;*
- Introduces a non compliance with Design Control 4 - Car parking and Access - Basement Carparking - Control d. The access corridor and 1.2m width extends outside of the building line above towards the northern boundary. Currently the basement is fully contained within the line of the building over;*
- Introduces a non compliance with Design Control 3 - Setbacks - Side Setbacks - Control e. Part of the basement and access corridor is located at 0.9m from the northern boundary to facilitate access to the stair case.*
- Significantly reduces the functionality of garages 5 and 6 in both size and security. These garages need to be reduced down from 6.45m by 6.2m and 6.4m by 6.2m respectively to 6.1m by 6.2m and the garages doors need to be removed.*
- Introduces a significant structural design challenge, currently the design locates load bearing walls directly above the wall of the basement. The load bearing walls are shown in blue on the attached*

*'complying plans'. Amending the basement to provide a compliance second egress stair will see these walls come down in the middle of the access corridor.*

*As described above and shown within the 'complying plans' the alternative option for a compliant second egress stair results in significant other non compliances and is clearly not an appropriate alternative. The proposed minor variation to Design Control 2 - Site Configuration - Topography, Cut & Fill - Control b as assessed in the previously submitted Variation Report meets the relevant objectives for the controls and is clearly the best design outcome. Council support for the minor variation is respectfully requested."*

#### Assessment of applicant's variation report.

As outlined above, in order to provide this second basement egress to the proposal to ensure compliance with the BCA whilst maintaining the proposed built form, any alternative arrangements would require a greater number of variations to this DCP, relating to the basement footprint and the rear deep soil zone in particular. Complying plans have been submitted demonstrating this. It is considered that the variation request is relatively minor and not likely to negate the public interest.

#### A2-Site Access and Parking Code

DCP2 requires the provision of bicycle parking at a rate of 2/unit (class 2 AS 2890.1) and resident/visitor parking 2 spaces for 3 or more bedroom units, plus 1 space per 4 units for visitor parking. As the proposal involves 6 x 3 bedroom units a total of 12 bicycle parking spaces are required and a total of 14 car spaces (12 resident and 2 visitor) are required.

The proposed six-unit development incorporates a basement car park for twelve vehicles (with eight in tandem) and two visitor car park. The tandem spaces are to be assigned to an individual unit. A total fourteen spaces are provided and therefore the proposal complies with the requirements of this plan.

Vehicular access is proposed via Kingscliff Lane, while all internal circulation areas have been designed to comply with the relevant Council and Australian Standard.

The proposed access and car parking arrangement is considered satisfactory with regard to the requirements of A2.

#### A3-Development of Flood Liable Land

##### *A3.2.5 – Emergency Response Provisions*

The site is not identified as being subject to 1 in 100 year inundation, but mapped as subject to a PMF level of 8m AHD. As required by table 7.1 land above the ARI 100 years but below the PMF level is required to comply with the design flood level of the adjacent coloured areas on the flood mapping.

The site is identified as being located within the Probable Maximum Flood (PMF) area between the 7.9m AHD and 8.0m AHD contour lines. The proposal has a habitable floor level of 8.2m AHD and is above the PMF height. The site also has access to Marine Parade which is mapped above the PMF level and provides permanent evacuation routes to land above PMF level. The preparation of a Flood Response Assessment Plan is not considered required in this instance. The proposal complies with the requirements of A3.2.2.

The design flood level of 3.1m AHD is applicable to the site. The proposal provides a minimum habitable floor level of 8.2m AHD and complies with the requirements of this part.

The proposal is considered satisfactory with regard to the requirements of A3.

A9-Energy Smart Homes Policy

A BASIX certificate has been submitted and meets all relevant requirements. The proposal is considered satisfactory with regard to the requirements of A9.

A11-Public Notification of Development Proposals

The development application was publicly notified for a period of 14 days effective from 6 October 2010 to 20 October 2010 and one submission was received. This submission has been addressed later in this report. The proposal is considered satisfactory with regard to the requirements of A11.

B4-West Kingscliff

The objectives for development in the residential areas are to:

- encourage sufficient variety of housing form, size and locations so that residential choice in the area is possible;
- ensure convenient access from dwellings to destinations outside the area and to all necessary resources within the area;
- preserve existing landscape features and to use these features harmoniously; and
- encourage efficient use of land to facilitate more economical arrangement of buildings, circulation systems and utilities.

The proposed development consists of 6 units contained within one 3 storey building. This is consistent with other unit buildings within the locality. It is considered that the proposed development is in accordance with the above objectives for the area and will be in keeping with the local amenity. Therefore the proposed development complies with the objectives of the West Kingscliff DCP.

B9-Tweed Coast Strategy

The subject site is within an existing residential area and the proposed development is not considered to be inconsistent with B9.

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

Clause 92(a) Government Coastal Policy

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is not considered that the proposed development contradicts the objectives of the Government Coastal Policy.

Clause 92(b) Applications for demolition

A separate development application will be lodged for demolition works.

Clause 93 Fire Safety Considerations

N/A

Clause 94 Buildings to be upgraded

N/A

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. Given the distance of the site from the coastline, the proposed development will not impact upon that coastline with regard to demands and issues identified within the Plan for the whole of the Tweed coastline (Clause 2.4.1) including: recreation; water quality; heritage; land use and development potential; coastal ecology; and, social and economic demand. The Management Plan objectives at Clause 3.1.1 are therefore satisfied. It is noted that the site is not located within a specific area identified under that Plan.

Tweed Coast Estuaries Management Plan 2004

This Plan does not apply to the proposed development.

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

This Plan does not apply to the proposed development.

- (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 proposed development is of a modern design and the building is considered to enhance the streetscape of the area as well as contribute positively to the quality and identity of the area.

The proposed development exhibits variation and articulation. As a result of this the bulk of the building is effectively distributed and exhibits a contemporary look.

Access, Transport and Traffic

The existing vehicular access is off Marine Parade via a concrete driveway which transitions into a grassed driveway within the property. The existing grassed driveway is located centrally through the property.

Proposed vehicular access is from the rear of the site off Kingscliff Lane. Access is proposed via 6.5m wide driveway, which grades down to a basement car parking. The proposed grades comply with Tweed Shire Councils maximum grades and transitions

There are no footpaths located within Kingscliff Lane. The closest footpath is located in Marine Parade. There is no pedestrian footpath constructed on the frontage of the site in Marine Parade. On the eastern side of Marine Parade is an existing constructed bicycle path. The applicant is required to construct a footpath on the frontage of the site (Marine Parade) as part of the construction (to be included in the conditions). As the existing driveway will not be utilised the driveway will be required to be demolished and the driveway section placed with kerbing and appropriate fill for the construction of a footpath.

The sites entry / exit are proposed off Kingscliff Lane. Previously the entry / exit was from Marine Parade. Kingscliff Lane is an Urban Local street with maximum target traffic volume for Laneways is 300vpd.

The maximum target traffic volume per day for an Arterial Road is less than 10,000 vehicles per day. Marine Parade traffic data indicates that the road is already above 50% desirable capacity.

It is beneficial for the development to have access off a local laneway rather than a busy Arterial road. The increased traffic volume on Kingscliff lane is negligible given it's a small 6 unit development and the allowable maximum is 300 vehicles per day.

#### Utilities

Council's reticulated potable water supply is located on the frontage of the site in Marine Parade. Recommended conditions of consent shall require the provision of service in accordance with Council's standards.

Council's piped effluent disposal infrastructure is located at the rear of the site in Kingscliff Lane. Recommended conditions of consent shall require the applicant to provide a service in accordance with Council's standards.

Electricity services are currently provided to the area via Country Energy infrastructure and telecommunication services are currently provided to the area via Telstra infrastructure. Recommended conditions of consent shall require the applicant to provide services in accordance with the standards of the supply authority.

#### Earthworks

The proposal for earthworks consists of excavating the basement and removal of spoil material. The proposed earthworks are expected to be in the order of 1,800 m<sup>3</sup> for the total development. It is expected that approximately 2.5 meters of cut is required to achieve a basement level of RL 5.35m AHD proposed.

A report from Border-Tech described that acid sulphate soils were not present at the subject site to 5.0m below the existing surface level. The basement excavation is proposed to be 2.5m below existing surface levels to achieve a basement level of RL 5.35m AHD.

All earthworks are required be done to Level 1 Geotechnical Supervision and in accordance with the Erosion and Sediment Control Plan requirements as outlined in the plan prepared by Cozens Regan Williams Prove Pty Ltd.

#### Noise

Potential noise impacts may exist from the operation of swimming pool pumps and mechanical air ventilation systems. Potential impacts can be adequately controlled through the application of standard conditions.

#### Lighting

Outdoor and security lighting may impact on neighbouring residents. Potential impacts can be adequately controlled through the application of standard conditions.

Privacy

The proposed development is not considered to impact upon the privacy of the adjoining residents, as the main living areas are located towards Marine Parade and foreshore land.

**(c) Suitability of the site for the development**

Surrounding Landuses/Development

The surrounding properties are developed for residential purposes comprising of varying size, scale, height and density. It is noted that older properties in Kingscliff are being gradually redeveloped for higher density purposes consistent with the provisions of Tweed Shire Council's Planning Controls and the objectives for the 2(b) Medium Density Zone.

In terms of the greater surrounding area, a mixture of residential development of varying density and form is present, ranging from detached residential dwellings to residential flats buildings with similar scale and form. The areas character is clearly in a state of transition from the existing low density to the desired future medium density.

The proposal is similar in nature to developments in the locality and therefore is appropriate development of the site.

Acid Sulfate Soil

The proposal for earthworks consists of excavating the basement and removal of spoil material. The proposed earthworks are expected to be in the order of 1,800 m<sup>3</sup> for the total development. A review of Council's Enlighten has revealed the site to be Class 5 ASS land. The application is supported by an Acid Sulfate Soil Assessment prepared by Border-Tech dated May 2010. The assessment concludes that the site is not impacted by actual or potential acid sulfate soils beyond the maximum depth of excavation. The report has been prepared in general accordance with NSW Acid Sulfate Soil Advisory Committee (ASSMAC) Guidelines 1998 and is considered adequate.

Bushfire Hazard

The subject site is identified as bush fire prone. The application was forwarded to NSW Rural Fire Service for comment and recommended conditions of consent were provided.

Demolition

Existing structures will need to be demolished in order to enable construction of the proposed development. In this regard a separate development application for the complete and lawful demolition of all existing structures will be lodged with Tweed Shire Council at a later time.

A site inspection undertaken on 20 October 2010 by an Environmental Health Officer, revealed the existing structures to have slab on ground construction. Pre-Demolition Testing undertaken by Border-Tech dated May 2010 revealed all samples to be below analytical detection limits for organochlorine compounds. The report has been prepared in general accordance with Council Pre-Demolition Testing Policy and is considered adequate.

A condition of consent requiring a separate consent for demolition, inclusive of submission of a detailed demolition management plan will be required.

### Waste Management

The proposal is to be serviced via individual bins. Each unit will be provided with a 240lt recycling 'wheelie bin' and 140lt refuse 'wheelie bin'. The bins are to be relocated to the Kingscliff Lane frontage by the unit tenant on the relevant day for collection. The individual bins will be stored within each unit's garage area.

Groundwater – The Acid Sulfate Soil Assessment prepared by Border-Tech dated May 2010 identified groundwater to be intercepted between 5.4 (BH1) and 6.8m (BH2) below existing ground surface levels. Groundwater is not anticipated to be encountered at the maximum depth of excavation and therefore a dewatering management plan has not been prepared. In the event that groundwater is encountered during excavations all work shall cease and preparation of a dewatering management plan shall be undertaken to the approval of Council's General Manager or delegate. A condition has been applied.

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

The development application was publicly notified for a period of 14 days effective from 6 October 2010 to 20 October 2010 and one submission was received.

One submission related to loss of sunlight, potential impacts on existing mature trees located within and along Lot 14 Section 5 DP758571, overlooking, the visual appearance of the proposed development, and the potential stability issues associated with basement construction.

The issues raised in this submission were forward to the applicant for consideration. Below is a response to each of the issues raised.

#### Loss of sunlight

The proposal is in compliance with Councils DCP A1 in relation to the required amount of sunlight access available to the adjacent properties.

#### **Officer Assessment**

The proposal complies with Councils DCP A1 in relation to the requisite amount of sunlight available to the adjoining property. As such the proposal is considered acceptable in this regard.

#### Potential impacts on existing mature trees

An Arborist's report has been submitted as part of this application. It is noted within this report that there should be minimal damage to both Melaleucas overall health.

#### **Officer Assessment**

The arborist report submitted as requested in this submission. This has indicated that there would be minimal damage to the trees on the site.

#### Overlooking

Screening has been provided to the deck areas located to the southern elevation.

#### **Officer Assessment**

The proposed screening is considered to adequately address the issue of overlooking at this point.

Visual appearance & visual bulk

It is contended by the applicant that the proposal is designed to the highest design quality and is in keeping with the intended future character sought by Councils development controls.

**Officer Assessment**

The proposal is considered to be acceptable in terms of visual appearance, having regard to Councils design controls, to which it is considered to generally comply with. In relation to the bulk of the proposal, it is considered that the development is generally consistent with Council's zoning for a medium density residential use on the site as well as DCP A1.

Stability issues associated with basement construction.

The applicant has noted that the majority of basement excavations are set back a distance of 1.5m from the property boundary. In addition it is contended that the objections request that screw piling only be allowed is unrealistic as the ultimate construction method cannot be ascertained until further geotechnical work is undertaken once all structures are removed from the site.

**Officer Assessment**

It is noted that Councils Building Services section have provided recommended conditions of consent in relation to excavation which is likely to affect the integrity of the adjoining land. This would be attached as a condition of consent and is considered to address any issues raised in relation to the stability of the adjoining dwelling.

**(e) Public interest**

The issues raised, as a result of this proposal are not considered to be in conflict with the interest of general public. The development generally reflects the provisions of the appropriate plans and the site is suitable for this kind of development.

**OPTIONS:**

1. Adopt the recommendations made and approve the development application.
2. Refuse the development application for specified reasons.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

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

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The subject application seeks consent for the construction of a residential flat building comprising six (6), three (3) bedroom units. The proposed building is three (3) storeys in height and provides for basement car parking with access off Kingscliff Lane.

It is considered that sufficient justification has been provided to support the SEPP 1 objections made in relation to minor overshadowing of the foreshore.

**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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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**9 [PR-CM] Development Application DA11/0254 for a Shed at Lot 3 DP 211196, No. 385 Terranora Road, Banora Point**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA11/0254 Pt1**

**SUMMARY OF REPORT:**

A development application has been lodged to construct a shed on the subject allotment.

The allotment fronts Terranora Road which is a designated road requiring a thirty metre (30m) building alignment under the provisions of part 5, clause 24 of the Tweed Local Environment Plan (LEP) 2000.

The Applicant has submitted an objection under the provisions of State Environmental Planning Policy (SEPP) 1 for the outbuilding to observe a building alignment of 10.0m.

Given that the proposed SEPP1 variation is greater than 10%, this application has been referred to Council for determination in accordance with previous directions of the NSW Department of Planning.

The SEPP 1 objection is considered to be worthy of support. It is therefore recommended that the application be approved, subject to conditions.

**RECOMMENDATION:**

**That:**

- 1. State Environmental Planning Policy No. 1 objection to Clause 24 of Tweed Local Environmental Plan 2000 regarding setbacks to designated roads be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.**
- 2. That Development Application DA11/0254 for a shed at Lot 3 DP 211196, No. 385 Terranora Road, Banora Point be approved subject to the following conditions:**

**GENERAL**

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

[GEN0015]

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

[GEN0115]

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

[GEN0135]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

4. A construction certificate application for works that involve any of the following:-
  - connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

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

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

#### **PRIOR TO COMMENCEMENT OF WORK**

5. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

6. 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]

7. 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]

8. 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]

9. 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]

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

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

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

[PCW0985]

#### **DURING CONSTRUCTION**

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

[DUR0005]

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

**Monday to Saturday from 7.00am to 6.00pm**

**No work to be carried out on Sundays or Public Holidays**

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

[DUR0205]

13. 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]

14. 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]

15. 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]

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

[DUR0405]

17. 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]

18. 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]

19. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0845]

20. 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]

21. 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]

22. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[DUR1955]

23. The 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]

24. The additional rainwater drains must be connected to the existing rainwater disposal system; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.

[DUR2255]

25. 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]

26. 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]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

27. 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]

28. 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]

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

[POC1055]

**USE**

**30. 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]

**31. The building is not to be used for any habitable commercial or industrial purpose.**

[USE0455]

**REPORT:**

**Applicant:** Mr J Turner  
**Owner:** Mr Wayne D Penfold & Mrs Lee Penfold  
**Location:** Lot 3 DP 211196, No. 385 Terranora Road, Banora Point  
**Zoning:** 1(c) Rural Living  
**Cost:** \$70,000

**BACKGROUND:**

A development application has been lodged with Council to construct a detached shed on the subject allotment.

The land is zoned 1(c) *Rural Living* under Tweed Local Environmental Plan 2000, is located on the southern side of Terranora Road, has an existing two storey dwelling house and an existing swimming pool and slopes downhill from Terranora Road.

The allotment has frontage to Terranora Road which under the provisions of the Tweed Local Environmental Plan 2000 is a designated road.

The allotment has a maximum depth of 40.232 metres and encompasses an area of 2586m<sup>2</sup>.

The allotment is accessed from Terranora Road.

Under the provisions of part 5, clause 24 of the Tweed LEP 2000 the proposed shed is required to observe a minimum building alignment to Terranora Road of thirty (30) metres.

The shed is proposed to be set back 10.0 metres from Terranora Road.

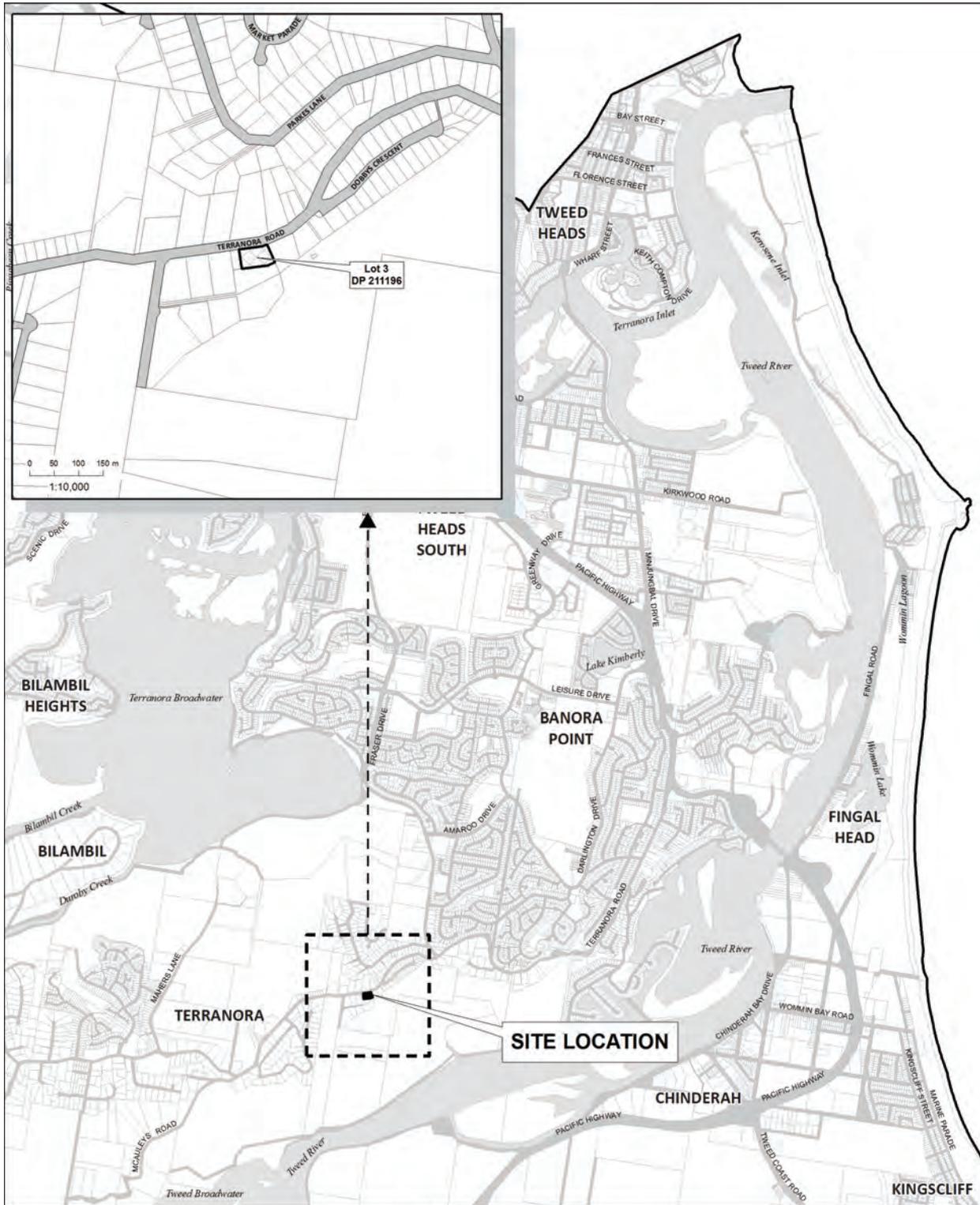
The existing dwelling house and swimming pool on the site currently encroaches into the thirty metre setback

The Applicant has lodged an objection to this requirement under the provisions of State Environmental Planning Policy No. 1 (SEPP 1) to consider a reduced building alignment of 10.0 metres for the outbuilding to Terranora Road.

The SEPP 1 objection is considered below in this report.

Council has historically granted SEPP 1 objections to the thirty metre building alignment for new residential dwelling houses and additions to existing residential dwelling houses along Terranora Road where it is considered that compliance with this building setback is unnecessary and/or unreasonable.

**SITE DIAGRAM:**



**Locality Plan**

Lot 3 DP 211196  
No. 385 Terranora Road, Banora Point

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Cadastral: 02 June, 2011  
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1:40,000 @ A4 Portrait  
DO NOT SCALE  
COPY ONLY - NOT CERTIFIED  
Map Projection: Universal Transverse Mercator  
Horizontal Datum: Geocentric Datum of Australia 1994  
Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre  
3 Tumbulgum Road  
Murrumbidgee NSW 2484  
PO Box 816  
Murrumbidgee NSW 2484  
T | (02) 6570 2450 | 1300 292 872  
F | (02) 6570 2429  
W | www.tweed.nsw.gov.au  
E | planning@tweed.nsw.gov.au

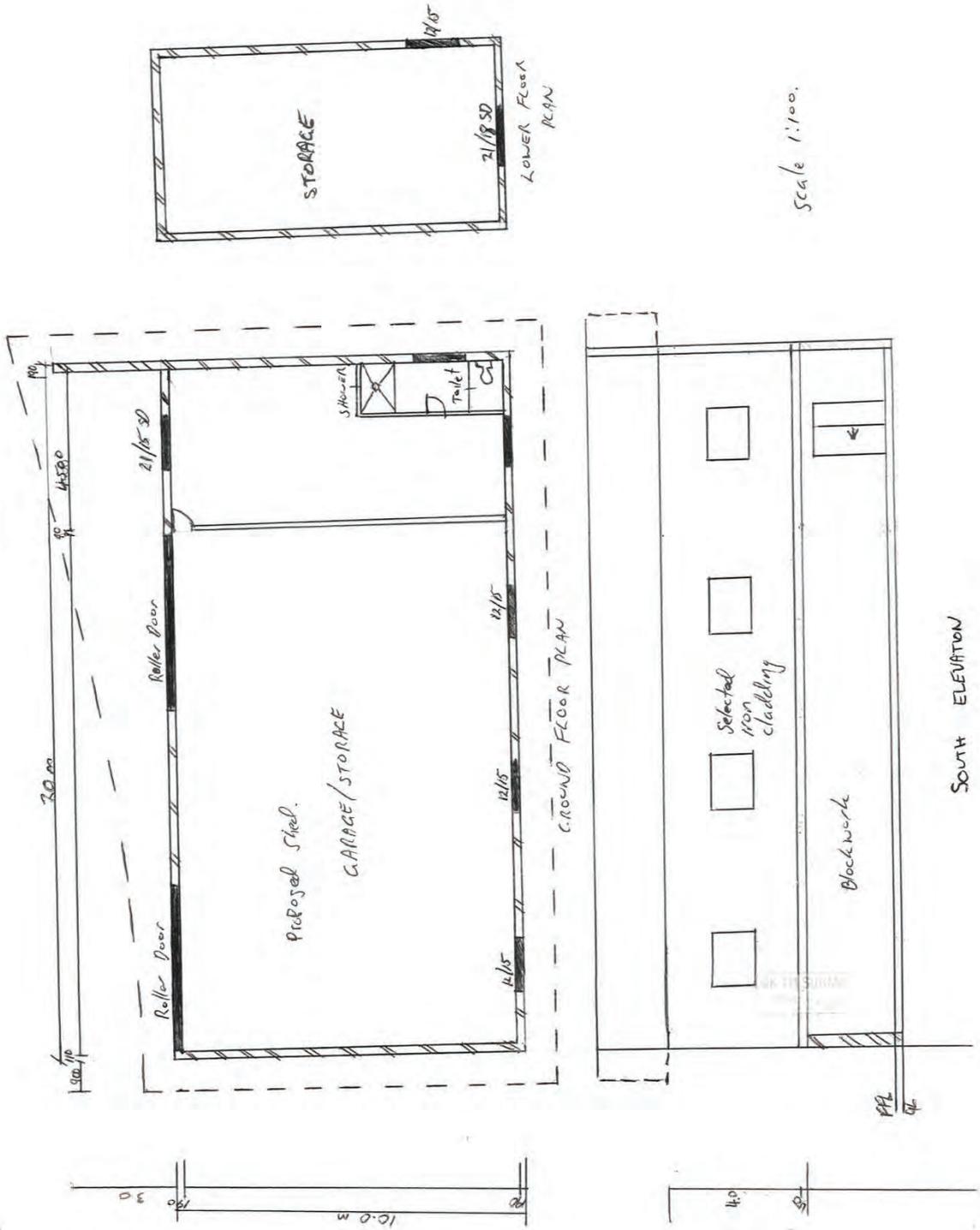


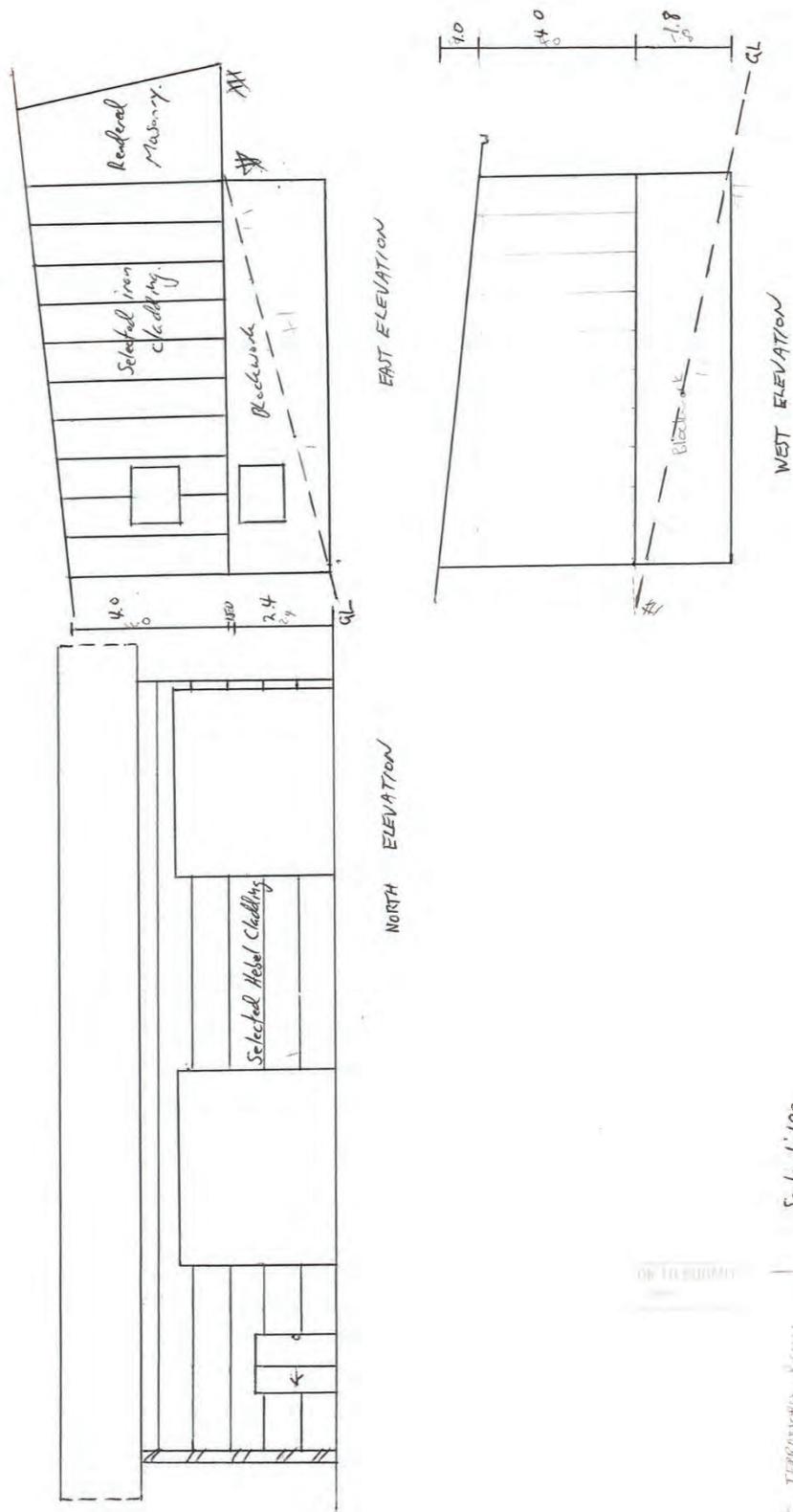
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Author: [Redacted] - Planning Referrals Unit

Date Printed: 02 June, 2011







Scale 1:100.

355 TERRACORRA ROAD  
BANKS VIC 3072  
PITCHED GARAGE - STONORCE  
ML JUSTIN TURNER 17-5-11

**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 satisfies the aims of the plan.

Clause 5 - Ecologically Sustainable Development

Proposal satisfies the objectives of this plan.

Clause 8 - Zone objectives

The proposal is consistent with the primary objective of the zone.

Clause 15 - Essential Services

All required essential services are available and adequate.

Clause 16 - Height of Building

The proposed shed including an undercroft storage area is considered to be two storeys in total in accordance with the definition of 'storey' of the Tweed Local Environmental Plan 2000. This height is permissible in this area. The height & scale of the proposal is consistent with surrounding development.

Clause 17 - Social Impact Assessment

Approval of the proposal is considered to be unlikely to result in any negative social impact issues.

Clause 24 – Designated Roads.

Terranora Road is a designated road which requires a thirty metre building alignment. The proposal does not satisfy this requirement and a SEPP 1 objection has been lodged in this regard.

Clause 35 - Acid Sulfate Soils

Allotment is not affected by acid sulfate soils.

Other Specific Clauses

N/A

The SEPP 1 objection is supported and is discussed below.

## **State Environmental Planning Policies**

### **SEPP (North Coast Regional Environmental Plan) 1988**

#### **SEPP No. 1 - Development Standards**

A SEPP 1 objection has been lodged against the requirement under clause 24 of the Tweed LEP 2000 for the dwelling house to observe a thirty (30) metre building alignment to Terranora Road, which is a designated road.

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

*'This objection accompanies a development application for the construction of a shed at Lot 3 DP 211196 – 385 Terranora Road, Terranora.*

*The objective of this Development Standard include:*

- *To control development along designated roads.*

*The proposed shed will be located a minimum of 10m from the alignment of Terranora Road and therefore the development does not comply with the 30m setback requirement. It is submitted that the development standard requiring a 30 m setback is unreasonable and unnecessary in the circumstances of this case for the following reasons:*

- *There are other structures located along Terranora Road within this immediate locality that also encroach within the 30m setback from the designated road. See submitted Statement of Environmental Effects.*
- *The existing house and pool are also within the 30m setback with the house being setback 10m.*
- *The site is sloping away from Terranora Road with the level of the land near at the shed site much lower than the level of Terranora Road.*
- *Existing and mature vegetation on the site which will be retained acts as an excellent visual screen from Terranora Road.*
- *It is unlikely that the structure would significantly compromise traffic along Terranora Road.*
- *No additional vehicular accesses are proposed. The existing access arrangements will be retained.*

*For the above reasons, Council is requested to uphold the objection and grant consent to the development application as proposed.'*

Access to the site from Terranora Road will be retained.

The floor level of the shed will be substantially below Terranora Road and therefore it is considered that traffic using Terranora Road will not be impacted on

by the proposed development in relation to sight lines or other distractions nor will traffic have an adverse impact on the shed.

Furthermore the existing vegetation located between the front boundary and the northern side of the proposed shed will screen the shed from public view.

The objectives of part 5 (Roads) clauses 22, 23 and 24 of the Tweed LEP and a response to each objective is as follows –

**Clause 22 – Development near designated roads**

- **To protect and improve the capacity, efficiency and safety of designated roads.**

**Response** – The existing vehicular access to the subject site off Terranora Road will be retained and therefore the capacity, efficiency and safety of Terranora Road will not be compromised.

- **To prevent development on designated roads that would detract from the scenic attractiveness of the area of the Tweed.**

**Response** - the proposed development will comprise a shed which will be consistent with the rural residential character of the area, and other similar structures in the vicinity of the site.

This subdivision was approved to permit the construction of single dwelling houses and ancillary structures and is therefore considered impractical to enforce a thirty metre building alignment to Terranora Road.

Furthermore as the site slopes away from the roadway it is considered that the proposal will not have an adverse impact on the scenic attractiveness of the area.

- **To prevent or reduce the potential impact of traffic noise on development adjacent to designated roads.**

**Response** - the shed will be set back 10.00 metres from Terranora Road.

Due to the slope of the allotment and the level of the allotment below Terranora Road the shed will be at a level considerably below Terranora Road which will lessen the impact of traffic noise on the proposed shed. Furthermore as the proposed shed is not habitable it is considered that noise nuisance from traffic on Terranora Road is not an issue.

**Clause 23 – Control of access**

- **To control access to designated roads.**

**Response** – The existing vehicular access from Terranora Road will be retained.

## **Clause 24 – Set backs to designated roads**

- **To control development along designated roads.**

**Response** - the allotment exists in an area which is zoned for rural residential use and in a subdivision which was specifically created for residential dwelling houses therefore the proposal is considered to be consistent with the objectives of the zoning of the area.

### SEPP No 71 – Coastal Protection

The proposal is located within the boundary of the SEPP and based on the nature and scale of the development, the proposal is unlikely to have any adverse impacts in this coastal location. The proposed development is considered compatible with the intent for the development of the locality.

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

The draft Tweed Local Environmental Plan (LEP) 2010 was considered in the assessment of this application.

The proposal is not inconsistent with the aims & objectives of this instrument.

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

##### Tweed Development Control Plan

##### A1-Residential and Tourist Development Code

The applicant has applied for a variation to the DCP controls for cut and fill. The applicant is proposing a maximum cut depth of 1.8m. This exceeds the maximum allowable cut depth (being 1m) by 800mm.

The variation to the design control is supported due to the particular circumstances of the site. This relates to the size of the allotment and the setbacks of the structure from the boundaries which will not adversely affect the neighbouring properties.

## **DESIGN CONTROL 2 – Topography, Cut and Fill**

### **Objectives**

- To retain the existing landform.
- To limit the extent of excavation.
- To moderate the effects of building height and bulk on sloping land.
- To minimise the extent of earth works on residential land and earthworks associated with residential development.
- To ensure that the building design is appropriate for site topographical conditions.
- To ensure development is sympathetic with the existing topography and water cycle of the site.

## Controls

- a. Building siting is to relate to the original form of the land.
- b. Alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling as a result of raft slab, construction would be inappropriate. Example of alternative construction includes: Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design.
- c. On sloping sites step buildings or utilize site excavation and suspended floors to accommodate changes in level rather than levelling the site via cut and fill.
- d. Dwellings must not be designed to be on a contiguous slab on ground type if the building site has a slope of greater than 10%. Development on such land is to be of pole or pier construction or multiple slabs or the like that minimise the extent of cut and fill.
- e. Site excavation / land reforming is to be kept to a minimum required for an appropriately designed site responsive development.
- f. The maximum level of cut is 1m and fill is 1m.
- g. Retaining walls maximum 1.2m.
- h. Cut areas are to be set back from the boundaries at least 900mm; fill areas are to be setback from the boundary a minimum of 1.5m.
- i. Cut and fill batters shall not exceed a slope of 1:2 (v:h) unless geotechnical reports result in Council being satisfied with the site stability. All batters are to be provided with both short term and long term stabilization to prevent soil erosion.
- j. Excavations in excess of one metre within the confines of the building and on driveways may be permitted, to allow for basement garages providing the excavations are adequately retained and drained, in accordance with engineering details.
- k. Filled areas are to be located where they will not impact on the privacy of neighbours.
- l. Stormwater or surface water runoff shall not be redirected or concentrated onto adjoining properties so as to cause a nuisance and adequate drainage is to be provided to divert water away from batters.
- m. The top of any battered cut (or retaining wall) and the toe of any battered fill (or retaining wall) is not to be closer than 900mm for cut and 1.5m for fill to any property boundary, where the overall height at any point exceeds 500mm.

### Variations to Cut and Fill Design

- m. Variations to the requirements above will be permitted to create a flat yard space not exceeding 15% of the area of the lot for the purposes of outdoor living, recreation, clothes drying, swimming pool and the like.
- n. Proposed variations to the controls must demonstrate that the excavation or filling of the site is in harmony with the natural landform/environment and will not adversely affect the adjoining properties.
- o. Where a property is burdened by stormwater or water and sewerage mains then Council will generally preclude any excavation or filling within that easement.

### Justification

Tweed Development Control Plan section A1- Residential and Tourist Development Code allows for variations to the mandatory controls in the following circumstances:

*“Only in exceptional circumstances will Council consider a relaxation or variation to a mandatory control.*

*A variation or relaxation will only be considered where it has been demonstrated (through architectural and/or landscape drawings) how and why the mandatory controls cannot work on a particular site. This requires the Applicant to design a solution using the mandatory controls.*

*Generally Council will only consider a relaxation or variation to a mandatory control due to excessive constraints including;*

- *the site being located as an infill ( infill development is any allotment that is neighboured or adjoins a property that supports a building, including sites within new subdivisions, where that development has already occurred, and to the extent only that an existing building hinders the achievement of the mandatory control).*
- *established dwellings located in subdivisions created prior to the year 2000*
- *sites with highly irregular geometry,*
- *sites with major topographical or geotechnical constraints.*

The proposed cut of 1.8m is considered to acceptable for the following reasons:

- The site is infill development and there are other existing structures on the site including a dwelling and a swimming pool created prior to the current DCP.

- The topographical constraints of the site in terms of it being a steep sloping site.
- The site contains an established dwelling and other ancillary structures in a subdivision that was created prior to the year 2000.
- The cut will be wholly within the confines of the proposed building.
- The setback to the cut will be 4m from the side boundary and it is considered unlikely to adversely affect the adjoining properties.
- It is considered that the flat yard space created by the proposed cut will not be more than 15% of the area of the lot.

The proposal, whilst not fully consistent with the requirements of the Design Controls, is considered to be generally consistent with the objectives of the DCP.

The location of the shed is considered to be the desired location with respect to existing access to the site.

The proposal is regarded as being worthy of approval.

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

Clause 92(a) Government Coastal Policy

The proposal is located within the boundary and based on the nature and scale of the development, the proposal is unlikely to have any adverse impacts in this coastal location. The proposed development is considered compatible with the intent for the development of the locality.

Clause 92(b) Applications for demolition

No demolition is proposed.

Clause 93 Fire Safety Considerations

This clause is not applicable to the proposed development.

Clause 94 Buildings to be upgraded

This clause is not applicable to the proposed development.

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

Tweed Shire Coastline Management Plan 2005

N/A

Tweed Coast Estuaries Management Plan 2004

N/A

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

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**

Context and Setting

The allotment is located in a residential subdivision and contains a variety of dwelling types.

The proposal is considered to be consistent with the existing and future character of the area.

Access, Transport and Traffic

The existing vehicular access to the property from Terranora Road will be retained.

Flora and Fauna

The site does not contain any flora or fauna of any significance in proximity to the shed location, although it is noted that the development will involve the removal of an existing palm tree.

**(c) Suitability of the site for the development**

Surrounding Landuses/Development

The allotment is surrounded by similar residential allotments to the east, south west and north.

Flora and Fauna

The site does not contain any flora or fauna of any significance in proximity to the shed location, although it is noted that the development will involve the removal of an existing palm tree.

Topography

The allotment slopes moderately downhill from north to south.

Site Orientation

The allotment has a northern orientation.

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

There have been no submissions made in relation to this application.

**(e) Public interest**

There is no adverse public interest issues anticipated should this application be approved.

**OPTIONS:**

1. Approve the application with conditions, or
2. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Refusal of the application may expose Council to a challenge in the Land & Environment Court.

**POLICY IMPLICATIONS:**

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

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

**CONCLUSION:**

Under the circumstances it is considered that the proposal to construct a shed with a minimum building line of 10.00 metres to Terranora Road is reasonable for conditional approval.

The SEPP 1 objection to reduce the statutory building line has been considered and under the circumstances it is considered that the variation is justified and should be supported.

**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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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**10 [PR-CM] Development Application DA11/0169 for The Australian Volunteer Coast Guard at Lot 287 DP 542598, Sutherland Street, Kingscliff**

**ORIGIN:**

**Building & Environmental Health**

**FILE NO: DA11/0169 Pt1**

**SUMMARY OF REPORT:**

The applicant, The Australian Volunteer Coast Guard Association, has requested a refund of Council's fees associated with the Development and Construction Applications for a minor awning addition to the emergency building Rotary Park Kingscliff. The applicant is a 'not for profit' community organisation and the work proposed will benefit the community and other organisations such as the NSW Police who make regular use of the building.

The total amount requested is \$385.94, with a breakdown of Council's fees as follows:

DA Fee	\$110.00
Environment Enforcement Levy	\$2.28
Construction Certificate Fee	\$158.65
Inspection Fee	\$115.01
<b>TOTAL</b>	<b>\$385.94</b>

The Australian Volunteer Coast Guard Association has not received any donations applicable under Council's Donations Policy in the last three year period.

Council's donation policy states: *That an individual or an organisation shall not be eligible for any more than two donation grants in any consecutive three year period.*

**RECOMMENDATION:**

**That Council's fees associated with Development Application DA11/0169 and Construction Certificate CC11/0158 for an awning be donated to The Australian Volunteer Coast Guard Association with this being noted as the first donation under the donation policy.**

**REPORT:**

**Applicant:** The Australian Volunteer Coast Guard Association  
**Owner:** Tweed Shire Council  
**Location:** Lot 287 DP 542598 Sutherland Street, Kingscliff  
**Zoning:** 6(a) Open Space  
**Cost:** \$2,276

**BACKGROUND:**

As per summary.

**OPTIONS:**

1. Council donates a total of \$385.94 to the applicant, being the fees associated with DA11/0169 and CC11/0158.
2. Council declines to donate Council's fees associated with DA11/0169 and CC11/0158.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The applicant's request for a refund of Council's fees associated with the Development Application and Construction Certificate is supported as the applicant is a 'not for profit' organisation with the subject development providing a public benefit to the community.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

Nil.

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**11 [PR-CM] Development Application DA10/0626 for a Two (2) Lot Subdivision at Lot 2 DP 231691, Tweed Valley Way, Burringbar**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA10/0626 Pt1**

**SUMMARY OF REPORT:**

The proposed development involves an allotment with the zoning being part 1(a) Rural and part 2(d) Village. The area of the lot is 13.94ha. The applicant is seeking approval for a two (2) lot subdivision of land. The purpose of the subdivision is to separate the village part of the site from the rural part of the site. The 2(d) zoned land will be contained within proposed Lot 1.

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

The subdivision will result in two (2) allotments with areas of 11.97ha and 1.97ha. Lot 2 (Zoned 1(a) Rural) will contain an existing two storey dwelling house.

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

**RECOMMENDATION:**

**That Development Application DA10/0626 for a two (2) lot subdivision at Lot 2 DP 231691, Tweed Valley Way Burringbar be approved subject to the following conditions:**

**GENERAL**

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos sheet 1 of 1 - revision D prepared by Brown and Haan and K1909 P000 - P003 prepared by Knobel Consulting Pty Ltd and dated April 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]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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

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

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

[PCC0275]

5. 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]

6. Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17<sup>O</sup> (1:3.27) or steeper, such slopes shall be densely planted in accordance with a detailed Landscaping Plan endorsed by Council. This plan shall accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.

[PCC0455]

7. 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]

- 8. Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, Tweed Shire Council Development Control Plan Part A1 and Councils Development Design and Construction Specifications.**

**Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.**

**Please note timber retaining walls are not permitted.**

[PCC0475]

- 9. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.**

**All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.**

[PCC0485]

- 10. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.**

[PCC0585]

- 11. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.**

[PCC0865]

- 12. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.**

#### **URBAN ROAD**

- (a) Construction of an urban bitumen sealed road formation classified as Laneway, 6m minimum width continuing from the termination of Station Street road formation, centrally through Fourth Avenue to the Lot 2 DP 231691 rural property boundary.**
- (b) The urban bitumen sealed road (Fourth Avenue) is to provide a turnaround for vehicular traffic at the rural property boundary.**
- (c) The rural dwelling shall have a sealed driveway, constructed from the road to 3m inside the property boundary. A gate shall be installed for the driveway in the boundary fence. The driveway location must be**

such that internal two (2) wheel drive access can be constructed from the driveway to the nominated building site.

[PCC0875]

13. Prior to the issue of a Construction Certificate for civil works the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
- (a) copies of compliance certificates relied upon
  - (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
    - earthworks
    - roadworks/furnishings
    - stormwater drainage
    - water supply works
    - sewerage works
    - landscaping works
    - sedimentation and erosion management plans
    - location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

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

[PCC0985]

14. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
  - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
  - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.
  - (d) Specific Requirements to be detailed within the Construction certificate application include:
    - (i) Shake down area along the haul route immediately before the extension of Station Street.

[PCC1105]

15. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices

- erosion and sediment control works

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

- a) Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

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

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

[PCC1155]

17. Where water is to be drawn from Councils reticulated system, the proponent shall:

- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
- Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
- Payment of relevant fees in accordance with Councils adopted fees and charges.

[PCC1205]

#### **PRIOR TO COMMENCEMENT OF WORK**

18. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

19. 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]

20. Any imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[PCW0375]

21. Prior to start of works the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

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

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

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

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

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

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

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

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign

is to remain in place until the Subdivision Certificate is issued, and

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

[PCW0815]

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

[PCW0985]

#### **DURING CONSTRUCTION**

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

[DUR0005]

25. 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]

26. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

- A. Short Term Period - 4 weeks.**

**$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.**

- B. Long term period - the duration.**

**$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.**

[DUR0215]

27. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

**The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling**

operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

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

[DUR0815]

29. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0845]

30. 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]

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

[DUR0995]

32. 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]

33. 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]

34. Landscaping of the site shall be carried out in accordance with the approved landscaping plans.

[DUR1045]

35. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

36. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.
- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
  - (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242- C245, C247, C248 and C255.
  - (c) That site fill areas have been compacted to the specified standard.
  - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

37. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:
- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
  - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

38. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

39. 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]

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

**Roadworks**

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade

- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Final inspections - on maintenance
- (h) Off Maintenance inspection

**Water Reticulation, Sewer Reticulation, Drainage**

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

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

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

[DUR1895]

41. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[DUR1955]

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

[DUR2015]

43. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

44. The applicant shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".

The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

[DUR2035]

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

[DUR2355]

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

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

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

[DUR2375]

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

[DUR2445]

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

48. 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]

49. Section 94 Contributions

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

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

These charges 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.

**Heavy Haulage Component**

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$  heavy haulage contribution

and:

**Prod.** projected demand for extractive material to be hauled to the site over life of project in tonnes

**Dist.** average haulage distance of product on Shire roads (trip one way)

**\\$Unit** the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

**Admin.** Administration component - 5% - see Section 6.6

[PCC0225/PSC0185]

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

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

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

Water DSP6: 1 ET @ \$11020 per ET \$11020

Pottsville/Burringbar Water Levy: 1 ET @ \$1457 per ET \$1457

Sewer Burringbar/Mooball: 1 ET @ \$5295 per ET \$5295

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

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

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

[PCC0265/PSC0165]

51. **Section 94 Contributions**

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

(a) **Tweed Road Contribution Plan:**

6.5 Trips @ \$1124 per Trips	<b>\$7306</b>
(\$1021 base rate + \$103 indexation)	
S94 Plan No. 4	
Sector11_4	

(b) **Open Space (Casual):**

1 ET @ \$526 per ET	<b>\$526</b>
(\$502 base rate + \$24 indexation)	
S94 Plan No. 5	

(c) **Open Space (Structured):**

1 ET @ \$602 per ET	<b>\$602</b>
(\$575 base rate + \$27 indexation)	
S94 Plan No. 5	

(d) **Shirewide Library Facilities:**

1 ET @ \$792 per ET	<b>\$792</b>
(\$792 base rate + \$0 indexation)	
S94 Plan No. 11	

(e) **Bus Shelters:**

1 ET @ \$60 per ET	<b>\$60</b>
(\$60 base rate + \$0 indexation)	
S94 Plan No. 12	

- (f) **Eviron Cemetery:**  
1 ET @ \$120 per ET \$120  
((\$101 base rate + \$19 indexation)  
S94 Plan No. 13
- (g) **Extensions to Council Administration Offices  
& Technical Support Facilities**  
1 ET @ \$1759.9 per ET \$1759.90  
((\$1759.9 base rate + \$0 indexation)  
S94 Plan No. 18
- (h) **Cycleways:**  
1 ET @ \$447 per ET \$447  
((\$447 base rate + \$0 indexation)  
S94 Plan No. 22
- (i) **Regional Open Space (Casual)**  
1 ET @ \$1031 per ET \$1031  
((\$1031 base rate + \$0 indexation)  
S94 Plan No. 26
- (j) **Regional Open Space (Structured):**  
1 ET @ \$3619 per ET \$3619  
((\$3619 base rate + \$0 indexation)  
S94 Plan No. 26

[PCC0215/PSC0175]

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

**The bond shall be based on 5% of the value of the works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.**

[PSC0215]

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

[PSC0725]

54. **Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.**

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

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

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

[PSC0735]

55. All retaining walls in excess of 1.2m are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

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

[PSC0825]

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

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

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

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

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the

**Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.**

[PSC0835]

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

[PSC0855]

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

The following information must accompany an application:

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

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

[PSC0885]

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

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

Note:

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

[PSC0915]

61. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and sewerage system installed and to be dedicated to Council including joints

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

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

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

[PSC1065]

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

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

[PSC1115]

63. 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 all allotments has been completed.

[PSC1165]

64. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

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.

[PSC1185]

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

1. At the issue of subdivision certificate an in perpetuity, the land surrounding the existing dwelling, to a distance of 20 metres, shall be maintained as an inner protection area (IPA) as outlined within Appendices 2 & 5 of 'Planning for Bush fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

2. **The existing dwelling is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.**

**REPORT:**

**Applicant:** Mr S Parnell  
**Owner:** Mr SA Parnell  
**Location:** Lot 2 DP 231691 Tweed Valley Way, Burringbar  
**Zoning:** Part 1(a) Rural and Part 2(d) Village  
**Cost:** Nil

**BACKGROUND:**

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

The subject site is legally described as Lot 2 DP231691 and is located at Tweed Valley Way, Burringbar. The allotment is irregular in shape and has an overall area of 13.94 hectares. The site contains an existing two storey dwelling located in the south western section of the site, with access via Station Street. The area to the north and east of the existing dwelling is predominantly vegetated and the area to the south and west of the existing house is predominantly cleared.

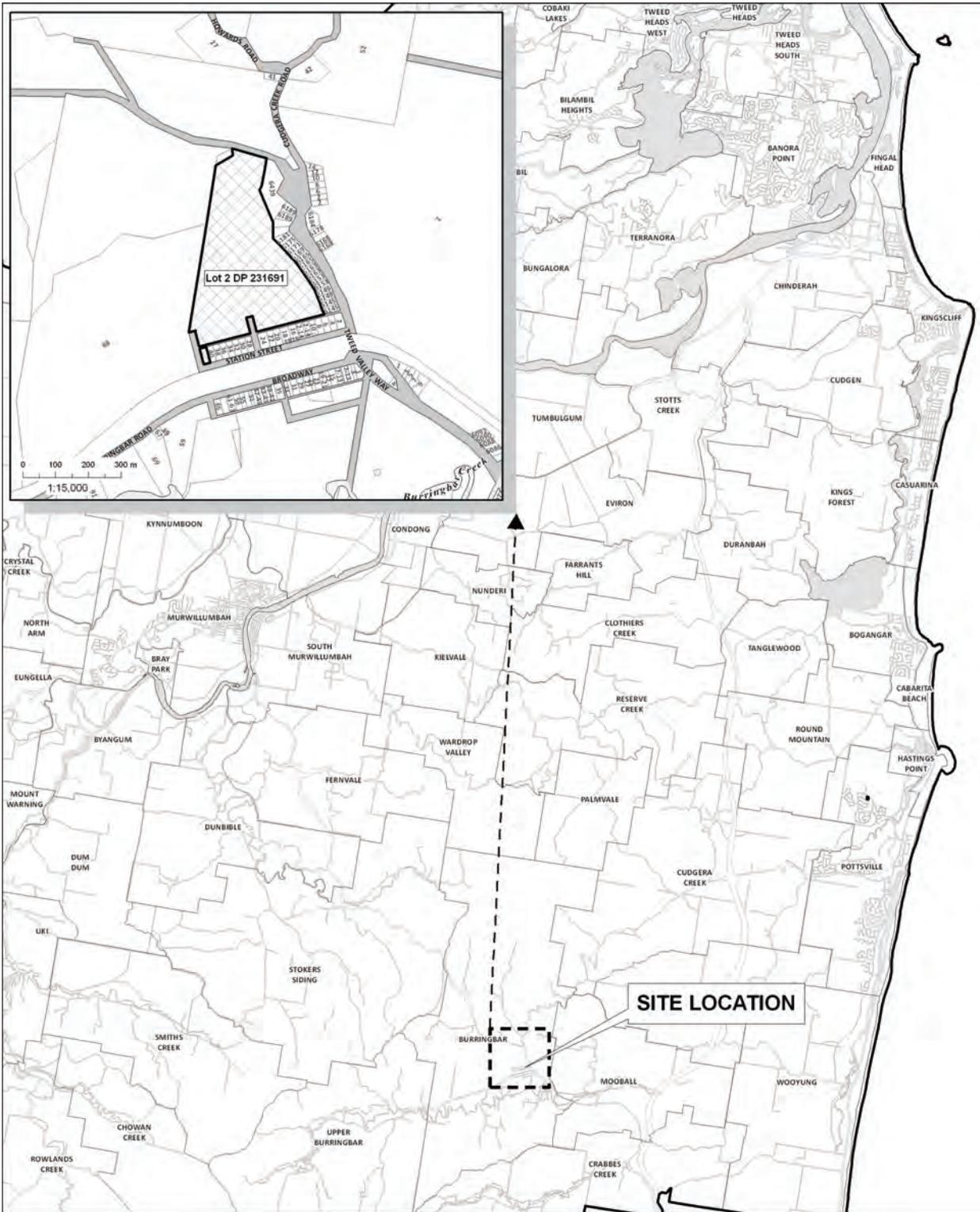
Proposed Lot 1 containing the 2(d) Village part will meet minimum lot size and future development of this site will be subject to a separate development application.

Proposed Lot 2 containing the 1(a) Rural part will not meet the minimum lot size requirements for the zone although it is unlikely to have any impact upon the potential for agricultural use of the site, as the existing allotment is not currently used for agricultural purposes.

A SEPP 1 Objection has been lodged in relation to the 1(a) portion of the site being less than the minimum lot size (40ha). As the proposal incorporates a variation greater than 10% of the development standard, the application is being reported to Council for determination. The Director-General's concurrence has been granted for the proposed development.

The proposed development includes the construction of a 6m wide laneway for the length of Fourth Avenue to provide access to proposed Lot 1 and Lot 2. Reticulated water is to be provided along the length of Fourth Avenue. Underground power, communications and reticulated sewer services are to be constructed within the Third Avenue road reserve.

**SITE DIAGRAM:**



**Locality Plan**  
 Lot 2 DP 231691,  
 Tweed Valley Way Burringbar

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and approximate only. It should not be used for survey or construction purposes and prior to any excavations a "Call before you Dig" enquiry must be made by calling 8130. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastre: 03 May, 2011  
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 Boundaries shown should be considered approximate only.

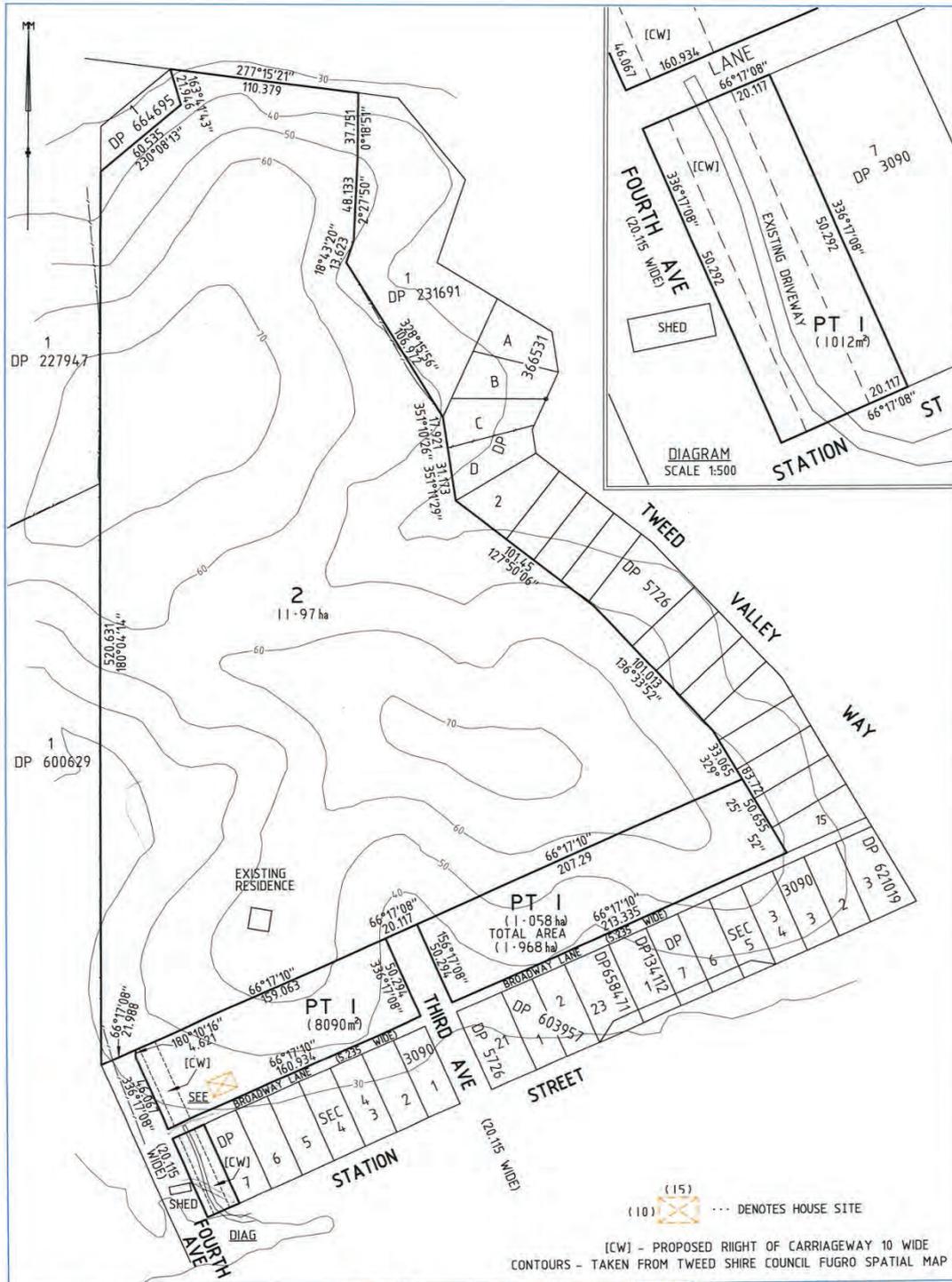
0 1 2 Km  
 1:125,000 @ A4 Portrait  
 DO NOT SCALE  
 COPY ONLY - NOT CERTIFIED

Map Projection: Universal Transverse Mercator  
 National datum: Geodetic Datum of Australia 1974  
 Grid: Map Grid of Australia, Zone 56

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

**SUBDIVISION PLAN**



(15) DENOTES HOUSE SITE

[CW] - PROPOSED RIGHT OF CARRIAGEWAY 10 WIDE  
 CONTOURS - TAKEN FROM TWEED SHIRE COUNCIL FUGRO SPATIAL MAP

DRAWING TITLE <b>PLAN OF PROPOSED SUBDIVISION                  OF LOT 2 DP 231691                  THIRD AND FOURTH AVE, BURRINGBAR</b> CLIENT: STEVE PARNELL	LEVEL DATUM	SCALE 1:2000	<b>BROWN and HAAN</b> REGISTERED SURVEYORS & DEVELOPMENT CONSULTANTS Suite 7 Carinya, Cnr Commercial Rd & King St, Murwillumbah NSW Ph. (02) 6672 1256 Fax (02) 6672 1276 email: bandh@landsv.com.au
	DATE OF SURVEY	REVISION D	
	DATE 27.08.10	SHEET 1 OF 1	
	DRAWN GMB	JOB No	
	CHECKED MH	20909	
CAD FILE No. 20909_PROP			

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

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

**Tweed Local Environmental Plan 2000**

Clause 4 - Aims of the Plan

The vision for the Tweed Shire is: 'The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced'.

The proposed boundary adjustment is minor and is not detrimental to the vision of the Tweed Shire.

The purpose of the proposed 1 into 2 lot subdivision is to separate the village part of the site from the rural part of the site. This will contribute to local growth whilst not impacting significantly upon the natural character, ecological character and cultural fabric of the area. The proposed development is consistent with Council's long term housing provision intentions within the Burringbar locality. Therefore, the proposal is consistent with the vision of Tweed Shire.

Clause 5 - Ecologically Sustainable Development

Clause 5 of the LEP relates to ecologically sustainable development. The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*.

Appropriate conditions of consent have been applied, which will ensure that the proposed development will not significantly impact upon the surrounding residences or locality. As such, the proposed development is considered to meet the provisions of Clause 5 of the LEP.

Clause 8 - Zone objectives

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

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

As noted below, the proposed development is considered to meet the primary objective of the zones by way of taking into account agricultural matters and environmental constraints. The proposal generally complies with Clause 8(a).

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

Given that the subject allotments will only have a minor change in configuration of the allotment and one (1) additional lot, the proposed development is not considered to have an unacceptable cumulative impact on the locality or the community as a whole.

#### Clause 11 – Zone Objectives

Clause 11 of the LEP relates to zone objectives. The subject site consists of 1(a) Zoned land under the provisions of the LEP. The objectives of this zone are:

##### *Primary objective*

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

##### *Secondary objective*

- *to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.*
- *to provide for development that is not suitable in or near urban areas.*
- *to prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.*
- *to provide non-urban breaks between settlements to give a physical and community identity to each settlement.*

The established use of the rural part of the site is as a dwelling house and no change is proposed in relation to the use of the land. The dwelling house use of the land is not unsuitable in or near the surrounding village areas.

The proposal does not involve fragmentation of the rural zoned part of the site given that all of the rural zoned part of the site is to be contained within one allotment. This will ensure that the site will remain available for agricultural or natural resource utilisation purposes and associated development. This will also retain and protect the rural character and amenity of the area.

The objectives of the 2(d) Village zone are as follows:

##### *Primary objectives*

- *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.*

The separation of the village zoned part of the land into a single allotment facilitates the subsequent provision for residential development and any other appropriate services and facilities traditionally associated with a rural village without the development being burdened by the rural zoned part of the site. The subdivision does not prevent the village zoned part of the land from being developed for purposes that are of a design and scale that make a positive

contribution to the character of the village, however such development is not the subject of the current development application.

Overall, the proposed subdivision of 1 into 2 lots is consistent with the zone objectives.

#### Clause 15 - Essential Services

Clause 15 of the TLEP requires the provision of essential services to be available to the site.

An existing 100mm diameter water main is located within Station Street. The connection to the existing house on Lot 2 is proposed by extending the water main to the property boundary in Fourth Avenue. Water supply into Lot 2 will be constructed as part of the approved development application.

Council's piped effluent disposal infrastructure is not currently available within the area. Correspondence with Council's Sewer and Water Design Engineer indicates that Tweed Shire Council proposes to construct a sewer rising main and gravity for Station Street. The sewerage system is under contract review and an estimated time for completion is expected for April 2011.

The proposed sewerage connection for the existing house is through Third Avenue. This will ultimately connect into the future sewerage proposed. Council's Sewer and Water Design Engineer indicated that the future sewerage will service the proposed subdivision including future subdividing of the 2(d) Village land.

Electricity services are currently provided to the area via Country Energy. The existing over head electricity servicing the existing house transverses through the 1012m<sup>2</sup> Village Lot (Lot 2 DP 231691). The proposal is to remove the over head power and provide under ground power through Third Avenue. The smaller Lot will have electrical power via an existing power pole located on the frontage of the site.

Telecommunication services are currently provided to the area via Telstra. The proposed communications will be parallel to the electrical cable within Third Avenue, up to the rural Lot boundary.

#### Clause 16 - Height of Building

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

#### Clause 17 - Social Impact Assessment

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

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

This Clause requires a minimum lot size of 40 hectares. Proposed Lots 2 and 3 will provide lot areas that do not comply with this development standard. A State Environmental Planning Policy No. 1 Objection was undertaken and sent to the Department of Planning for Concurrence. On 8 October 2010 the Department of Planning granted concurrence in this instance as:

- no fragmentation of rural land will occur and the rural character and amenity will remain the same;
- the proposed subdivision is unlikely to undermine the objectives of the 1(a) land as the existing rural lot size remains unchanged; and
- there is no public benefit in maintaining the standard in this case.

Clause 22 – Development Near Designated Roads

This clause applies to land that:

- (a) *has frontage to a designated road, or*
- (b) *relies on a designated road for its sole means of vehicular access, or*
- (c) *is within Zone 1(a), 1(b), 1(c), 5(a), 7(a), 7(d), 7(f) or 7(l) and has direct access to another road at a point less than 90 metres from that road's intersection with a designated road.*

The northern fringe of the subject site is bounded by Tweed Valley Way, which is a Council designated road. The proposed development is not captured within any of the above criteria.

Clause 35 - Acid Sulphate Soils

The site contains Class 5 Acid Sulphate Soils. The proposed development does not include works which may lower the watertable below 1m AHD in any class 1, 2, 3 or 4 land.

The proposal complies with this Clause.

Clause 39A - Bushfire

The subject site is located within a Bushfire Prone area. As such the proposal was referred to the NSW Rural Fire Service for comment. The NSW Rural Fire Service responded on 2 November 2010 with conditions of approval to be included in the recommendations.

Dwelling Entitlement

The subdivision will result in the loss of the dwelling entitlement for proposed Lot 2 however the site retains an existing use right for a dwelling as it existed prior to 29 May 1964.

**State Environmental Planning Policies**

**SEPP (North Coast Regional Environmental Plan) 1988**

Clause 12: Impact on agricultural activities

This clause requires Council to consider the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land. The proposed subdivision is unlikely to have any impact upon the surrounding agricultural land, given that the proposed Lot 2 (rural part) is under the 40ha minimum and does not have significant agricultural potential.

It is also noted that in granting concurrence for the proposed subdivision, the Department of Planning was satisfied that the proposal is consistent with the objectives of the zone. As such, the application is considered to meet the provisions of Clause 12.

Clause 15: Wetlands or Fishery Habitats

This Clause requires the consent authority to take into account the likely impact of the proposed development on rivers, streams and wetlands. An existing watercourse is located within the south western fringe of the Fourth Avenue road reserve.

The proposed laneway will be constructed within the Fourth Avenue road reserve, with some dedication of land from the subject site at the corner of Station Street and Fourth Avenue to avoid the existing watercourse.

It is considered that approval of the application would not create any additional impact to any river stream or wetland and would not be inconsistent with this Clause or any other relevant provisions of this Plan.

**SEPP No. 1 - Development Standards**

The proposed development incorporates a SEPP 1 Objection which relates to the proposal not meeting the minimum 40 hectare allotment size requirement, pursuant to Clause 20(2) of the Tweed Local Environmental Plan 2000.

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

*"This SEPP 1 objection has been prepared in response to the minimum allotment area planning control under clause 20 of the LEP. The site comprises an area of 2(d) zoned land totalling 1.968 hectares, with the remainder of the site (11.97 hectares) being within the 1(a) zone. Proposed Lot 1 accommodates all of the 2(d) zoned land and does not contain land within any other zone, and its area complies with the minimum area development standard for the erection of a dwelling house on 2(d) zoned land of 450m<sup>2</sup> pursuant to clause 11 of the LEP. This SEPP 1 objection is not required to consider proposed Lot 1 further.*

*Proposed Lot 2 is entirely within the 1(a) zone and will accommodate all of the 1(a) zoned land in the site. The area of proposed Lot 2 is 11.97 hectares which is less than the 40 hectare minimum allotment area development standard for lots within the 1(a) zone.*

Development Standard to which this Objection relates

Specifically in relation to the circumstances of the case, clause 20 of the LEP states in part:

20 Subdivision in Zones 1(a)

(1) Objectives

- to prevent the potential for fragmentation of ownership of rural land that would:
  - (i) adversely affect the continuance or aggregation of sustainable agricultural units, or
  - (ii) generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner.
- to protect the ecological or scenic values of the land.
- to protect the area of Tweed's water supply quality.

(2) Consent may only be granted to the subdivision of land:

- (a) within Zone 1(a)..... if the area of each allotment created is at least 40 hectares, or
- (b)

(3) Despite subclause (2), consent may be granted to the subdivision of land where an allotment to be created is less than 40 hectares,....., if the consent authority is satisfied that the allotment will be used for a purpose, other than for an agricultural or residential purpose, for which consent could be granted.

(4) "

The LEP map extract provided in the Statement of Environmental Effects confirms that the land is partly within the 1(a) zone and partly within the 2(d) zone. The 1(a) zoned part occupies the majority of the northern part of the site, with the 2(d) zone generally occupying a narrow strip along the southern boundary of the site. The 1(a) zoned part of the site has an area of approximately 11.97 hectares and all of the 1(a) zoned part of the site is contained within proposed Lot 2 in the subdivision. Proposed Lot 2 has an area which is less than the 40 hectare minimum allotment area planning control. This development application does not propose the use of the 1(a) zoned part of the site for a purpose other than an agricultural or a residential land use and accordingly cannot rely on subclause (3).

Purpose

*The purpose of this objection is to permit the proposed development with development consent, because it is understood that Council is not empowered to grant development consent to the proposal in the absence of an objection, pursuant to SEPP 1, to the minimum lot area development standard applicable to the 1(a) zone. The grounds of the objection are discussed in the following sections.*

*Questions to be answered in assessing a SEPP 1 objection*

*Talbot J in Winten Property Group vs North Sydney Council (NSWLEC 46) established that there are five questions that are required to be answered in the assessment of an objection pursuant to SEPP 1. The questions are:*

- 1. Is the planning control a development standard?*
- 2. What is the underlying object or purpose of the development standard?*
- 3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979 (the 'Act')?*
- 4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
- 5. Is the objection well founded?*

*These questions are answered in the context of the provisions of SEPP 1 having regard to the characteristics of the environment and the proposed development, as follows:*

*1. Is the planning control a development standard?*

*The minimum allotment area planning control applicable to the 1(a) zone is a development standard because it is a provision of the LEP (which is an environmental planning instrument in accordance with the definition in section 4 of the Act), being a provision by or under which a requirement is specified and a standard is fixed in respect of the area of land (note in particular part (a) of the definition of development standards in section 4 of the Act).*

*2. What is the underlying object or purpose of the development standard?*

*The stated objectives of the development standard are provided in LEP subclause 20(1), viz:*

- to prevent the potential for fragmentation of ownership of rural land that would:
  - (i) adversely affect the continuance or aggregation of sustainable agricultural units, or*
  - (ii) generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner.**
- to protect the ecological or scenic values of the land.*

- to protect the area of Tweed's water supply quality.

The objectives of the 1(a) zone provided in clause 11 of the LEP are also considered to be relevant to the objective of the development standard, and these are:

*Primary objectives*

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

*Secondary objectives*

- to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.
- to provide for development that is not suitable in or near urban areas.
- to prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.
- to provide non-urban breaks between settlements to give a physical and community identity to each settlement.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Act?

The aim of SEPP 1 is to:

*Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.*

In this regard the objects of Section 5(a)(i) and (ii) of the Act are:

- the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- the promotion and co-ordination of the orderly and economic use and development of land.*

*The part of the site which is within the 1(a) zone and, hence, the area of proposed Lot 2 is fixed and cannot be changed. In zoning the land or creating Lot 2 DP 231691, Council made the decision that the 1(a) zoned part need not comply with the 40 hectare minimum lot area development standard. The existing dwelling house is located on the 1(a) zoned part of the site and in conjunction*

*with the landscape of the site, establishes the character of the rural part of the land. Council has recognised the importance of the 2(d) zoned part of the site as an extension to the Burringbar Village by zoning that area for village purposes, and it is appropriate to excise that part of the land from the rural part.*

*The area of proposed Lot 2 is considered to be adequate in the circumstances of the case because of the following grounds of this SEPP 1 objection which are directly related to the objectives of clause 20 and the 1(a) zone:*

#### *Clause 20*

- *All of the 1(a) zoned part of the parent allotment is to be contained within proposed Lot 2 and accordingly the development does not involve fragmentation of ownership of rural land that would:*
  - (i) *adversely affect the continuance or aggregation of sustainable agricultural units – the land is not used for any agricultural purpose, is limited in its potential to be used for agricultural purposes (having regard to the information provided on Council’s website) and there is no scope to increase the 1(a) zoned part of the site for agricultural purposes given the cadastral limitations;*
  - (ii) *generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner – no change is proposed to the existing occupation of the rural part of the site by a single dwelling house which is fully established and not required to be provided with further public amenities or services as a consequence of the proposed subdivision.*
- *The 1(a) zoned part of the site is not proposed to be physically affected by this development application, and the ecological and scenic values inherent in that part of the site are able to be protected.*
- *Proposed Lot 2 is not within a part of the Tweed’s water supply catchment area and the proposal will not adversely affect water supply quality.*

#### *1(a) Zone Objectives*

##### *Primary objectives*

- *The proposed subdivision is intended to separate the 2(d) village zoned part of the site from the 1(a) rural zoned part of the site and will accommodate all of the 1(a) zoned part of the site in one allotment. No change is proposed to the rural part of the site which might reduce its ability to be utilised for ecologically sustainable development within any part of that land which might be suitable primarily for agricultural or natural resource utilisation purposes and associated development.*
- *The proposed subdivision involves no change to the established rural character and amenity of the rural part of the site but instead merely proposes to separate the village part of the site from the rural part of the site.*

##### *Secondary objectives*

- *The established use of the rural part of the site is as a dwelling house and no change is proposed in relation to that use of the land. This development application does not propose another type of development such as agri- or eco tourism and does not prevent such land uses establishing on appropriate rural land in the locality.*
- *The dwelling house use of the rural part of the land is not unsuitable in or near urban areas.*
- *This development application does not involve the unnecessary fragmentation or development of the rural zoned part of the site because it proposes to accommodate all of the rural zoned part of the land in one allotment and involves no change to the established use of the rural zoned part of the land. This is achieved whether or not the rural zoned part of the land may be needed for long-term urban expansion (or in this case, expansion of the Burringbar Village), given that the rural part of the land is not being fragmented or developed but rather maintained in one allotment.*
- *This proposal maintains the rural zoned part of the land within one allotment and will not impact upon any established non-urban break between settlements that gives a physical and community identity to each relevant settlement.*

4. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

*On the basis of these grounds which directly relate to the stated and underlying objects of the development standard, requiring strict compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and tend to hinder the attainment of the relevant objects of the Act. That is, requiring strict compliance with the development standard would hinder the proper management, development and conservation of available resources for the purpose of promoting social and economic welfare and a better environment, and would hinder the promotion and co-ordination of the orderly and economic use and development of the land. The proposed development represents the appropriate response to the control of development given the desired future village use of the 2(d) zoned part of the site and the containment of all of the 1(a) zoned part of the site within one allotment including the maintenance of the rural use that is established on that land.*

5. *Is the objection well founded?*

*It is submitted that it would be both unreasonable and unnecessary to require strict compliance with the development standard in this case on the basis of the grounds provided in answer to question 3. This objection demonstrates that compliance with the development standards would be both unreasonable and unnecessary and tend to hinder the attainment of the referenced objects of the Act, and is well founded accordingly.”*

**Assessment of the applicant’s submission:**

It is considered that compliance with the 40 hectare development standard in this instance would unreasonably prevent the appropriate subdivision of the site as this development application does not involve the unnecessary fragmentation or development of the rural zoned part of the site because it proposes to

accommodate all of the rural zoned part of the land in one allotment and involves no change to the established use of the rural zoned part of the land. In addition, Council has recognised the importance of the 2(d) zoned part of the site as an extension to the Burringbar Village by zoning that area for village purposes, and it is appropriate to excise that part of the land from the rural part.

Furthermore, the application was referred to the Department of Planning for concurrence. In a letter dated 8 October 2010, concurrence was granted by the Director-General to vary the 40ha minimum lot size development standard contained in clause 20(2)(a) to permit proposed Lot 2 – 11.97ha. Concurrence was granted in this instance for the following reasons:

- no fragmentation of rural land will occur and the rural character and amenity will remain the same;
- the proposed subdivision is unlikely to undermine the objectives of the 1(a) land as the existing rural lot size remains unchanged; and
- there is no public benefit in maintaining the standard in this case.

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

### **SEPP No. 55 - Remediation of Land**

The land currently comprises an existing dwelling house and the separation of the village zoned part of the land into a single allotment facilitates the subsequent provision for residential development and any associated village uses.

A Preliminary Site Contamination Investigations has been prepared by HMC Environmental Consulting Pty Ltd dated January 2011 including soil sample analysis. The report has been prepared in general accordance with the EPA Guidelines for Assessing Banana Plantation Sites and is considered adequate. The report concludes that the subject site is suitable for its proposed use. No further considerations required.

### **SEPP (Rural Subdivision) 2008**

#### **Clause 10 - Matters to be considered in determining development applications for rural subdivisions or rural dwellings**

The applicant has provided the following assessment of the matters to be considered as follows:

- (a) *the existing uses and approved uses of land in the vicinity of the development,*

The existing dwelling house on the rural part of the land is to be maintained and no change is proposed in this regard.

- (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be*

*preferred and the predominant land uses in the vicinity of the development,*

The proposed development is consistent with the preferred and predominant land uses in the vicinity of the development. The zones reflect Council's preferred land uses for each relevant part of the land. The predominant land uses near the village zoned part of the land are of a village nature and the proposed development will facilitate a future development in keeping with the established village character of the adjacent village development. The rural part of the site adjoins rural land uses to the west and the retention of the existing dwelling house on the site maintains the rural character of that part of the land.

(c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*

The proposal is compatible with nearby land uses.

(d) *if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,*

The site does not adjoin land within a rural residential zone.

(e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).*

There is no known incompatibility with nearby land uses.

The applicant's assessment of the abovementioned matters has been taken into consideration. The proposed development is consistent with the preferred and predominant land uses in the vicinity of the development. The land uses will generally remain the same. The established use of the rural part of the site will remain available for agricultural or natural resource utilisation purposes. The separation of the village zoned part of the land into a single allotment facilitates the subsequent provision for residential development and any other appropriate services and facilities traditionally associated with a rural village.

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

Under the Draft LEP 2010, the subject site has a similar zoning to the current LEP 2000 in that the 1(a) Rural part is zoned RU2 – Rural Landscape and the 2(d) Village part is zoned RU5 – Village. The proposed development is considered to be consistent with the objectives of each applicable zone.

Clause 4.1 of the Draft LEP 2010 relates to minimum subdivision lot sizes and refers to the Lot Size Map. This map identifies the same minimum lot sizes as the current LEP. That is, the RU2 land currently zoned 1(a) is identified as Lot Size code AB2, which requires 40ha.

The applicant has lodged a written request that seeks to justify the contravention of the development standard (SEPP1 Objection).

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

A5 – Subdivision Manual (DCP 16)

This DCP contains Council's guidelines for the preparation of applications for subdivision and aims to facilitate Council's assessment and consideration of such applications. A number of factors are required to be assessed including environmental constraints, land forming, design specifications, storm water runoff, drainage, waterways and flooding, setbacks and buffers (where appropriate). Where applicable, these matters have been discussed below.

*Physical Constraints* – The land is zoned into two parts being 1(a) Rural and 2(d) Village. The rural component is 11.97 hectares and the village component is 1.968 hectares. The village component is separated into three (3) parts by road reserves, being Fourth Avenue, Third Avenue and an unnamed laneway (referred to as Broadway Lane on the plans). The smaller of the 2(d) Village Lots is located at the intersection of Fourth Avenue and Station Street and has an area of 1012m<sup>2</sup>. The two larger 2(d) Village Lots are located at the intersection of Third Avenue and the unnamed road reserve and has an approximate areas of 7868m<sup>2</sup> and 10800m<sup>2</sup>.

*Environmental Constraints* – The site is bushfire prone land as per GIS. Future subdivision would appear to be constrained by the presence of existing bushland on the site, the mapping of this bushland as Secondary Koala Habitat and the mapping of part of the site as Grey Ironbark/White Mahogany/Grey Gum, the latter of which is a known Primary Koala Food Tree.

*Landforming* – There are limited earthworks proposed for the site. The earthworks involve a small amount of cut and fill for the proposed road.

*Stormwater Runoff, Drainage, Waterways & Flooding* – The proposed 6m wide road does not indicate drainage off the road (no gully pits or stormwater runoff from the site) to a legal point of discharge and provide permanent water quality control as per Tweed Shire Councils Development Design Specification – D7 Stormwater Quality. After the last RFI (letter dated 1 April 2011 from Knobel Consulting) the applicant has provided two gully pits to drain Fourth Avenue.

An existing water course is located south-west of the proposed road formation. The configuration of the existing water course is adjacent to the proposed road with an existing batter greater than 2.5% for the first 2.4m. The road formation proposed is close to the existing creek, which may have an effect on the stability of the banks. The applicant is to demonstrate stability of the exiting creek bank and to provide protection against further scouring. An RFI received from Knobel Consulting (letter dated 1 April 2011) a rock gibbon wall has been provided as protection on the bank.

*Lot Layout* – The proposal does not involve fragmentation of the rural zoned part of the site given that all of the rural zoned part of the site is to be contained within one allotment. This will ensure that the site will remain available for agricultural or natural resource utilisation purposes and associated development. This will also retain and protect the rural character and amenity of the area.

The separation of the village zoned part of the land into a single allotment facilitates the subsequent provision for residential development and any other appropriate services and facilities traditionally associated with a rural village without the development being burdened by the rural zoned part of the site.

*Infrastructure* – Council's Development Engineer has assessed the proposed development against the relevant standards pertaining to road ways, reticulated water, reticulated sewer, electricity and telecommunications. Appropriate conditions of consent have been applied with regard to infrastructure requirements.

The development is subject to s64 water and sewer charges based on 1 ET as one new lot will be created.

Based on the above assessment, the proposed subdivision to create proposed Lot 1 (1.97ha) and proposed Lot 2 (11.97ha) is considered to meet the provisions of Section A5 of Council's Consolidated DCP.

A13 – Socio-Economic Impact Assessment (DCP45)

In accordance with clauses A13.5.1 and A13.5.2 the proposed development will not require a Socio-Economic Impact Assessment. It is considered that the proposed development will not result in any negative socio-economic impacts.

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

There are no matters prescribed by the Regulations applicable to the proposed subdivision.

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

The proposed development will involve the construction of a laneway and extension to the water reticulation within the Fourth Avenue road reserve. Construction work within the Third Avenue will include the extension of the sewer reticulation, under ground electricity and telecommunications. It is considered that the proposed development will not generate any impacts that would warrant refusal of the application.

**(c) Suitability of the site for the development**

The proposed development is considered to be suitable for the site, subject to appropriate conditions of consent.

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

Department of Planning

After reviewing the SEPP1 Objection to Clause 20(2) of the LEP, the Department provided the following comments:

*“Following consideration of the application, concurrence has been granted to vary the 40ha minimum lot size development standard contained in clause 20(2)(a) of the Council’s planning instrument to permit proposed Lots 2 with an area of 11.97ha.*

*Concurrence was granted in this instance for the following reasons:*

- no fragmentation of rural land will occur and the rural character and amenity will remain the same;*
- the proposed subdivision is unlikely to undermine the objectives of the 1(a) land as the existing rural lot size remains unchanged; and*
- there is no public benefit in maintaining the standard in this case.”*

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

#### NSW Rural Fire Service

The proposed development was referred to the NSW Rural Fire Service for comment as the land has been identified as being Fire Prone Land. The Rural Fire Service has provided conditions on 2 November 2010 to be included in the recommendations. The conditions relate to Asset Protection Zones and Design and Construction. The proposal will comply with these conditions and is therefore considered to satisfy the requirements.

#### **(e) Public interest**

The proposed development is generally considered to reflect the provisions of all applicable development control plans. Appropriate conditions of consent have been applied in an effort to limit any impact upon the surrounding residences and agricultural landowners.

#### **OPTIONS:**

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

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

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

#### **POLICY IMPLICATIONS:**

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

**CONCLUSION:**

The proposed development is consistent with the applicable environmental planning instruments with an acceptable variation to Clause 20 of the Tweed LEP 2000. Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

Nil.

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**12 [PR-CM] Tweed Development Control Plan Section B24 - Area E Urban Release Development Code**

**ORIGIN:**

**Planning Reform**

**FILE NO: GT1/LEP/2000/10 Pt6**

**SUMMARY OF REPORT:**

This report provides an update on the progress of the Tweed Development Control Plan, Section B24 – Area E Urban Release Development Code (“the Code”), prior to it being reported to the July meeting for approval to commence public exhibition.

Area E has been recognised for many years by both Tweed Shire Council and the NSW Department of Planning and Infrastructure as an important strategic site for urban land release to accommodate future housing needs through the planned supply of about 1632 lots, catering for an additional residential population of about 4,000 people.

In accordance with the Local Environmental Plan gazetted for this site in 2007, Council’s planning and engineering staff are preparing a Draft Development Control Plan (DCP) and Section 94 Plan (s. 94 Plan) to facilitate the orderly and economic development of Area E. The DCP has been prepared as a Section of the Tweed DCP 2008, titled *Area E Urban Release Development Code* (“the Code”). The Code represents the most detailed level of the strategic planning framework and seeks to guide the future development of the Area E release area through a variety of strategies and development controls.

As part of the preparation process, Council’s Planning Reform Unit (PRU) staff has worked with the landowners of Area E to undertake extensive landowner consultation, which comprised of three intensive participatory workshops hosted at Tweed Heads.

The Draft Code is now presented in three ‘precincts’ enabling the local community to identify with guidelines and controls customised to the unique features, characteristics and specific contextual issues of these distinct precincts.

In recognition of the intricacies, constraints and ‘uniqueness’ of Area E, and in response to the outcomes of the landowner workshops, a number of controls have been specifically tailored and such vary the generic standard requirements of the Tweed DCP s A1 Residential and Tourist Development Code. These variations will be reported in greater detail in the July report.

The Code has attempted to address landowners and the Council officers concerns through a detailed investigation of the sites opportunities and constraints by utilising various contemporary best practice planning processes that include:

- Constraint and Site Analysis
- Developing steep sites analysis and interpretation

- Built form and design-lead solutions to balance environmental protection, open space and the built environment.

It is envisaged that the key outstanding issue involving the proposed location of the future Broadwater Parkway road will also be concluded by July. As a secondary consideration, this timeline enables the Code to best integrate into the Part 3A Major Project Application before the Department of Planning and Infrastructure, which the Department have advised the applicant to undertake.

**RECOMMENDATION:**

**That the report on Tweed Development Control Plan Section B24 – Area E Urban Release Development Code be received and noted.**

## REPORT:

Area E is a greenfield development area located in Terranora, bounded generally by Mahers Lane, Terranora Road, Fraser Drive and the Terranora Broadwater to the north.

Within Tweed Local Environmental Plan 2000 – Amendment No. 10 (LEP Amendment), the site was rezoned in October 2007 to:

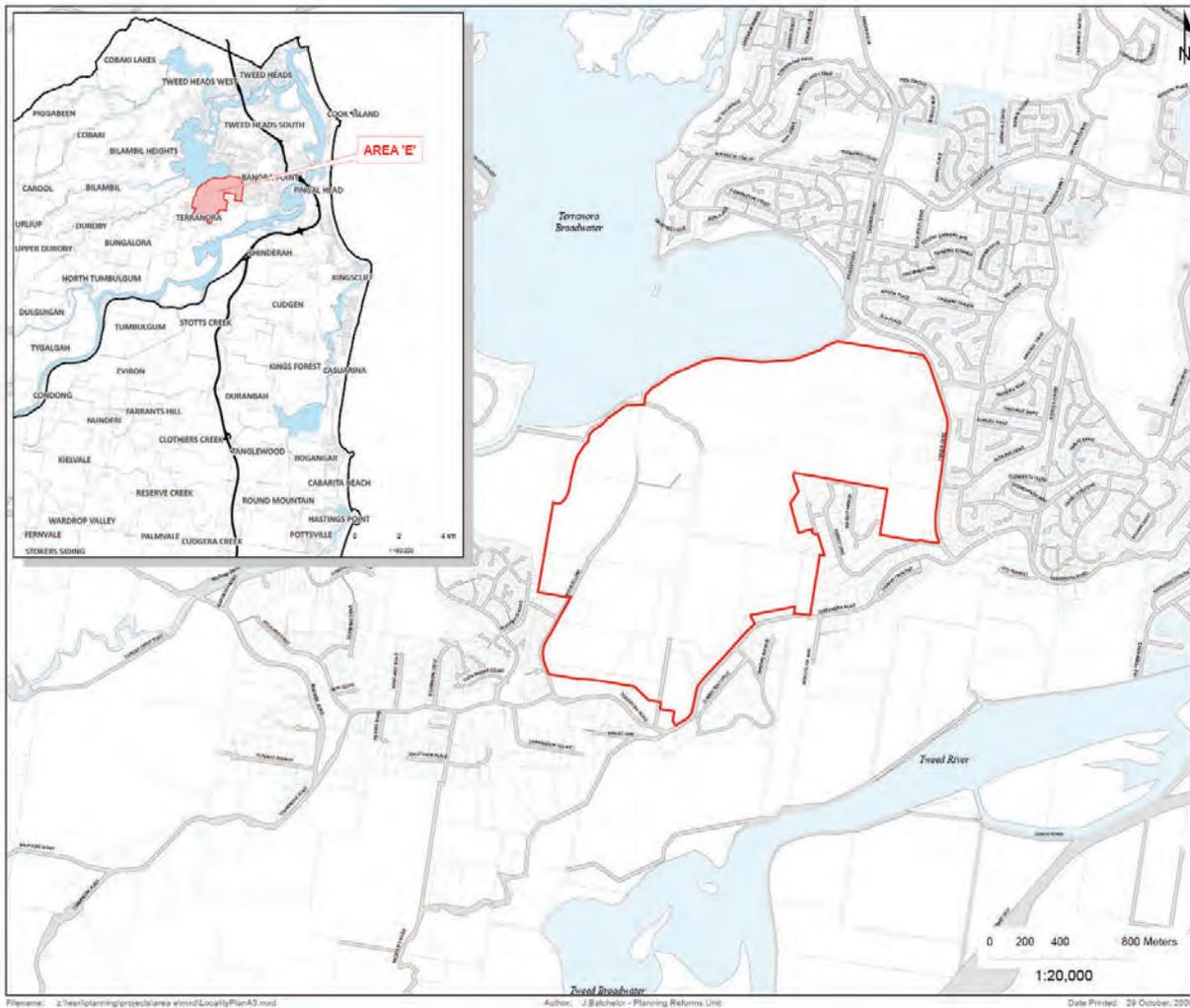
- 5(a) Special Uses (School);
- 2(c) Urban Expansion;
- 7(a) Environmental Protection (Wetlands and Littoral Rainforests); and
- 7(d) Environmental Project/Scenic Escarpment.

As part of the LEP Amendment, Clause 53D requires the following:

- (2) *The object of this clause is:*
  - (a) *to ensure a development control plan has been developed for the land to which this clause applies to avoid ad hoc development....*
- (3) *The consent authority must not consent to development on land to which this clause applies unless it is satisfied that:*
  - (a) *a development control plan has been prepared for the land, and*
  - (b) *any contaminated land has been identified to the extent necessary to allow for the appropriate location of sensitive land uses, and*
  - (c) *any wetland on the land will be restored and managed to the consent authority's satisfaction to restore freshwater wetland values and minimise breeding habitat for saltwater mosquitoes and biting midges, and*
  - (d) *the development will generally comply with the Tweed Urban Stormwater Quality Management Plan as adopted by the Council on 19 April 2000.*

In accordance with the above, Council officers have undertaken the preparation of a new locality based DCP, Draft Area E Urban Release Code ("the Code"), to facilitate the orderly and economic development of the Area E release area.

The Code is at an advanced stage and key strategies and a draft structure plan have already been presented to landowners as part of the landowner consultation engagement strategy. Following the current refinements and reaching a concluded position on the location of the future Broadwater Parkway by July, the Draft Code would have reached a stage where general public consultation and input is required. This is a critical stage of the plan preparation process as it will enable the broader community to evaluate and express their level of acceptance or otherwise to the proposed development strategies.



## KEY COMPONENT OF THE CODE

### Broadwater Parkway

As reported within the 19 April 2011 Council meeting (report can be found within Attachment 1), Area E is a complex site, with fragmented ownership of land and the intertwined relationship of onsite constraints. Principally, the location, design, connection and construction of the trunk road, known as Broadwater Parkway, linking Mahers Lane to Fraser Drive, is critical and essential infrastructure to the development of Area E.

As part of the DCP preparation, a number of potential alignments to Broadwater Parkway have been identified and considered at a desktop level. Generally, the constraints that impact upon the ultimate alignment of Broadwater Parkway include:

- Topography;
- Existing dwelling houses
- Areas of environmental protection; and
- Integration into the wider road network.

Through the landowner workshops hosted, several landowners whom own land on, or immediately adjoining the proposed alignment, have raised strong objection. The area of discussion is identified within Figure 1 below as 'Section 3'.

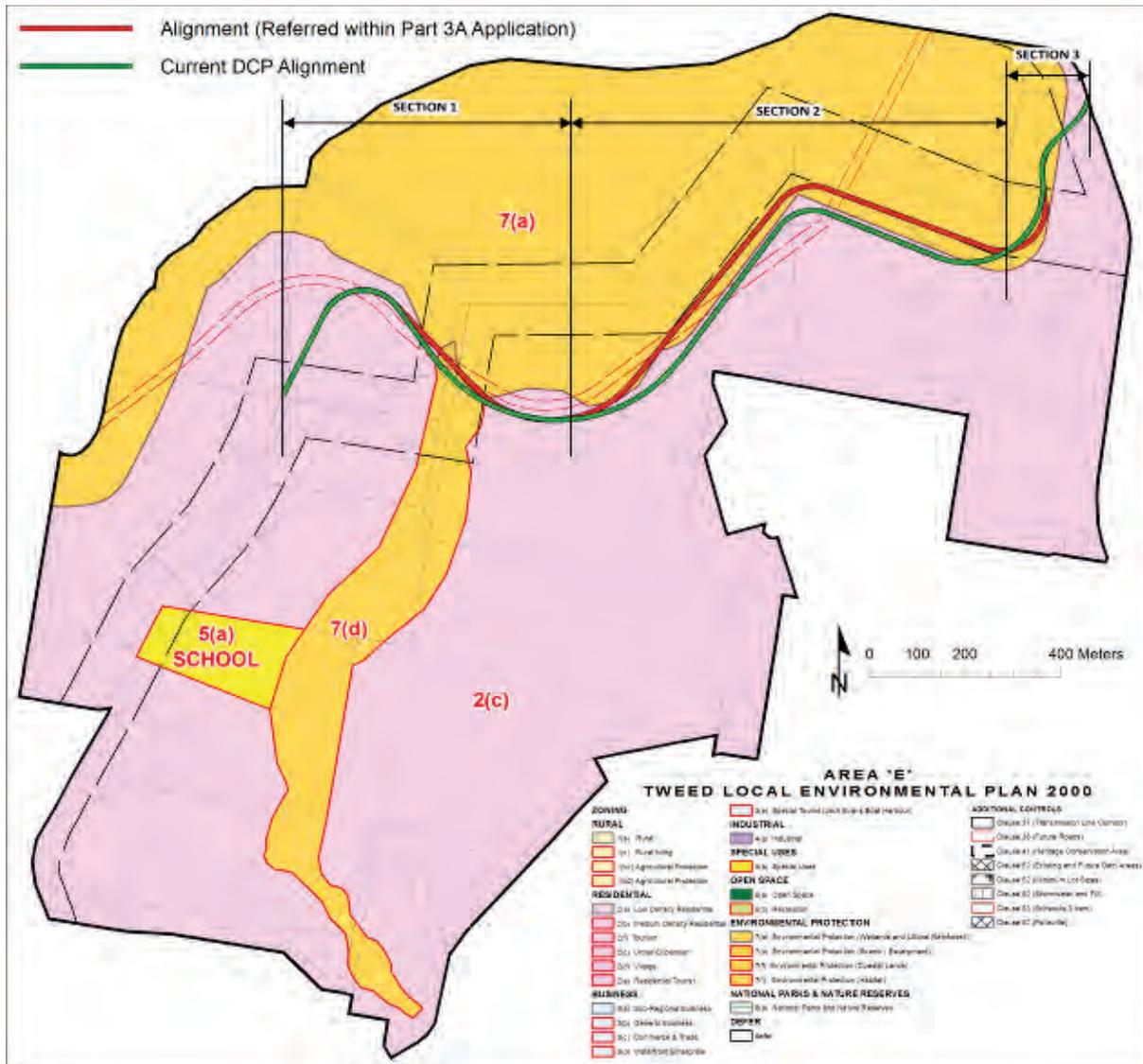


Figure 1 – Broadwater Parkway – Section 3

The alignment of Section 3 is highly constrained by way of slope, the presence of existing dwellings and the need to achieve satisfactory intersection separation. Desktop analysis suggests that this alignment intercepts Endangered Ecological Communities (EECs) at two separate points, though predominately the periphery of these areas. It is acknowledged that further ground truthing would need to be undertaken to confirm the status of the EEC and the ultimate alignment of the road.

To progress Broadwater Parkway Council will need to exercise its land acquisition powers to obtain the land necessary. Accordingly, Council officers have scheduled meetings to discuss the matter with these landowners prior to the July Council meeting.

#### Alternative Opportunities

Within the landowner meetings, alternative alignments have been suggested by a variety of landowners, several of those a briefly detailed below.

- Wetland Options

As part of the landowners consultation, a landowner cited that the alignment of Broadwater Parkway be adjusted to intersect the SEPP 14 Wetland, or 'hug' its extent and join further to the North. These options are displayed below in Figures 2 and 3

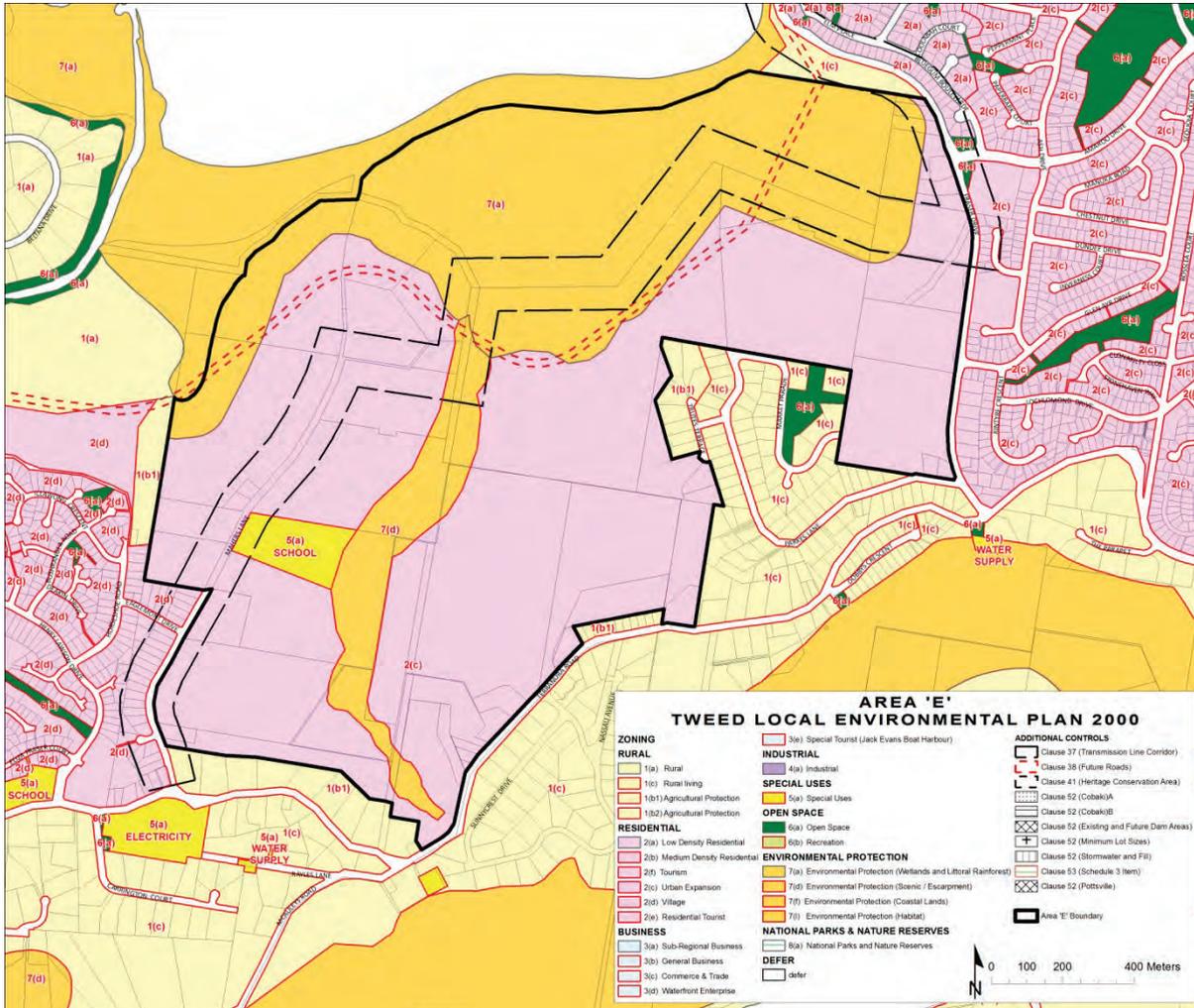


Figure 2 – Current Tweed LEP 2000 Road Corridor Annotation



**Figure 3 – Further Alternate Alignments**

The two routes displayed in Figure 3 were reviewed by James Warren and Associates in January 2008, concluding that both alignments will require the removal of relatively significant areas of native vegetation as follows:

*Road alignment Option 1 will result in the loss of 2.7 hectares (ha) of vegetation, including:*

- 0.58 ha of the EEC Swamp sclerophyll forest;
- 1.4 ha of vegetation which is considered to represent the EEC Lowland rainforest;
- 0.36 ha of the EEC Freshwater wetlands on the coastal floodplain;
- No threatened species will be lost; and
- Only minor indirect impacts are expected on the SEPP 14 wetland.

Road alignment Option 2 will result in the loss of 1.4 hectares (ha) of vegetation, including:

- 0.08 ha of the EEC Swamp sclerophyll forest;
- 0.65 ha of the EEC Freshwater wetlands on the coastal floodplain;
- No threatened species will be lost; and
- Loss of approximately 0.7 hectares of native vegetation from within the mapped SEPP 14 boundary.

Based on the assessments undertaken, the landowners prepared DCP that was previously submitted to Council concluded:

*"it is most unlikely that development consent under Part 4 of the Environmental Planning and Assessment Act or Major Project approval under Part 3A of the Environmental Planning and Assessment Act would be issued for the route through the wetland (Option 2) or the alignment on the eastern side of the wetland (Option 1) given the potential impacts on endangered ecological communities, wetland vegetation and potential changes which would arise to the hydrological regime within the wetland."*

The above findings are still considered valid within current planning frameworks and it is therefore concluded that these alignments should not be pursued further by Council. Should the landowners group now be of a different opinion to that previously stated, it is open to them to investigate this opportunity further.

- Further north

Opportunities to provide an alignment further to the north of Amaroo Drive may be present; however they have not been extensively investigated internally by Council officers. Any such alignment would result in significant tree clearing and the alignment being imposed over an additional number of properties, further fragmenting land.

- Further South

Further opportunities for the Broadwater Parkway alignment to be varied to the south have not been extensively investigated internally by Council officers. Whilst the topography of the land immediately limits any alignment further to the south, Council's engineers have also advised that it is highly desirable to discourage traffic 'rat-running' via Glen Ayr Drive or Amaroo Drive, necessitating network connection to be provided to the North of these streets. Should Council wish to explore alignments without these constraints, further design analysis could be undertaken.

### *Summary*

The alignment, funding and construction of Broadwater Parkway is possibly the greatest challenge to the development of Area E. The road is viewed as a necessity to Area E and provides very limited public benefit to the wider traffic network, resulting in it thus far not being included within the general works program contained within Council's Tweed Road Contributions Plan. A variety of alignments have been discussed throughout the LES, LEP and Code preparation processes.

In light of all the constraints the Code has progressed on the basis of the alignment displayed in Figure 1, as it was viewed as the best option considering triple bottom line sustainable development principles. To this point, no alternative alignment with corresponding engineering and environmental detail has been submitted to Council for consideration displaying an improved outcome.

## **MAJOR PROJECT UPDATE**

As reported within the 19 April 2011 Council report, NSW Department of Planning and Infrastructure (DoPI) is currently considering, as the consent authority a 321-lot community title subdivision within the eastern portion of Area E, under Part 3A of the Environmental Planning and Assessment Act 1979. This arrangement has been maintained under the savings and transitional arrangements included within recent Part 3A legislative changes.

The application seeks project approval for a 321-lot community title subdivision comprising 317 Residential lots, one community association lot (Lot 711), public reserves (Lots 436 and 710) and one drainage reserve lot (Lot 630) and the provision of all usual urban infrastructure including reticulated water, sewer, stormwater, power and telephone. Bulk earthworks across the site will also be required to create the proposed final landform. The application includes a temporary road access to Fraser Drive to service the first stages of the subdivision. Approval is also sought for the construction of a temporary site sales office on proposed Lot 1103.

The submission period has now closed and the submission lodged made available to the applicant for their consideration. In addition, DoPI raised the following issues that are relevant to the contents of this report:

*Area E Planning – the current proposal has limited regard to the development of plan for the whole Area E. The Department sees the major project application as being the first stage of a coordinated development of land across Area E. While the Department recognises that at the time of the EA being lodged limited progress had been made on the development of a DCP for the Area E site, it is understood this process is now sufficiently advanced for more integration to occur. However the Department currently understands the relevant planning documents for this area (Development Control Plan, Section 94 contributions plan and supporting documents) are expected to be on public display by June 2011. As such the DCP and supporting documents submitted to Council in 2008 (and prepared by Darryl Anderson) are now out of date.*

- *Failure to have sufficient regard to the current DCP process is inconsistent with the stated objects of the Act that clearly promote coordinated, orderly, and economic use and development of land. The Department requests the proponent more closely align their development with the current DCP process for Area E or clearly identify and justify departures from this process. The proponent should endeavour to undertake workshops/consultation with Council to ensure coordinated development outcomes are met.*
- *In this regard the Department generally supports the nature and content of Council's submission on the proposal – except where variations are proposed below.*

Relevant Council officers have held a preliminary meeting with the applicant, whom presented a revised subdivision layout for the site. Upon the receipt of detailed information, further review will be undertaken to ensure a positive outcome for the site.

**CONCLUSION:**

The draft Code has been prepared on the basis of extensive landowner consultation and having regard to the site conditions. The project has reached a stage where the principles, ideas, and controls within the code need to be 'tested' for their level of acceptance within the broader community, once the Broadwater Parkway issue is resolved. The provision of Broadwater Parkway is a key component of the Area E Urban Release Area and any alignment considered has a number of sensitivities. Council's internal working group for the Area E Urban Release Development Code consider that an appropriate alignment has generally been identified, however it is recognised that further options could be investigated or proposed for an alternative alignment. This would best be achieved through the future public exhibition of the Code.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

To progress Broadwater Parkway Council will need to exercise its land acquisition powers to obtain the land necessary. This action will have legal, resource and potentially financial implications.

**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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

1. Council report of 19 April 2011 (ECM 33945212)
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**13 [PR-CM] Visitor Carparking at Lot 1 DP 525502, No. 4 Second Avenue, Tweed Heads**

**ORIGIN:**

**Director Planning and Regulation**

**FILE NO: PF4980/130 Pt2**

**SUMMARY OF REPORT:**

Following earlier reports to Council on this matter, Council resolved the following in respect of a report to the Council meeting of 15 February 2011:

*“That:*

*The Owners Corporation for Strata Plan 35133 be advised in writing that Council is taking no further action in this matter and that the vehicles being parked on the driveway that is part of the common property not designated as visitor spaces either on the plans subject of the development consent or building approval is a private matter that can and should be dealt with by the Owner’s Corporation for the Strata Plan.”*

Council has received a letter from the Office of NSW Ombudsman (ONO) dated 26 May 2011 stating that a complaint had been received in respect of this matter, alleging that Council had failed to act on a complaint made by a unit owner of the subject premises.

In reviewing this complaint, the ONO has made the following suggestion under section 31AC of the Ombudsman Act 1974:

*“That Council take legal action against the body corporate for non-compliance with development consent 88/21.”*

The ONO has further requested a response to this suggestion, and if no action is to be taken, the reasons for this decision.

It is recommended that Council write to the ONO stating that it re-affirms its previous resolved position from the February 2011 Council Meeting, on the grounds that it is satisfied with the veracity and rationale of previously received legal advice that taking action against the Owners Corporation of the subject premises is not warranted, and that taking legal action on this matter is likely to incur significant costs to Council, both financially and in terms of staff resources.

**RECOMMENDATION:**

**That:**

- 1. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**
  
- 2. Council writes to the Office of NSW Ombudsman in response to their letter dated 26 May 2011, relating to the premises Lot 1 DP 525502, SP 35133, No. 4 Second Avenue, Tweed Heads, stating that it re-affirms its previous resolved position of 15 February 2011, on the grounds that it is satisfied with the veracity and rationale of previously received legal advice that taking action against the Owners Corporation of the subject premises is not warranted, and that taking legal action on this matter is likely to incur significant costs to Council, both financially and in terms of staff resources.**

**REPORT:**

**BACKGROUND:**

Council previously considered reports regarding this issue on 17 August, 16 November 2010, and 15 February 2011. At the Council meeting of 15 February 2011 the following was resolved:

*"That:*

*The Owners Corporation for Strata Plan 35133 be advised in writing that Council is taking no further action in this matter and that the vehicles being parked on the driveway that is part of the common property not designated as visitor spaces either on the plans subject of the development consent or building approval is a private matter that can and should be dealt with by the Owner's Corporation for the Strata Plan."*

**Complaint received by the Office of NSW Ombudsman**

By letter dated 26 May 2011, Council received a letter from the Office of NSW Ombudsman (ONO) stating that a complaint had been received in respect of this matter, alleging that Council had failed to act on a complaint made by a unit owner of the subject premises. A copy of this letter is provided as a confidential attachment to this report, as it makes direct reference to a legal opinion received from Council's solicitors.

In reviewing this complaint, the ONO has made the following suggestion under section 31AC of the Ombudsman Act 1974:

*"That Council take legal action against the body corporate for non-compliance with development consent 88/21."*

The ONO has further requested a response to this suggestion, and if no action is to be taken, the reasons for this decision.

Section 31AC of the Act states:

**"31AC Ombudsman may furnish information to public authority**

- (1) *The Ombudsman may, at any time:*
  - (a) *furnish to a public authority information obtained by the Ombudsman in discharging functions under this Act with respect to a complaint against or relating to the public authority, and*
  - (b) *make such comments to the authority with respect to the complaint as he or she thinks fit.*
- (2) *The Ombudsman may also furnish any or all of the information referred to in subsection (1) to any other public authority, and may make such comments (if any) to that public authority as the Ombudsman considers appropriate, if:*
  - (a) *the Ombudsman is satisfied that the information concerned is relevant to the functions, policies, procedures or practices of that other public authority, and*

- (b) *the information does not disclose any personal information (within the meaning of the Privacy and Personal Information Protection Act 1998 or the Health Records and Information Privacy Act 2002).*"

Under this section the ONO has the ability to make comment or suggested actions to Council, but Council is under no obligation to act on this advice.

In considering the advice of the ONO, it is recommended that Council write to the ONO stating that it re-affirms its previous resolved position from the February 2011 Council Meeting, on the grounds that it is satisfied with the veracity and rationale of previously received legal advice that taking action against the Owners Corporation of the subject premises is not warranted, and that taking legal action on this matter is likely to incur significant costs to Council, both financially and in terms of staff resources.

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Legal advice from Council's solicitors was reported on this matter to the 15 February 2011 Meeting. The advice clearly gave the opinion that given the history of approvals relating to the development on the subject premises, and the subsequent actions of individual unit owners on this site, there was insufficient grounds to necessitate Council initiating legal action on the car parking matter, and that any inconsistencies with the original car parking layout would be more appropriately dealt with through the Owners Corporation. It is also acknowledged that a legal action of this nature would likely to be a major resource burden upon Council.

#### **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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. **Confidential Attachment** letter from the Office of the NSW Ombudsman Office 26 May 2011 (ECM 34273682)
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## REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

### 14 [CNR-CM] Water Demand Management Strategy - Residential Water Saving Rebate

#### ORIGIN:

Water

#### SUMMARY OF REPORT:

At its meeting on 17 May 2011, Council adopted the three year Implementation Plan for the Demand Management Strategy (DMS). One of the key elements described and budgeted for in the DMS Implementation Plan is a water saving retrofit/rebate program for residential water customers over the next three years.

As outlined in the DMS Implementation Plan, \$531,700 has been budgeted for the Residential Water Saving Rebate. It is planned and ready to be launched in July 2011 and will be available to residential water customers until 30 June 2014.

In the first instance, the rebate will be up to \$70 towards the cost of water efficient, WELS rated showerheads, tap aerators, replacement spouts and the associated installation costs. Participation in the rebate and its effectiveness over the first year will be monitored and it may be modified in years two and/or three.

#### RECOMMENDATION:

**That Council in accordance with the three year Demand Management Strategy Implementation Plan adopts a Residential Water Saving Rebate Scheme for the 2011/2012 financial year which provides a rebate of 50% of the combined cost of showerheads and/or tap aerators and/or replacement spouts and/or associated installation costs up to a maximum of \$70 for property owners connected to the Tweed District Water Supply.**

## **REPORT:**

The DMS recommended the implementation of a water saving retrofit/rebate program for residential water users. The focus in the DMS was a scheme for water efficient showerheads but other water saving products and a retrofit option were to be assessed.

After a consideration of options and retrofit/rebate schemes in place elsewhere in Australia, a Residential Water Saving Rebate has been chosen for the Tweed Shire. The first year of this rebate will run from 1 July 2011 to 30 June 2012. Monitoring of the participation rate, estimated water savings and the actual water consumption before and after the installation of water saving products will be used to evaluate the effectiveness of the program. This information will be used as the basis for modifying the rebate, if necessary, prior to continuation in its second year. A rebate for replacing single flush toilets with dual flush will also be considered in years two and/or three.

In the first year, the rebate will be 50% of the combined cost of showerhead/s and/or tap aerators and/or replacement spouts and/or associated installation costs up to a maximum rebate of \$70. The showerhead/s must be three-star WELS rated, the tap aerator/s must be three-star WELS rated and the replacement spout/s must be four-star WELS rated. Any combination of showerheads/aerators/spouts is eligible for the rebate but applicants can only claim one rebate per household. They can claim for a maximum of two of any individual product.

Since the rebate involves the installation of new fittings in the home, applicants for the rebate must be either the owner or authorised managing agent of the property where the products are being installed. Tenants will be able to initiate the work by informing their landlords or property managers, who will need to apply for the rebate.

As previously reported in the DMS Implementation Plan approximately 50% of all households have already participated in Council's past showerhead programs. The Residential Water Saving Rebate will target those households that have as yet not taken part. The Communications and Marketing Unit is being consulted about the most effective ways to target these customers. The rebate will be widely promoted on Council's website, the Tweed Link, other local papers and on radio.

### **Participation and Estimated Water Savings**

The adopted DMS Implementation Plan allows for an annual budget of \$160,000 to fund the residential retrofit/rebate program. With the rebate in the first year being up to \$70 per household, this translates to approximately 2500 participating households in the first year. This represents about 10% of all residential water connections.

Based on the performance of showerhead retrofit/replacement programs in other places (e.g. Sydney Water, Rous Water) a water saving of about 15kL/annum can be expected per household. If the showerhead, tap aerators and spouts are all replaced, the water saving could be even higher, and will be assessed as the rebate program is implemented.

### **Retrofit Option**

The rebate program is considered superior to funding a retrofit service:

- A retrofit program involving plumbers/contractors installing showerheads and other water saving products for customers would cost in the vicinity of \$100 per household, thus reducing the number of households which could participate. The rebate program compensates by enabling households to claim up to 50% of the cost of installation if the householder desires.
- Options are already available to customers that require an installation service. Private companies such as Watts Green and Aspect Energy, working periodically in the Tweed Shire, already provide an energy/water audit service which includes the installation of a free showerhead under the NSW Government's Energy Saving Scheme. Statistics on showerhead installations carried out by these firms are obtained each quarter.

### **Application Process**

Application forms for the rebate will be available from Council offices and the Council website. Applicants will need to collect or download the form, fill it out and return it to Council with their signature and receipts for the products/work. Applications will be processed and applicants will be sent a cheque for the calculated rebate amount.

All applicant and application details will be stored in a secure spreadsheet/database for use in performance reporting and program evaluation. Completed forms and payment details will be stored using Council's records management system.

Inquiries about the rebate will be handled by the Contact Centre, in the first instance and for more complex inquiries, by the Water Unit.

### **Auditing**

The mandatory collection of old showerheads as a condition of the rebate was considered but deemed to be impractical for Council and inconvenient for applicants. An auditing process will be implemented instead. A random selection of participants will be visited quarterly to inspect the water saving products installed under the rebate. The results of these audits will be used to guide the future direction of the rebate and the services being provided. Applicants will be made aware of the possibility of an audit on the rebate application form.

### **Annual Budget**

As the adopted DMS Implementation Plan allows for an annual budget of \$160,000 to fund the rebate scheme, applications will be processed on a 'first come, first served' basis. Once the budget of \$160,000 has been expended in any single financial year the rebate will need to be suspended and reintroduced (with any changes) at the start of the following year.

From 1 July 2011 to 30 June 2012 the allocated budget allows for up to 2500 participating households. Although the uptake rate cannot be accurately predetermined, this allowance, representing about 10% of all residential water connections, should be adequate to continue the rebate for the entire year.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The adopted DMS Implementation Plan allows for an annual budget of \$160,000 to fund the residential retrofit/rebate program. With the rebate in the first year being up to \$70 per household, this translates to approximately 2500 participating households in the first year.

**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](http://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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**15 [CNR-CM] Contract EC2010-062 Construction of Burringbar Mooball Village Sewerage Reticulation Scheme**

**ORIGIN:**

**Water**

**SUMMARY OF REPORT:**

Tenders were invited for the Construction of Burringbar Mooball Village Sewerage Reticulation Scheme.

Eight tenders were received by the advertised closing date of 22 December 2010.

Recommendations have been formulated based on defined selection criteria as included within this report. The results of the tender assessment process are detailed in **CONFIDENTIAL ATTACHMENT A**. Based on price and non-price criteria it is recommended that Council delegates authority to the General Manager to accept the conforming tender from Ledonne Constructions Pty Ltd for EC2010-062 Construction of Burringbar Mooball Village Sewerage Reticulation Scheme.

**RECOMMENDATION:**

**That:**

- 1. The General Manager be given delegated authority to accept the tender from Ledonne Constructions Pty Ltd for the Schedule of Rates and Lump Sums amount of \$3,603,199.00 inclusive of GST for EC2010-062 Construction of the Burringbar and Mooball Village Sewerage Reticulation Scheme following advice or otherwise from the Minister for Primary Industries on the eligibility of the project for grant funding.**
- 2. The General Manager be given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.**
- 3. The General Manager writes to the Minister for Primary Industries to request Stage 2 and 3 approval of grant funding for the Burringbar and Mooball Sewerage Scheme by 26 July 2011.**
- 4. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
  - (c) confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**

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

## **REPORT:**

### **Background**

The villages of Burringbar and Mooball do not currently have a sewage collection system, with the majority of residences within the proposed sewer catchment area served by septic tanks and on site disposal via trench absorption system. Due to inefficient performance of effluent disposal areas, clay soils and high average rainfall, effluent overflows to stormwater drainage system often occur. Operation of the existing on site wastewater management systems poses potential risks to public health and the environment.

In response to the need to improve the wastewater management in the two villages an Options Investigation report was prepared. Following consideration of several sewage collection, transport and treatment options Council adopted a combined modified gravity sewage collection and transport system with a Wastewater Treatment Plant located on Pottsville Mooball Road.

A Review of Environmental Factors was prepared for the preferred option and the Development Consent for the proposed scheme issued in March 2009.

A procurement strategy was developed and identified efficiencies in delivery of the scheme as two distinct work packages being:

- Construction of Burringbar and Mooball Village Sewerage Reticulation Scheme (Tender EC2010-062)
- Burringbar Mooball Wastewater Treatment Plant (Tender EC2010-069)

This report relates only to Construction of Burringbar Mooball Sewerage Reticulation Scheme (Tender EC2010-062). A separate report is provided for Burringbar Mooball Wastewater Treatment Plant (Tender EC2010-069)

### **State Government Funding**

The Burringbar Mooball Scheme was accepted for partial funding under the Country Towns Water Supply and Sewerage (CTWSS) program in October 2007. In March 2011 the Minister for Water confirmed that funds under the program were fully committed until June 2014.

On 15 March 2011 Council resolved to delay the award of contacts EC2010-062 and EC2010-069 to seek confirmation on the availability of future funding under CTWSS. Subsequently Council has written to and met with the Minister to discuss these issues but to date no formal advice or correspondence has been provided regarding the availability of funding.

Following confirmation by Council of a preferred tenderer a final Stage 3 application for CTWSS funding will be issued to the Minister and NSW Office of Water.

If advice regarding CTWSS funding is not received by 26 July 2011 Council will be required to proceed to engage contractors to avoid incurring the additional costs of retendering works as well as the potential cost escalation in any future submitted tenders.

### **Tender Background**

Tenders were invited for the Construction of Burringbar Mooball Sewerage Reticulation Scheme (Tender EC2010-062). Eight tenders were received by the advertised closing date of 22 December 2010.

The work to be performed under Contract EC2010-062 will comprise of the installation of conventional gravity sewer transportation system, domestic pump pressure transportation system, sewer rising mains, pump station construction and the provision of all materials, plant and labour and the performance of all operations of whatever kind necessary for the complete and proper construction as designed by Tweed Shire Council.

### **Tenders Received**

A total of 8 responses were recorded for EC2010-062 at the Tender Box opening on 22 December 2010 as follows:

### **Evaluation Criteria**

Tenders were evaluated based on the criteria listed in Clause 8.4 contained within the Conditions of Tendering. These criteria are listed below:

#### **Tenderer**

Coops Drainage and Civil  
Civil Team Engineering Pty Ltd  
Demac Constructions Pty Ltd  
Eire Contractors Pty Ltd  
Ledonne Constructions Pty Ltd  
MJ & SL Seery Excavations Pty Ltd  
National Tapping Services  
Paynter Dixon

<b>Criterion</b>	<b>Weighting %</b>
Tender Price (Total Normalised Score)	60
Quality Assurance	10
Safety management	10
Environmental Management	5
Contractors team experience and resources	10
Methodology and time program	5
Total	100

In summary, the evaluation was based on value for money, availability period, quality assurance, technical management, environmental management, financial resources; current commitments and previous performance.

### **Tender Evaluation**

The evaluation was conducted by Council's Tender Assessment Panel, consisting of Council's Capital Works Engineer and two of Council's Contract Engineers.

The general terms of reference for the Assessment Panel were as follows:

- Assess the tenders submitted in accordance with the specified criteria;
- Undertake an individual initial assessment of the tender price and non-price data;
- Review any written responses;

- Identify and seek further clarifications (as required) from the tenders and review any qualifications and departures; and
- Score all responses against the specified price and non-price assessment criteria and agreed assessment criteria weightings.

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

- (c) confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret.

### **Expected Project Timeframe**

The expected duration of the contract is 52 weeks.

### **Tender Recommendation**

Based on the results of the tender evaluation, it is recommended that the tender submitted by Ledonne Constructions Pty Ltd be accepted for the Contract EC2010-062 – Construction of Burringbar Mooball Village Sewerage Reticulation Scheme.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

This tender process is in accordance with Section 55 of the Local Government Act 1993 and Part 7 (Tendering) of the Local Government (General) Regulation 2005.

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.

### **POLICY IMPLICATIONS:**

The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contracts Management Process document and Tenders Procedure.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://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 Report EC2010-062 - Construction of Burringbar and Mooball Village Sewer Reticulation Scheme (ECM 34335865)
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**16 [CNR-CM] Contract EC2010-069 Burringbar and Mooball Wastewater Treatment Plant – Design, Construction, Testing and Commissioning**

**ORIGIN:**

**Water**

**SUMMARY OF REPORT:**

Tenders were invited for the Burringbar and Mooball Wastewater Treatment Plant – Design, Construction, Testing and Commissioning.

Seven tenders were received by the advertised closing date of 22 December 2010.

Recommendations have been formulated based on defined selection criteria as included within this report. The results of the tender assessment process are detailed in **CONFIDENTIAL ATTACHMENT A**. Based on price and non-price criteria it is recommended that Council delegates authority to the General Manager to accept the conforming tender from AJ Lucas Operations Pty Ltd for EC2010-069 Burringbar and Mooball Wastewater Treatment Plant – Design, Construction, Testing and Commissioning.

**RECOMMENDATION:**

**That:**

- 1. The General Manager be given delegated authority to accept the tender from AJ Lucas Operations Pty Ltd for the Schedule of Rates and Lump Sums amount of \$2,866,225.00 inclusive of GST for EC2010-069 Burringbar and Mooball Wastewater Treatment Plant – Design, Construction, Testing and Commissioning following advice or otherwise from the Minister for Primary Industries on the eligibility of the project for grant funding.**
- 2. The General Manager be given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.**
- 3. The General Manager writes to the Minister for Primary Industries to request Stage 2 and 3 approval of grant funding for the Burringbar and Mooball Sewerage Scheme by 26 July 2011.**
- 4. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
  - (c) confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**

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

## **REPORT:**

### **Background**

The villages of Burringbar and Mooball do not currently have a sewage collection system, with the majority of residences within the proposed sewer catchment area served by septic tanks and on site disposal via trench absorption system. Due to inefficient performance of effluent disposal areas, clay soils and high average rainfall, effluent overflows to stormwater drainage system often occur. Operation of the existing on site wastewater management systems poses potential risks to public health and the environment.

In response to the need to improve the wastewater management in the two villages an Options Investigation report was prepared. Following consideration of several sewage collection, transport and treatment options Council adopted a combined modified gravity sewage collection and transport system with a Wastewater Treatment Plant located on Pottsville Mooball Road.

A Review of Environmental Factors was prepared for the preferred option and the Development Consent for the proposed scheme issued in March 2009.

A procurement strategy was developed and identified efficiencies in delivery of the scheme as two distinct work packages being:

- Construction of Burringbar and Mooball Village Sewerage Reticulation Scheme (Tender EC2010-062)
- Burringbar Mooball Wastewater Treatment Plant (Tender EC2010-069)

This report relates only to Burringbar Mooball Wastewater Treatment Plant (Tender EC2010-069). A separate report is provided for Construction of Burringbar Mooball Sewerage Reticulation Scheme (Tender EC2010-062).

### **State Government Funding**

The Burringbar Mooball Scheme was accepted for partial funding under the Country Towns Water Supply and Sewerage (CTWSS) program in October 2007. In March 2011 the Minister for Water confirmed that funds under the program were fully committed until June 2014.

On 15 March 2011 Council resolved to delay the award of contacts EC2010-062 and EC2010-069 to seek confirmation on the availability of future funding under CTWSS. Subsequently Council has written to and met with the Minister to discuss these issues but to date no formal advice or correspondence has been provided regarding the availability of funding.

Following confirmation by Council of a preferred tenderer a final Stage 3 application for CTWSS funding will be issued to the Minister and NSW Office of Water.

If advice regarding CTWSS funding is not received by 26 July 2011 Council will be required to proceed to engage contractors to avoid incurring the additional costs of retendering works as well as the potential cost escalation in any future submitted tenders.

### **Tender Background**

Tenders were invited for Burringbar and Mooball Wastewater Treatment Plant – Design, Construction, Testing and Commissioning EC2010-069. Seven tenders were received by the advertised closing date of 22 December 2010.

The work to be performed under Contract EC2010-069 will comprise of the design and construction of a new 750 EP (Equivalent Population) Wastewater Treatment Plant. This will include the testing and commissioning of new works to meet performance requirements including final effluent quality.

### **Tenders Received**

A total of 7 responses were recorded for EC2010-069 at the Tender Box opening on 22 December 2010 as follows:

#### **Tenderer**

Aim Water  
AJ Lucas Operations Pty Ltd  
Aquatec-Maxcon Pty Ltd  
Innaco Pty Ltd  
National Buildplan Group Pty Ltd  
Paynter Dixon Queensland Pty Ltd  
Stirloch Pty Ltd

### **Evaluation Criteria**

Tenders were evaluated based on the criteria listed in Clause 8.4 contained within the Conditions of Tendering. These criteria are listed below:

<b>Item</b>	<b>Criterion</b>	<b>Weighting %</b>
1	Tender Price (Assessed Tender Cost and whole of life costs)	40
2	Quality and Suitability for Purpose of Concept Design	20
3	Environmental & Quality Systems and Previous Performance	2.5
4	Occupational Health and Safety Systems and Previous Performance	2.5
5	Contractor's Demonstrated Experience on Similar Projects	15
6	Key Site & Company Personnel Experience	5
7	Program and Methodology	5
8	Past Performance of Nominated Equipment	10
	<b>Total</b>	<b>100</b>

In summary, the evaluation was based on value for money, availability period, quality assurance, technical management, environmental management, financial resources; current commitments and previous performance.

### **Tender Evaluation**

The evaluation was conducted by Council's Tender Assessment Panel, consisting of Council's Capital Works Engineer, Contract Engineer and Senior Design Engineer.

The general terms of reference for the Assessment Panel were as follows:

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- Assess the tenders submitted in accordance with the specified criteria;
- Undertake an individual initial assessment of the tender price and non-price data;
- Review any written responses;
- Identify and seek further clarifications (as required) from the tenders and review any qualifications and departures; and
- Score all responses against the specified price and non-price assessment criteria and agreed assessment criteria weightings.

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

- (c) confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret.

### **Expected Project Timeframe**

The expected duration of the contract is 48 weeks.

### **Tender Recommendation**

Based on the results of the tender evaluation, it is recommended that the tender submitted by AJ Lucas Operations Pty Ltd be accepted for the Contract EC2010-069 Burringbar and Mooball Wastewater Treatment Plant – Design, Construction, Testing and Commissioning.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

This tender process is in accordance with Section 55 of the Local Government Act 1993 and Part 7 (Tendering) of the Local Government (General) Regulation 2005.

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

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

**POLICY IMPLICATIONS:**

The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contracts Management Process document and Tenders Procedure.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

*To view any "non confidential" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://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 Report EC2010-069 - Burringbar and Mooball Wastewater Treatment Plant – Design, Construction, Testing and Commissioning (ECM 34335880)
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**17 [CNR-CM] Water Demand Management Strategy – Tweed Shire Council Policy on Rainwater Tanks in Urban Areas**

**ORIGIN:**

**Water**

**SUMMARY OF REPORT:**

At its meeting on 17 May 2011, Council adopted the three year Implementation Plan for the Demand Management Strategy (DMS). One of the key elements described and budgeted for in the DMS Implementation Plan is a rainwater tank program designed to promote the installation of rainwater tanks as a way of reducing the consumption of water from the reticulated supply for non-potable uses.

The first step in implementing the rainwater tank program was a review of Council's Rainwater Tank Policy which has now been completed. The revised Policy entitled "Rainwater Tanks in Urban Areas" applies to rainwater tanks installed for residential non-potable use in urban areas of the Tweed Shire that are connected to the reticulated water supply. It is now ready to be placed on exhibition for public comment prior to finalisation and adoption.

In keeping with Council's adopted Demand Management Strategy, the Policy is complimentary to BASIX and aims to go a step further to reduce water demand in the Tweed Shire. While Council cannot override the BASIX requirements, for single dwellings the Policy recommends a minimum tank size of 5000 litres, capturing rainwater from a roof catchment area of 160 square metres or more. For multi-dwellings, the maximum feasible tank size and 80% to 90% of the roof catchment area are recommended. Council will liaise with the Department of Planning and Infrastructure to resolve any differences between the Policy and the State Government's BASIX requirements for new development.

**RECOMMENDATION:**

**That Council exhibits the Policy entitled "Rainwater Tanks in Urban Areas" for a period of 28 days and accepts public submissions for a period of 42 days commencing from 4 July 2011 to 15 August 2011 as per Section 160 of the Local Government Act 1993.**

## REPORT:

Council's revised policy on rainwater tanks entitled "Rainwater Tanks in Urban Areas" applies to rainwater tanks installed for residential non-potable use in urban areas of the Tweed Shire that are connected to the reticulated water supply.

The objectives of the policy are:

- to facilitate the installation and use of domestic rainwater tanks in Tweed Shire to:
  - supplement the Tweed Shire bulk water supply;
  - reduce the consumption of treated potable water for non-potable uses; and
  - reduce the intensity and frequency of stormwater runoff from urban areas.
- to outline the necessary requirements to protect the public water supply from contamination and to ensure public health is not compromised.

A principal driver for this review is the need to ensure that Council's policy on rainwater tanks is consistent with Council's adopted Demand Management Strategy (DMS). The implementation of Council's DMS has set a short-term residential water consumption target of 180 litres per person per day. One of the ways to achieve this target is to reduce the consumption of treated potable water from the public water supply that is used for non-potable uses. Council is therefore encouraging the installation of rainwater tanks to provide non-potable water for outdoor uses, flushing toilets and cold water for washing machines. For this approach to be successful, a minimum tank size of 5000 litres with a minimum roof catchment area of 160 square metres is recommended for single dwellings. For duplexes, triplexes and other multi-dwellings, it is recommended that the rainwater tank volume be maximised with 80% to 90% of the roof catchment area to be connected where possible.

Council's Rainwater Tank Policy was first adopted by Council in November 2005 and last revised in November 2007. This version has involved a significant update, including but not limited to:

- matching the Policy recommendations relating to minimum tank size and connected roof area with those in the Demand Management Strategy;
- clarifying Council's approval requirements for rainwater tanks in urban areas and updating relevant approval and permit application forms;
- updating State Environmental Planning Policy conditions for exempt and complying development;
- improving and expanding information relating to general requirements for residential rainwater tank installations;
- refining details provided about tank maintenance and water quality with up to date information from NSW Health and enHEALTH; and
- including additional diagrams of typical tank installations.

Once adopted, the revised policy will be promoted widely in the community through the Tweed Link, Council's website and local media. Specific promotional activities and mail outs will target tank suppliers/distributors, plumbers and builders. As per the three year Implementation Plan adopted by Council at its meeting of 17 May 2011, rainwater tank education program will be developed, focussing on the correct use and maintenance of rainwater tanks, ensuring health and backflow prevention requirements are met. Information workshops will be conducted for Council staff, tradespeople such as plumbers and builders,

as well as other interested customers. Education programs for primary and secondary schools will also be developed and delivered to interested schools.

The take-up of rainwater tanks in response to Council's Policy will be monitored with a view to offering a rebate if it is warranted. The NSW Government rebate on rainwater tanks is due to finish on 30 June 2011 and the Federal rebate ended suddenly on 10 May 2011.

### **Consultation**

The revised policy has been prepared using input from a number of Council's internal stakeholders including the Water, Building and Environmental Health, Natural Resources Management, Planning and Infrastructure and Planning Reforms Units.

It is now proposed that the policy be placed on exhibition for public comment for a period of six (6) weeks as per Section 160 of the Local Government Act 1993. This will allow external stakeholders to comment on the revised policy.

Once adopted, the policy will be promoted widely in the community, in particular amongst tank suppliers and distributors, plumbers and builders.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Funding for the rainwater tank promotions and education program are entirely covered by the DMS Implementation Plan Budget adopted by Council at its meeting on 17 May 2011.

### **POLICY IMPLICATIONS:**

The revised policy entitled "Rainwater Tanks in Urban Areas" replaces Council's existing Rainwater Tank 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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

1. Tweed Shire Council Draft Policy, Rainwater Tanks in Urban Areas, Version 2 (ECM 34281090)
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**18 [CNR-CM] Tender Report - CNR2011-19 Panel of Providers for Provision of Community Options Care Program Services**

**ORIGIN:**

**Community and Cultural Services**

**SUMMARY OF REPORT:**

This report outlines the 2011 tender for the panel of providers for the Provision of Community Options Care Program Services for a twelve (12) month period with the option for a further two (2) by twelve (12) month extensions. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, as well as the fact that Community Options Clients may already be known to some of these providers.

A list of the tendered rates for services is included in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the recommended tenders.

**RECOMMENDATION:**

**That:**

- 1. The following tenders for CNR2011-19 - Provision of Community Options Care Program Services be accepted for inclusion in Council's Panel of Providers for the Provision of Community Options Care Program Services.**

<b>Service Provider Name</b>	
1	Aidacare Pty Ltd
2	Angela Brown - Occupational Therapist
3	Australian Homecare Services Pty Ltd
4	Canowindra Tweed Byron Aged & Disabled Aboriginal Corporation
5	Drake Australia Pty Ltd
6	Home Instead Senior Care Gold Coast
7	Integrated living Australia Ltd
8	Jody Richter Podiatry Services
9	Just Better Care - Gold Coast
10	Kinder Caring Home Support Services Pty Ltd
11	Kingscliff Coast Limousines
12	Kingscliff Podiatry
13	L & C Property Maintenance
14	Murwillumbah Meals on Wheels Service Inc
15	Northern Rivers Insight Counselling & Consultancy
16	Packo's Mowing Service
17	Palm Beach Share 'N' Care Inc
18	Pavlos Tweed Valley Limousines
19	RSL Lifecare Ltd
20	Stanhope Healthcare Services
21	The Frank Whiddon Masonic Homes of New South Wales
22	Tweed Coast Food Services Inc
23	Tweed Valley Respite Services Inc
24	United Protestant Association of NSW Ltd

2. The appointment of service providers to undertake work will be in accordance with the procedure contained within this report.
  
3. The ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price. 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:**

This report outlines the 2011 tender for the panel of providers for the Provision of Community Options Care Program Services for a twelve (12) month period with the option for a further two (2) by twelve (12) month extensions. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation. A sample list of the tendered rates for Monday - Friday services is included in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the recommended tenders.

The following selection criteria was determined and used in assessing the Tenders received:

No	Criteria
1	Experience of Contractor
2	Compliance with service standards
3	Quality and Safety Systems
4	Skills of contractors staff
5	Capability
6	Tendered rates

**Tenders received**

A total of 24 responses were received and evaluated for tender CNR2011-019 as below

	Service Provider Name	Team & Experience	Management Methodology	Performance History	Demonstrated Capability	Resources	Existing Provider with COPS
1	Aidacare Pty Ltd	✓	✓	✓	✓	✓	
2	Angela Brown - Occupational Therapist	✓	✓	✓	✓	✓	✓
3	Australian Homecare Services Pty Ltd	✓	✓	✓	✓	✓	✓
4	Canowindra Tweed Byron Aged & Disabled Aboriginal Corporation	✓	✓	✓	✓	✓	✓
5	Drake Australia Pty Ltd	✓	✓	✓	✓	✓	
6	Home Instead Senior Care Gold Coast	✓	✓	✓	✓	✓	✓
7	Integrated Living Australia Ltd	✓	✓	✓	✓	✓	
8	Jody Richter Podiatry Services	✓	✓	✓	✓	✓	✓
9	Just Better Care - Gold Coast	✓	✓	✓	✓	✓	✓
10	Kinder Caring Home Support Services Pty Ltd	✓	✓	✓	✓	✓	
11	Kingscliff Coast Limousines	✓	✓	✓	✓	✓	✓
12	Kingscliff Podiatry	✓	✓	✓	✓	✓	✓
13	L & C Property Maintenance	✓	✓	✓	✓	✓	✓
14	Murwillumbah Meals on Wheels Service Inc	✓	✓	✓	✓	✓	✓
15	Northern Rivers Insight Counselling & Consultancy	✓	✓	✓	✓	✓	✓
16	Packo's Mowing Service	✓	✓	✓	✓	✓	✓
17	Palm Beach Share 'N' Care Inc	✓	✓	✓	✓	✓	✓
18	Pavlos Tweed Valley Limousines	✓	✓	✓	✓	✓	✓
19	RSL Lifecare Ltd	✓	✓	✓	✓	✓	✓
20	Stanhope Healthcare Services	✓	✓	✓	✓	✓	
21	The Frank Whiddon Masonic Homes of New South Wales	✓	✓	✓	✓	✓	✓
22	Tweed Coast Food Services Inc	✓	✓	✓	✓	✓	✓
23	Tweed Valley Respite Services Inc	✓	✓	✓	✓	✓	✓
24	United Protestant Association of NSW Ltd	✓	✓	✓	✓	✓	✓

## Tender Evaluation

The Tender Evaluation was conducted by the Manager Community and Cultural Services and the Coordinator Community Options.

The majority of tenders received are currently providing Community Options Care Program Services and are noted in the above table. The five (5) new providers as well as existing providers have all been assessed using the criteria below:

- Comparison of tendered schedule of fees received (**ATTACHMENT A**)
- Level of appropriate resources
- Management methodology
- Contractor's team and experience
- Demonstrated capability to perform the services as specified
- General performance history
- Relevant experience with contracts of a similar nature

## Procedure in selecting a provider to undertake work:

The following considerations will be taken into account when choosing a provider to undertake work/services for each client:

- Capacity of service provider (i.e. staff available)
- Client's existing or previous relationship with service provider
- Skill mix of staff to client needs (eg. male worker or worker with experience with mental health clients)
- Locality of client, matching with locality of staff from service provider
- Cost effectiveness of service
- Efficiency of service provider to respond to providing quotes, invoicing and client feedback as required.

At least two (2) people (usually a Case Manager and the Coordinator or Quality & Community Liaison Leader) will be involved in the approval process of the service provider for each service request for each client.

**Schedule of fees:**

A copy of the schedule of fees received 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 services 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 a combination of the above criteria, as well as the fact that Community Options Clients may already be known to some of these providers, it is recommended that all tenders be appointed to a panel of providers for the Provision of Community Options Care Program Services for a twelve (12) month period with the option for a further two (2) by twelve (12) month extensions.

**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](http://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** - Community Options Provision of Services Tender Evaluation (ECM 34283189)
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**19 [CNR-CM] Tweed Wollumbin Aboriginal Education Consultative Group Donation**

**ORIGIN:**

**Community and Cultural Services**

**SUMMARY OF REPORT:**

The NSW Aboriginal Education Consultative Group Inc. (AECG) is an Aboriginal community-based organisation made up of volunteer members who are involved in Local and Regional AECGs throughout NSW. The NSW AECG Inc. is recognised as the peak body that provides advice on issues relating to education and training. The Tweed Wollumbin AECG is celebrating its 20th anniversary and the Aboriginal Advisory Committee has recommended a donation of \$500 to assist with costs in relation to the event.

**RECOMMENDATION:**

**That Council contributes \$500 towards the Tweed Wollumbin Aboriginal Education Consultative Group (AECG) twenty year anniversary celebrations.**

**REPORT:**

The NSW Aboriginal Education Consultative Group Inc. (AECG) is an Aboriginal community-based organisation made up of volunteer members who are involved in Local and Regional AECGs throughout NSW. The NSW AECG Inc. is recognised as the peak body that provides advice on issues relating to education and training.

The Tweed Wollumbin AECG is celebrating its 20<sup>th</sup> anniversary on 22 June 2011. The Aboriginal Advisory Committee at its 3 June 2011 meeting recommended as follows:

*“Council gives consideration to donate \$500 to the Tweed Wollumbin AECG in recognition of continuous services within the Tweed Local Government Area.”*

Key milestones of the Tweed Wollumbin AECG in relation to Council business are:

- In 1996, Tweed Wollumbin AECG successfully lobbied Tweed Shire Council to establish the first Aboriginal Advisory Committee for the shire, which has been operating now for the past 15 years.
- After a lengthy and difficult 18 month debate, Tweed Wollumbin AECG finally wins the right to re-name the old Pacific Highway at Tweed Heads, Minjungbal Drive.
- Tweed Wollumbin AECG gets involved in the naming of more prominent roads and places, Yugari Drive at Hastings Point and Meebun Island, a small island in the Terranora Inlet of the Tweed River.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

There is sufficient funding available in the Aboriginal Community Development fund to facilitate this request.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**20 [CNR-CM] Local Government Aboriginal Network Conference 2012**

**ORIGIN:**

**Community and Cultural Services**

**SUMMARY OF REPORT:**

A submission to host the Local Government Aboriginal Network Conference 2012 was not submitted due to vacancies in the Community and Cultural Services Unit. It is recommended that a future bid to host the Local Government Aboriginal Network Conference is deferred until the Aboriginal Development Officer has been employed for at least 12 months so relationships can be built with key stakeholders in the community.

**RECOMMENDATION:**

**That Council:**

- 1. Notes a bid to host the Local Government Aboriginal Network Conference 2012 was not submitted.**
- 2. Defers the bid to hold the Local Government Aboriginal Network Conference in future years until staff resources are in place to develop the bid in consultation with the community.**

**REPORT:**

At the Council meeting of 17 November 2009 it was resolved:

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

Staff have not been in a position to facilitate a bid for the Local Government Aboriginal Network Conference due to vacancies in the Community and Cultural Services Unit. The position of Aboriginal Liaison Officer has been vacant since May 2010. This position is central to preparing a bid for the event in consultation with key Aboriginal stakeholders. In the interim, Dubbo have successfully secured the bid for hosting the 2012 Local Government Network Conference.

It is recommended that a future bid to host the Local Government Aboriginal Network Conference is deferred until the Aboriginal Development Officer has been employed for at least 12 months. This will allow the incumbent time to build relationships with key stakeholders in the community.

**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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

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**21 [CNR-CM] National Aboriginal and Islander Day Observance Committee (NAIDOC) Week Celebrations 2011**

**ORIGIN:**

**Community and Cultural Services**

**SUMMARY OF REPORT:**

NAIDOC stands for the National Aboriginal and Islander Day Observance Committee. Its origins can be traced to the emergence of Aboriginal groups in the 1920s which sought to increase awareness in the wider community of the status and treatment of Aboriginal and Torres Strait Islander Australians. Today, NAIDOC has become a national event to showcase and celebrate the richness and diversity of Aboriginal and Torres Strait Islander cultures. Activities take place across the nation during NAIDOC Week in the first full week of July. All Australians are encouraged to participate. This year celebrations in the Shire will be held in Arkinstall Park.

**RECOMMENDATION:**

**That Council contributes \$2,000 towards the 2011 Tweed Shire National Aboriginal and Islander Day Observance Committee (NAIDOC) celebrations.**

**REPORT:**

NAIDOC stands for the National Aboriginal and Islander Day Observance Committee. Its origins can be traced to the emergence of Aboriginal groups in the 1920s which sought to increase awareness in the wider community of the status and treatment of Aboriginal and Torres Strait Islander Australians. Today, NAIDOC has become a national event to showcase and celebrate the richness and diversity of Aboriginal and Torres Strait Islander cultures. Activities take place across the nation during NAIDOC Week in the first full week of July. All Australians are encouraged to participate. This year celebrations in the Shire will be held at Arkinstall Park on 6 July 2011. It is expected 300-400 people will attend.

The following support has been committed through the Community and Cultural Services Unit towards NAIDOC celebrations from the Aboriginal Community Development Projects fund:

- NAIDOC Week School Initiatives \$450
- NAIDOC Week Party Packs \$440

In addition to the above support, the Aboriginal Advisory Committee at the meeting held on 3 June 2011 recommended as follows:

“Council gives consideration to donate \$2,000 to the NAIDOC Committee to assist with delivery of NAIDOC celebrations.”

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

There is sufficient funding available in the Aboriginal Community Development fund to facilitate this request.

**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](http://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] Human Services, Ageing Disability and Home Care (ADHC)  
2009/2012 Funding Variation**

**ORIGIN:**

**Community and Cultural Services**

**SUMMARY OF REPORT:**

Council is in receipt of correspondence dated 19 May 2011 and 1 June 2011 from Human Services, Ageing Disability and Home Care (ADHC) informing Council of changes to our Funding Agreement.

The changes are summarised within the report.

**RECOMMENDATION:**

**That Council:-**

- 1. Accepts the variation of funds from Human Services, Ageing Disability and Home Care (ADHC) and votes the expenditure.**
- 2. Affixes its seal to the Acceptance of Funding Variation documents.**

**REPORT:**

Council is in receipt of correspondence dated 19 May 2011 and 1 June 2011 from Human Services, Ageing Disability and Home Care (ADHC) informing Council of changes to our Funding Agreement.

The changes are summarised as follows:

Output type	Description of Funding	Type	Period	Amount
Community Options Project - Case Management	Growth (Half year)	Base (recurrent)	01/01/11 - 30/6/2011	\$29,753.42
Community Options Project - Case Management	Growth (Full year)	Base (recurrent)	01/06/11 - 30/06/2012	\$60,000.00
Community Worker HACC	Growth (Half year)	Base (recurrent)	01/01/11 - 30/06/2011	\$25,786.30
Community Worker HACC	Growth (Full year)	Base (recurrent)	01/06/11 - 30/06/2012	\$52,000.00
Community Worker HACC	One-Off - laptop, desk, chair, filing cabinet, phone, brochures and printing	One-Off	01/01/11 - 01/01/11	\$8,500.00
Community Worker HACC	(CPI increase)	One-Off	01/04/10 - 30/06/2010	\$550.00
Community Worker HACC	Vehicle for Aged and Disability Officer	One-Off	01/01/2011	\$30,000.00
COPS - Podiatry	DVA Service Improvement - to be used to improve service delivery efficiency	One-off	01/7/2010 - 22/05/2011	\$4,850.00

**1. Community Options Project - Case Management base funding**

Council currently received \$448,883 base (recurrent) annual funding for Case Management services provided by Tweed Community Options (COPS). ADHC have allocated an additional \$60,000 annually, pro-rated from 1 January 2011 to 30 June 2012. This increased level of funding for case management has the capacity to immediately enhance the provision of case management services to Home and Community Care (HACC) eligible and priority wait listed residents of the Tweed Shire by providing an additional 1,101 hours.

Tweed Shire Council has for more than 15 years acted as auspice for the HACC funded Tweed COPS Case Management service. Like all other HACC case management services in NSW, it is a Commonwealth and State funded project, under the Home and Community Care Legislation. There are approximately 60 case management projects operating in NSW. Many of these are under the supervision and responsibility of their Local Government Authority - who provide a transparent and equitable service to ensure that the most in need and eligible residents receive HACC case management in the manner and timeframe outlined in the HACC legislation and its relevant HACC guidelines.

HACC Case Management underpins the linkages and support resources that enable frail aged people and people with disabilities (and their carers), to remain living

independently at home with the aim of preventing early and or premature entry into residential care or similar institutional care facilities. Case Management provides an individual Care Plan for each client. It ensures implementation and monitoring of each care plan with attention to resources and linkages into HACC and or other community support systems that will enable individuals to safely remain at home with basic supports.

**2. Community Worker HACC Base funding**

The additional recurrent funding of (\$52,000) is for a part-time Community Worker to be based at Banora Point Community Centre. The position offers a support role for services funded under the HACC program and acts as a resource for these services. It also provides information sessions to community groups on services available under HACC. This information focus will be offered on a Shirewide basis but the position will be based at Banora Point Community Centre as Banora Point is home to a high population of ageing residents. An estimated 3573 people, representing 24.3% of the Banora Point population are aged over 65 years (*Australian Bureau of Statistics (2006)*). Similarly in South Tweed Heads 2721 or 36.6% of people are aged over 65 years.

**3. Community Worker HACC One-Off funding**

The one-off funding of \$8,500 has been provided to cover set-up costs for the worker at Banora Point Community Centre including computer and printer, information stands, phone, office etc.

**4. Community Worker HACC One-Off funding**

This is a one-off CPI increase of \$550 to the Community Worker HACC Base funding detailed at Item 2.

**5. Community Worker HACC One-Off funding**

The one off funding of \$30,000 has been provided to purchase a car for the Community Worker to ensure HACC program information is disseminated widely across the Shire.

**6. COPS - Podiatry One-off funding**

Council currently received \$22,495 base (recurrent) annual funding for Podiatry services. ADHC have allocated an additional \$4,580 one-off from 1 July 2010. Podiatry services are offered to HACC eligible clients - frail aged people, people with disabilities, and their carers who have complex care needs and are unable to access podiatry services. Over the past four years Tweed COPS have assisted 176 clients with podiatry services. This is one off funding will enable Tweed COPS to deliver an enhanced level of service to the increasing needs of vulnerable people, at risk within our community.

ADHC receive information from Community Options Projects in regard to the clients and their services quarterly, by way of reporting of the Minimum Data Set Data (MDS). ADHC have offered this funding in recognition of the reporting of services that Community Options has provided to our Podiatry Department of Veteran's Affairs clients under the Home and Community Care (HACC) program.



**Human Services**  
Ageing, Disability & Home Care

Mr Mike Rayner  
General Manager  
Tweed Shire Council (ID 413)  
PO Box 816  
MURWILLUMBAH NSW 2484

DISABILITY/ACCESSIBILITY MATTERS  
COMMUNITY OPTIONS  
AGED SERVICES  
TWEED SHIRE COUNCIL  
FILE No: HACC  
DOC. No: 33554925  
RECD: 25 MAY 2011  
ASSIGNED TO: WATERS, J  
HARD COPY  IMAGE

GOVT GRANT  
- COMMUNITY  
OPTIONS  
AGREEMENTS

Contact: Delma Rigby  
Contact number: 02 6621 1400  
ADHC Region: Northern  
Ref: AHA10/28293  
DofS/DofA ID: 00496-02-002, 02376-02-002, 25306-01-001

Dear Mr Rayner

Ageing, Disability and Home Care (ADHC), Department of Human Services NSW has approved changes to your organisation's funding. Please refer to the attached Description of Service/Asset (DofS/DofA) for information about your funding grant.

Changes to your funding are made pursuant to Clause 6.1 and/or Clause 4.1 of ADHC's Funding Agreement. This can include both significant and/or non significant changes.

#### Significant Changes

Where the change to your funding is considered to be significant as outlined in the Funding Agreement, the appropriately Duly Authorised Representative(s) are required to sign each copy of the Acceptance of Funding Variation. A Notice of Change of Duly Authorised Representative is included for your reference and should be updated if ADHC's records are out of date.

Funding cannot be paid to your organisation until both copies of the Funding Variations are signed and returned. Funding Variations may be returned by email or fax however it will still be necessary to return the originals by post. Return details are:

Email: Funding.Administration@dhs.nsw.gov.au  
Fax: 02 9765 5130  
Postal: Funding Administration  
Department of Human Services NSW  
Locked Bag 7466  
LIVERPOOL BC 1871

Funding Administration, Department of Human Services NSW  
Locked Bag 7466, Liverpool BC 1871 | T 1300 136 067 | DX 5064 Liverpool | TTY 133 677  
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | www.dadhc.nsw.gov.au

Once signed, the funding is considered part of your current Funding Agreement and replaces any previous versions of your DofS/DofA that may have been issued.

Non Significant Changes

Should changes to your funding be non significant as outlined in the Funding Agreement the Acceptance of Funding Variation is not attached and is not required. ADHC will assume that you accept these changes unless you advise otherwise in writing.

Please contact **Delma Rigby** on **02 6621 1400** should you require any further information regarding this funding approval or require any additional DofS/DofA for your organisation.

Yours sincerely



Arvinder Dhanota  
**Team Leader**  
19/05/2011



**Human Services**  
Ageing, Disability & Home Care

**ACCEPTANCE OF FUNDING VARIATION**

We, as duly authorised representatives of the Service Provider, agree that the Service Provider will comply with the Funding Agreement between Ageing, Disability and Home Care (ADHC), Department of Human Services NSW and the Service Provider and agree that the Service Provider will comply with the Schedules attached to this Funding Variation.

The Common Seal (if required) of **Tweed Shire Council- 413** was hereunto affixed in accordance with its articles of association in the presence of:

Affix Common Seal if required
-------------------------------

\_\_\_\_\_  
(Name) (Position) (Signature)

\_\_\_\_\_  
(Name) (Position) (Signature)

**Signature block for second organisation providing services subject to the Agreement**

The Common Seal of (if required) \_\_\_\_\_ was hereunto affixed in accordance with its articles of association in the presence of:

Affix Common Seal if required
-------------------------------

\_\_\_\_\_  
(Name) (Position) (Signature)

\_\_\_\_\_  
(Name) (Position) (Signature)

**ADHC's Use Only**

SIGNED as a Deed on this

\_\_\_\_\_  
(Day) (Month) (Year)

Signed sealed and delivered by:

\_\_\_\_\_  
(Name) (Signature)

Pursuant to the authority vested in him/her under an instrument of delegation executed by Minister for Ageing and Minister for Disability Services, New South Wales.

Before me:

\_\_\_\_\_  
(Name) (Signature)

This Variation as per AHA10/28293 pertains to the following Description of Service/Asset ID code(s) listed:  
00496-02-002, 02376-02-002, 25306-01-001



**Human Services**  
Ageing, Disability & Home Care

**ACCEPTANCE OF FUNDING VARIATION**

We, as duly authorised representatives of the Service Provider, agree that the Service Provider will comply with the Funding Agreement between Ageing, Disability and Home Care (ADHC), Department of Human Services NSW and the Service Provider and agree that the Service Provider will comply with the Schedules attached to this Funding Variation.

The Common Seal (if required) of **Tweed Shire Council- 413** was hereunto affixed in accordance with its articles of association in the presence of:

Affix Common Seal if required
-------------------------------

\_\_\_\_\_  
(Name) (Position) (Signature)

\_\_\_\_\_  
(Name) (Position) (Signature)

**Signature block for second organisation providing services subject to the Agreement**

The Common Seal of (if required) \_\_\_\_\_ was hereunto affixed in accordance with its articles of association in the presence of:

Affix Common Seal if required
-------------------------------

\_\_\_\_\_  
(Name) (Position) (Signature)

\_\_\_\_\_  
(Name) (Position) (Signature)

**ADHC's Use Only**

SIGNED as a Deed on this \_\_\_\_\_  
(Day) (Month) (Year)

Signed sealed and delivered by:

\_\_\_\_\_  
(Name) (Signature)

Pursuant to the authority vested in him/her under an instrument of delegation executed by Minister for Ageing and Minister for Disability Services, New South Wales.

Before me:

\_\_\_\_\_  
(Name) (Signature)

This Variation as per AHA10/28293 pertains to the following Description of Service/Asset ID code(s) listed:  
00496-02-002, 02376-02-002, 25306-01-001



**Human Services**  
Ageing, Disability & Home Care

**NOTICE OF CHANGES TO DULY AUTHORISED REPRESENTATIVES**

**Service Provider Name:** Tweed Shire Council

**Service Provider ID:** 413

**Name of Contact:**

**Phone Number:**

**Email Address:**

**Date:** 19/05/2011

For non-government community based organisations, at least one office bearer and one member of the management committee, as authorised by the committee.  
For local government authorities, the Mayor and a Councillor, or a delegated officer as resolved by Council.  
For other government agencies, the Chief Executive Officer or equivalent, and an appropriately delegated officer.

Name:	Position:	Correct	Remove
Mr David Oxenham	Director Community & Natural Resources	<input type="checkbox"/>	<input type="checkbox"/>
Mr Gary Corbett	Manager Community & Cultural Services	<input type="checkbox"/>	<input type="checkbox"/>
Mr Kevin Skinner	Mayor	<input type="checkbox"/>	<input type="checkbox"/>
Mr Michael Rayner	General Mgr	<input type="checkbox"/>	<input type="checkbox"/>
Mrs Joanne Watters	Coordinator Community Options	<input type="checkbox"/>	<input type="checkbox"/>

**NEW Duly Authorised Representatives:**

Name:	Position:

**AUTHORISATION**

**Current Duly Authorised Representative 1:**

<b>Signature:</b>		<b>Date:</b>
<b>Print Name:</b>		

**Current Duly Authorised Representative 2:**

<b>Signature:</b>		<b>Date:</b>
<b>Print Name:</b>		

Please post the completed form to:  
**Funding Administration**  
**Department of Human Services NSW**  
**Locked Bag 7466**  
**Liverpool BC 1871**  
**Fax: 02 9765 5130** (Originals must follow if it is faxed)  
**Email: [funding\\_administration@dhs.nsw.gov.au](mailto:funding_administration@dhs.nsw.gov.au)**

<https://portal.dadhc.nsw.gov.au/details/duly-authorized-reps/change-of-duly-authorise...> 19/05/2011



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

**Service Provider Details**

<b>Tweed Shire Council</b>	<b>SP ID:</b>	0413	<b>FA ID:</b>	13485
Tweed Community Options	<b>ACN:</b>	0	<b>ABN:</b>	90178732496
Hacc Centre, Heffron Street	<b>Administering Department:</b>		Ageing, Disability and Home Care	
TWEED HEADS SOUTH NSW 2486				

**Contracted Sub-Program/Service Model Combinations**

Sub Program:	Service Model:	MDS Code:
Multi Service Outlet	10.21.01 Multi Service Outlet	10.21
<b>Sub-Programs/Service Model Description:</b>	<a href="https://portal.dadhc.nsw.gov.au/guidelines/Sub_Program/multi_service_outlet.pdf">https://portal.dadhc.nsw.gov.au/guidelines/Sub_Program/multi_service_outlet.pdf</a>	
	<a href="https://portal.dadhc.nsw.gov.au/guidelines/Service_Model/multi_service_outlet.pdf">https://portal.dadhc.nsw.gov.au/guidelines/Service_Model/multi_service_outlet.pdf</a>	

**Descriptions of Service**

00496-02-002

<b>Description of Service Name:</b>		Tweed Shire Community Options (#496)			
<b>Bank Details:</b>		CBA Murwillumbah NSW	062-580	00000048	
<b>DofS Id:</b>	<b>Administrative Address:</b>	<b>DofS Start:</b>	<b>DofS End:</b>	<b>Region:</b>	<b>LPA:</b>
00496-02-002	Tumbulgum Rd MURWILLUMBAH NSW 2484	01/07/2009	30/06/2012	Northern	Far North Coast
<b>DofS Status</b>		Approved			
No Additional Conditions.					

**Related Outlets**

MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001783	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			
<b>Outputs:</b>		<b>Type:</b>	Domestic Assistance Hours	<b>Amount:</b>	454

Description of Service Schedule - Tweed Shire Council 1  
Sent To SP Date:



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001784	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Social Support Hours	<b>Amount:</b>	1,750
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001785	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Personal Care Hours	<b>Amount:</b>	738
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001786	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Meals Services Meals	<b>Amount:</b>	860
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001787	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Respite Hours	<b>Amount:</b>	635
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001788	Tumbulgum Rd MURWILLUMBAH NSW 2484			

Description of Service Schedule - Tweed Shire Council 2  
Sent To SP Date:



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Case Management Hours	<b>Amount:</b>	9,755
<b>MDS Id:</b>	<b>Outlet Id:</b>	<b>Outlet Address:</b>	<b>Min Clients:</b>	<b>Max Clients:</b>	<b>%:</b>
10316	20001789	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Home Modification Dollars	<b>Amount:</b>	0
<b>MDS Id:</b>	<b>Outlet Id:</b>	<b>Outlet Address:</b>	<b>Min Clients:</b>	<b>Max Clients:</b>	<b>%:</b>
10316	20001790	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Transport Trips	<b>Amount:</b>	837
<b>MDS Id:</b>	<b>Outlet Id:</b>	<b>Outlet Address:</b>	<b>Min Clients:</b>	<b>Max Clients:</b>	<b>%:</b>
10316	20001791	Tumbulgum Rd MURWILLUMBAH NSW 2484			
<b>LGA:</b>		Tweed			
<b>Target Group:</b>		General			100%
<b>Outputs:</b>		<b>Type:</b>	Goods & Equipment Items	<b>Amount:</b>	0

**Annual Funding**

O-Id:	Type [Frequency]:	Base Amount:	CYE:	One-Off:	Funding Period:	Description:
20001783	Base [Quarterly]	\$15,494.00	\$15,494.01	\$0.00	01/07/2009-30/06/2012	
20001783	Indexation [Quarterly]	\$374.00	\$374.00	\$0.00	01/07/2009-30/06/2012	

Description of Service Schedule - Tweed Shire Council 3  
Sent To SP Date:



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

O-Id:	Type [Frequency]:	Base Amount:	CYE:	One-Off:	Funding Period:	Description:
20001783	Indexation [Quarterly]	\$397.00	\$397.01	\$0.00	01/07/2010-30/06/2012	
20001784	Base [Quarterly]	\$30,989.00	\$30,989.00	\$0.00	01/07/2009-30/06/2012	
20001784	Indexation [Quarterly]	\$749.00	\$749.00	\$0.00	01/07/2009-30/06/2012	
20001784	Indexation [Quarterly]	\$793.00	\$793.00	\$0.00	01/07/2010-30/06/2012	
20001785	Base [Quarterly]	\$27,890.00	\$27,890.01	\$0.00	01/07/2009-30/06/2012	
20001785	Indexation [Quarterly]	\$674.00	\$673.99	\$0.00	01/07/2009-30/06/2012	
20001785	Indexation [Quarterly]	\$714.00	\$714.00	\$0.00	01/07/2010-30/06/2012	
20001786	Base [Quarterly]	\$5,164.00	\$5,164.00	\$0.00	01/07/2009-30/06/2012	
20001786	Indexation [Quarterly]	\$124.00	\$124.00	\$0.00	01/07/2009-30/06/2012	
20001786	Indexation [Quarterly]	\$132.00	\$132.00	\$0.00	01/07/2010-30/06/2012	
20001787	Base [Quarterly]	\$25,824.00	\$25,823.99	\$0.00	01/07/2009-30/06/2012	
20001787	Indexation [Quarterly]	\$624.00	\$623.99	\$0.00	01/07/2009-30/06/2012	
20001787	Indexation [Quarterly]	\$661.00	\$661.01	\$0.00	01/07/2010-30/06/2012	
20001788	Base [Quarterly]	\$448,883.00	\$448,883.00	\$0.00	01/07/2009-30/06/2012	
20001788	Growth [Quarterly]	\$60,000.00	\$29,753.42	\$0.00	01/01/2011-30/06/2012	2010/11-2nd-GR-FNC-03
20001788	Indexation [Quarterly]	\$10,862.00	\$10,862.00	\$0.00	01/07/2009-30/06/2012	
20001788	Indexation [Quarterly]	\$11,494.00	\$11,494.01	\$0.00	01/07/2010-30/06/2012	
20001788	One-off [One-off]	\$0.00	\$0.00	\$11,973.00	01/04/2010-30/06/2010	(HACC%) 09-10 AHA10/20216.
20001789	Base [Quarterly]	\$18,593.00	\$18,593.00	\$0.00	01/07/2009-30/06/2012	
20001789	Indexation [Quarterly]	\$449.00	\$448.99	\$0.00	01/07/2009-30/06/2012	
20001789	Indexation [Quarterly]	\$476.00	\$476.00	\$0.00	01/07/2010-30/06/2012	
20001790	Base [Quarterly]	\$10,329.00	\$10,329.00	\$0.00	01/07/2009-30/06/2012	
20001790	Indexation [Quarterly]	\$249.00	\$249.00	\$0.00	01/07/2009-30/06/2012	

Description of Service Schedule - Tweed Shire Council 4  
Sent To SP Date:



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

O-Id:	Type [Frequency]:	Base Amount:	CYE:	One-Off:	Funding Period:	Description:
20001790	Indexation [Quarterly]	\$264.00	\$264.00	\$0.00	01/07/2010-30/06/2012	
20001791	Base [Quarterly]	\$34,658.00	\$34,658.01	\$0.00	01/07/2009-30/06/2012	
20001791	Indexation [Quarterly]	\$838.00	\$838.00	\$0.00	01/07/2009-30/06/2012	
20001791	Indexation [Quarterly]	\$887.00	\$886.99	\$0.00	01/07/2010-30/06/2012	
<b>Total</b>		\$708,585.00	\$678,338.43	\$11,973.00		

**Annual Outputs**

O-Id:	Outputs:	Units:	CYE:	Start Date:	End Date:
20001783	Domestic Assistance Hours	454	454	01/07/2009	30/06/2012
20001784	Social Support Hours	1,750	1,750	01/07/2009	30/06/2012
20001785	Personal Care Hours	738	738	01/07/2009	30/06/2012
20001786	Meals Services Meals	860	860	01/07/2009	30/06/2012
20001787	Respite Hours	635	635	01/07/2009	30/06/2012
20001788	Case Management Hours	8,654	8,654	01/07/2009	30/06/2012
20001788	Case Management Hours	1,101	545	01/01/2011	30/06/2012
20001789	Home Modification Dollars	0	0	01/07/2009	30/06/2012
20001790	Transport Trips	837	837	01/07/2009	30/06/2012
20001791	Goods & Equipment Items	0	0	01/07/2009	30/06/2012



**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

**Service Provider Details**

Tweed Shire Council	SP ID:	0413	FA ID:	13485
Tweed Community Options	ACN:	0	ABN:	90178732496
Hacc Centre, Heffron Street	Administering Department:	Ageing, Disability and Home Care		
TWEED HEADS SOUTH NSW 2486				

**Contracted Sub-Program/Service Model Combinations**

Sub Program:	Service Model:	MDS Code:
Non Output Services	10.20.02 Ageing & Disability Officer	10.20
Sub-Programs/Service Model Description:	<a href="https://portal.dadhc.nsw.gov.au/guidelines/Sub_Program/non_output_services.pdf">https://portal.dadhc.nsw.gov.au/guidelines/Sub_Program/non_output_services.pdf</a> <a href="https://portal.dadhc.nsw.gov.au/guidelines/Service_Model/ageing_and_disability_officer.pdf">https://portal.dadhc.nsw.gov.au/guidelines/Service_Model/ageing_and_disability_officer.pdf</a>	

**Descriptions of Service**      02376-02-002

Description of Service Name:		Tweed Council Community Worker HACC (#2376)			
Bank Details:		CBA Murwillumbah NSW	062-580	00000048	
DofS Id:	Administrative Address:	DofS Start:	DofS End:	Region:	LPA:
02376-02-002	PO Box 816 MURWILLUMBAH NSW 2484	01/07/2009	30/06/2012	Northern	Far North Coast
DofS Status		Approved			
Special Conditions :				Start Date	End Date
Aged and Disability Officer - This funding will support the Seniors Steering Committee at Banora Point Community Centre and other Seniors information outlets as needed				01/01/2011	30/06/2012

**Related Outlets**

MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
	21388	City of the Arts Space (Old Art Gallery) Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%

Description of Service Schedule - Tweed Shire Council 1  
Sent To SP Date:



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

<b>Outputs:</b>	<b>Type:</b>	None	<b>Amount:</b>	0
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**Annual Funding**

O-Id:	Type [Frequency]:	Base Amount:	CYE:	One-Off:	Funding Period:	Description:
N/A	Base [Quarterly]	\$27,544.00	\$27,544.00	\$0.00	01/07/2009-30/06/2012	
N/A	Growth [Quarterly]	\$52,000.00	\$25,786.30	\$0.00	01/01/2011-30/06/2012	2010/11-2nd-GR-FNC-06
N/A	Indexation [Quarterly]	\$666.00	\$666.00	\$0.00	01/07/2009-30/06/2012	
N/A	Indexation [Quarterly]	\$705.00	\$705.01	\$0.00	01/07/2010-30/06/2012	
N/A	One-off [One-off]	\$0.00	\$8,500.00	\$8,500.00	01/01/2011-01/01/2011	2010/11-2nd-GR-FNC-06. Laptop (\$2,000); desk, chair, filing cabinet, phone (\$1,500); brochures & printing (\$5,000)
N/A	One-off [One-off]	\$0.00	\$0.00	\$550.00	01/04/2010-30/06/2010	(HACC%) 09-10 AHA10/20216.
<b>Total</b>		\$80,915.00	\$63,201.31	\$9,050.00		

**Annual Outputs**

O-Id:	Outputs:	Units:	CYE:	Start Date:	End Date:
21388	None	0	0	01/07/2009	30/06/2012



**Human Services**  
Ageing, Disability  
& Home Care

**Schedule 2**

Funding Agreement Term: 01/07/2009 - 30/06/2012

**Service Provider Details**

<b>Tweed Shire Council</b>	<b>SP ID:</b>	0413	<b>FA ID:</b>	13485
Tweed Community Options	<b>ACN:</b>	0	<b>ABN:</b>	90178732496
Hacc Centre, Heffron Street	<b>Administering Department:</b>		Ageing, Disability and Home Care	
TWEED HEADS SOUTH NSW 2486				

**Descriptions of Asset**

<b>Bank Details:</b>		CBA Murwillumbah NSW	062-580	00000048	
<b>DofA Id:</b>	<b>Asset Name:</b>	<b>DofA Start:</b>	<b>DofA End:</b>	<b>Region:</b>	<b>LPA:</b>
25306-01-001	Tweed Council Community Worker HACC	01/01/2011	30/06/2012	Northern	Far North Coast
<b>DofA Status:</b>	Approved				
<b>Special Conditions :</b>				<b>Start Date</b>	<b>End Date</b>
HACC Nonrecurrent 2011 \$30,000 for purchase of vehicle to support the new position at Banora Point.				01/01/2011	30/06/2012

**Assets**

<b>Asset Id:</b>	<b>Type:</b>	<b>Caveat Number:</b>	<b>Description:</b>		
1-11931873	Vehicle		Vehicle for Aged and Disability Officer		
<b>Specific Details</b>					
<b>Purchase Value:</b>	<b>ADHC Contribution:</b>	<b>SP Contribution:</b>	<b>ADHC Equity:</b>	<b>Purchase Date:</b>	<b>Property Address:</b>
\$0.00	\$30,000.00	(\$30,000.00)	%		
<b>Total DofA Funding</b>					

<b>Asset Id:</b>	<b>Type:</b>	<b>Frequency:</b>	<b>One-Off:</b>	<b>Start Date:</b>	<b>End Date:</b>	<b>Description:</b>
1-11931873	One-off	One-off	\$30,000.00	01/01/2011	01/01/2011	2010/11-2nd-GR-FNC-06. Vehicle for Aged and Disability Officer.
<b>Total</b>			\$30,000.00			

Description of Asset - Tweed Shire Council 1  
Sent To SP Date:



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

**Service Provider Details**

Tweed Shire Council	SP ID:	0413	FA ID:	13485
Tweed Community Options	ACN:	0	ABN:	90178732496
Hacc Centre, Heffron Street	Administering Department:	Ageing, Disability and Home Care		
TWEED HEADS SOUTH NSW 2486				

**Contracted Sub-Program/Service Model Combinations**

Sub Program:	Service Model:	MDS Code:
DVA Services	11.01.01 DVA Agreement Projects	11.01
Sub-Programs/Service Model Description:	<a href="https://portal.dadhc.nsw.gov.au/guidelines/Sub_Program/dva_services.pdf">https://portal.dadhc.nsw.gov.au/guidelines/Sub_Program/dva_services.pdf</a> <a href="https://portal.dadhc.nsw.gov.au/guidelines/Service_Model/dva_agreement_projects.pdf">https://portal.dadhc.nsw.gov.au/guidelines/Service_Model/dva_agreement_projects.pdf</a>	

**Descriptions of Service** 26100-01-001

Description of Service Name:		DVA Service Improvement Tweed Shire Council Podiatry Far North Coast			
Bank Details:		CBA Murwillumbah NSW	062-580	00000048	
DofS Id:	Administrative Address:	DofS Start:	DofS End:	Region:	LPA:
26100-01-001		01/07/2010	30/06/2012	Northern	Far North Coast
DofS Status		Approved			
No Additional Conditions.					

**Related Outlets**

MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
N/A	37281	Tweed Community Options Hacc Centre, Heffron Street TWEED HEADS SOUTH NSW 2486			
LGA:	Tweed				
Target Group:	General				100%
Outputs:	Type:	Dollars (DVA)	Amount:	0	

Description of Service Schedule - Tweed Shire Council 1  
Sent To SP Date:



Human Services  
Ageing, Disability  
& Home Care

**Schedule 1**

Funding Agreement Term: 01/07/2009 - 30/06/2012

**Annual Funding**

O-Id:	Type [Frequency]:	Base Amount:	CYE:	One-Off:	Funding Period:	Description:
N/A	One-off [One-off]	\$0.00	\$4,850.00	\$4,850.00	01/07/2010-22/05/2011	2010/11 DVA Service Improvement funds - to be used to improve service delivery efficiency.
<b>Total</b>		\$0.00	\$4,850.00	\$4,850.00		

**Annual Outputs**

O-Id:	Outputs:	Units:	CYE:	Start Date:	End Date:
37281	Dollars (DVA)	0	0	01/07/2010	30/06/2012

**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](http://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] Request for "In Kind" Support/Waive Fee**

**ORIGIN:**

**Community & Cultural Services**

**SUMMARY OF REPORT:**

Council has received a request from an organisation asking that Council provides in-kind support/waives the fees for room hire. Details of the request are reproduced in the body of this report.

In accordance with Section 356 of the Local Government Act 1993 - Donations, Council resolved on 6 October 2004 that:-

*".... in future, all donations made by Council, whether in cash or in kind, be made by way of a resolution of Council."*

**RECOMMENDATION:**

**That Council with reference to the request from Australian Red Cross Tweed Heads Branch, provides the Tweed Heads Civic Centre for a reduced fee of \$227 of the full fee of \$454 on 13 September 2011 for the fashion parade fundraising event for Red Cross Calling, and that Council's support is recognised with the following acknowledgement "This programme has been supported by Tweed Shire Council".**

**REPORT:**

Council has received a request from an organisation asking that Council provides in-kind support/waives the fees for room hire. Details of the request are reproduced as follows:-

<b>Organisation Name</b>	<b>Request</b>	<b>Est \$ Amount of Waiver</b>	<b>Recommendation</b>	<b>Meet Guidelines?</b>
<b>Australian Red Cross Tweed Heads Branch</b>	<b>Request fee be reduced for hire of Tweed Heads Civic Centre on 13 September 2011 for the fashion parade fundraising event for Red Cross Calling.</b>	<b>\$227</b>	<b>That the hire fee be \$227 being a reduction of the full fee of \$454.</b>	<b>Yes.</b>

A copy of the request is reproduced below.

CRISIS CARE COMMITMENT CRISIS CARE COMMITMENT CRISIS CARE COMMITMENT



DONATIONS -  
CIVIC CENTRE - TWD HOS - HIRE

RED CROSS
REC'D. 10 MAY 2011
ASSIGNED TO: CORBETT, G
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

Tweed Heads Branch  
PO Box 3120  
Tweed Heads  
South NSW 2486

Mr. Gary Corbett  
Manager Community & Cultural Services  
PO Box 816  
Murwillumbah NSW 2484

I am writing on behalf of the members of the Tweed Heads Branch of the Red Cross who have booked the Tweed Heads Civic Centre for Tuesday September 13<sup>th</sup> 2011 to hold a fashion parade fundraising event for Red Cross Calling.

These events are usually held in March but due to the natural disasters over the summer of 2010 and 2011 we decided that later in the year would be better received.

Our request is to ask Council to consider the waiver of fees for the hire to help us in our endeavour. We will of course acknowledge the Council's support of the event.

Looking forward to your reply.

Yours faithfully,

Patricia Carr  
Hon. Secretary

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should requests be approved for the waiving of fees for room hire, the income for the meeting room will be impacted by the amount of the fee reduction.

Should requests for "in kind" support be approved, this will impact on the costing of Council's involvement in the activity.

**POLICY IMPLICATIONS:**

In considering this request, reference should be made to:-

Festivals Policy.

Donations Policy.

Guidelines for Fee Reduction, Auditoriums, Meeting Rooms and Halls.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

Nil

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**24 [CNR-CM] Entomological Control Report for period March to May 2011**

**ORIGIN:**

**Entomology**

**SUMMARY OF REPORT:**

The following report outlines insect/vermin management and associated research carried out between March and May 2011.

**RECOMMENDATION:**

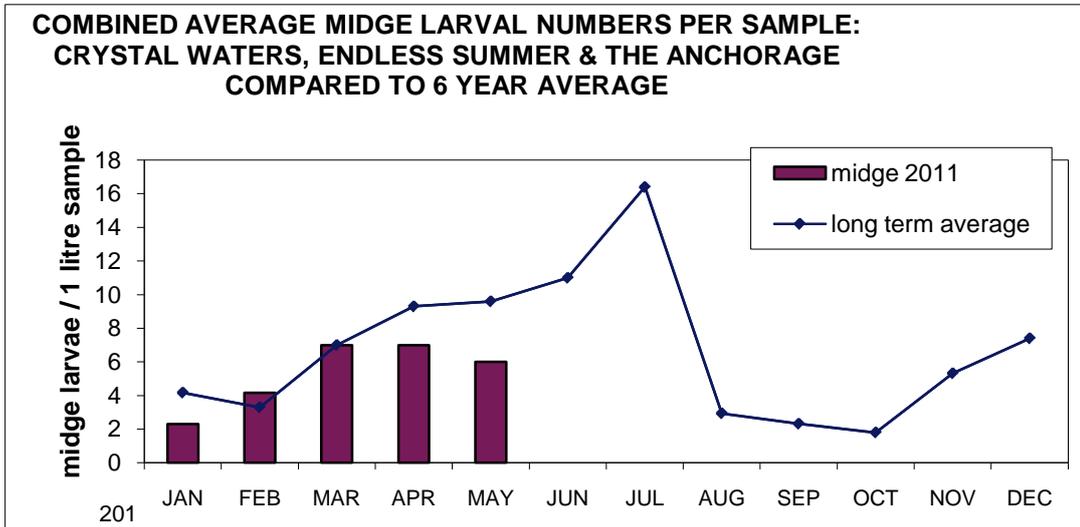
**That Council receives and notes the Entomological Control Report for the period March to May 2011.**

**REPORT:**

**BITING MIDGE**

**Seasonal activity**

Biting midge nuisance activity remained below the seasonal average over the report period 1 March to 31 May. There were five enquiries related to biting midges. Canal breeding midge larval numbers at test sites were generally below average during the report period.



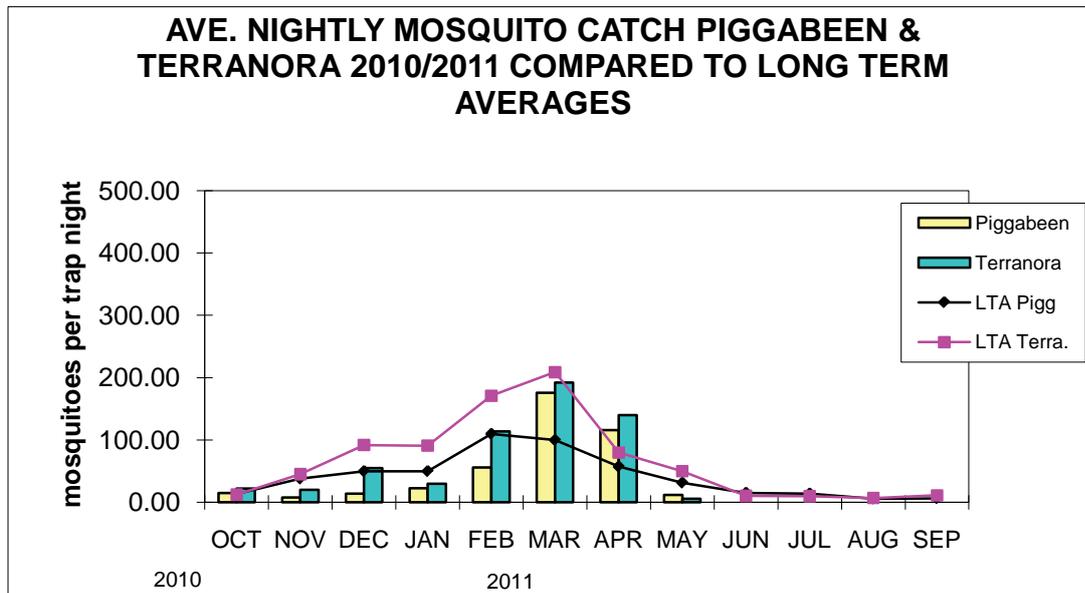
**MOSQUITOES**

**Seasonal abundance**

Mosquito nuisance activity was generally low over the report period despite several major rain events and a continuing run of large spring tide events well above predicted heights. There were 11 complaints related to mosquitoes over the report period with the majority from Bilambil Heights and the Cobaki area.

Mosquito trap monitoring indicated average mosquito numbers in the Terranora Broadwater area and above average numbers in the Cobaki Broadwater area. The most frequently caught mosquitoes in carbon dioxide baited mosquito traps were the brackish water breeding *Culex sitiens* which is not a major nuisance and hence not targeted for control, followed by the freshwater breeding *Coquillettidia xanthogaster* and *Culex annulirostris*.

The following graph outlines monthly average mosquito catches in carbon dioxide baited traps at long term trapping sites this season.



**Control**

Three aerial treatments to extensive mosquito breeding habitat were carried out below Bilambil Heights over the report period utilizing bacterial larvicide. Treatment efficacy by 24 hrs post spray was not as good as expected in several areas and some local mosquito nuisance ensued. The treated areas have heavy tree cover and steep adjacent topography necessitating favourable meteorological conditions to achieve optimal mosquito larval control. Ground based mosquito larval control utilizing sustained release biological larvicide was carried out in problem areas at Cobaki.

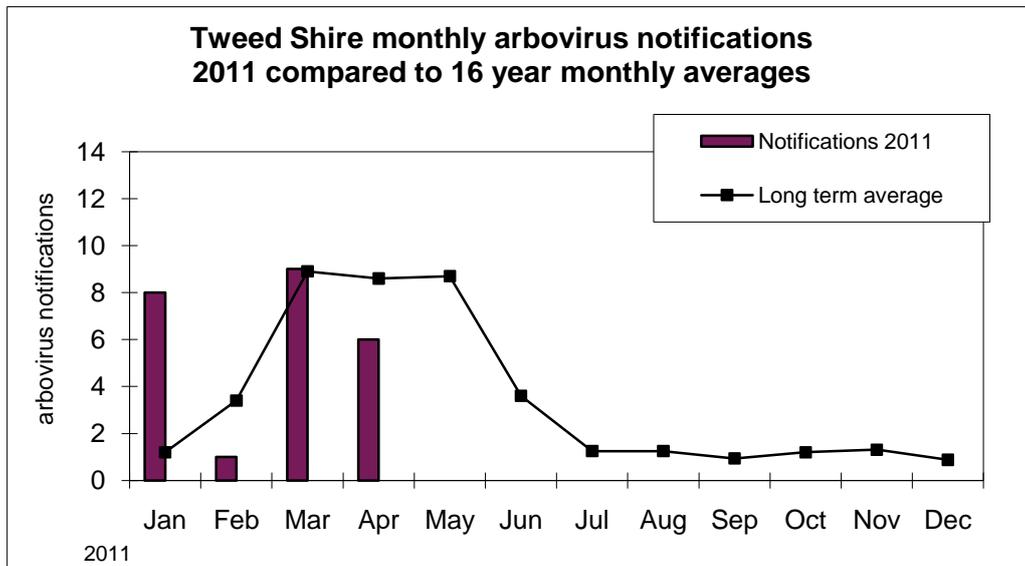
**Terranora Mangrove breeding mosquito research project**

Approvals from NSW Land and Property Management Authority to carry out tidal enhancement works at the Terranora Mangrove research site have been received. Some preliminary hand digging to aid consideration of preferred works options were carried out in May. As was the case in the last quarter, monitoring of this 18 ha site by Griffith University’s School of Environmental Science and Australian Rivers Institute and Council’s entomology unit has shown a marked decline in mosquito breeding, reduced toxic water acidity and an increase in fish numbers during large tide events. These improvements have been due to the frequent flooding and flushing of the site by above predicted tide heights and regular rain associated with the lingering La Nina event. The combined rain and tidal flushing events at the site this season exceeds any observation since regular mosquito monitoring began at the site in 1983. From a research point of view, the extended extreme flushing observed over the last seven months pre-works monitoring stage, may make it difficult to quantify the environmental improvements sought following tidal enhancement works when tide heights and rainfall return to average. As an example, during May there were 5 tides of spring tide height predicted to flood the impounding levee into the research site; however, due to the anomalous run of very large tides a total of 23 tides flooded the site that month.

**Arbovirus**

There were 15 arbovirus notifications for the Shire over the report period comprising eight Ross River virus and seven Barmah Forest virus cases. No arbovirus cases were reported in May. The early start to the mosquito season caused by unseasonal early rains led to a

forward shift in arbovirus activity. Hence, we had above average reported arbovirus cases early in the season and below average notifications late in the season.



## **OTHER PESTS**

### **Miscellaneous**

Pest enquiries and service request numbers were unusually low for the autumn quarter with 95 miscellaneous requests. The most common enquiries related to ants, wasps and rabbits.

### **Rodents**

Rodent baiting was carried out over the report period around coastal holiday parks, sewer treatment plants, adjacent to several drainage reserves and infested sections of Tweed River rock walls.

### **Pandanus planthoppers**

Continued monitoring of Pandanus trees for planthopper related dieback has been carried out in coastal areas. Heavy infestations of planthoppers were found on a large number of Pandanus trees on the sheltered north side of Norries Headland in May. Many of these trees were showing signs of dieback. Inspection of these trees failed to find any sign of the beneficial parasitic egg wasp that has been effective in controlling Pandanus planthoppers in many of the Shire's coastal Pandanus trees over the last two years. Pandanus planthopper affected trees were treated by a combination of leaf stripping, tree injection and/or systemic insecticide application into leaf axils. Hopefully most of these trees will recover; however, it is likely that some of the older, less resilient trees will die. It appears seasonal conditions have not favoured the beneficial parasitic egg wasps this year and a return to systemic insecticide tree injection may be necessary to protect vulnerable trees until the specific egg parasitic wasps can be re-established into planthopper affected areas. As was reported last quarter, the loss of an extensive "balanced" pest/parasite complex in foreshore Pandanus trees at Kingscliff that were lost to beach erosion was a setback. However, survival of smaller parasitic wasp populations in many of the Shire's other Pandanus endemic coastal areas will likely lead to a rebound wasp parasite population in time.

### **Termites**

Inspection of 253 in-ground termite bait stations was carried out around Council owned buildings. No termites were detected in monitoring stations over the last quarter.

**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](http://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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**25 [CNR-CM] Northern Rivers Food Links Update**

**ORIGIN:**

**Natural Resource Management**

**SUMMARY OF REPORT:**

In February 2009 Tweed, Lismore, Byron, Ballina, Kyogle and Clarence Valley Councils were awarded \$1.9 million under the NSW Environmental Trust Urban Sustainability Program to deliver the Northern Rivers Food Links Project over a three year period, ending March 2012.

The aim of Northern Rivers Food Links is to:

- Enhance the local food economy by strengthening links between the regions food producers, distributors, retailers and consumers.
- Support take-up of sustainable food production practices.
- Reduce reliance on highly centralised food supply chains.

This report details the status of the Northern Rivers Food Links Project with particular emphasis on projects being delivered within the Tweed Shire.

**RECOMMENDATION:**

**That Council receives and notes the report - Northern Rivers Food Links Update.**

## REPORT:

Northern Rivers Food Links is seeking to strengthen the regional food economy and improve farm practices by delivering projects in the following areas:

- Marketing and education
- Food distribution
- Sustainable farming practices
- Local government resource kit
- Village showcases
- Food production in indigenous communities

The status of each project area is as follows:

**Project Area:** Marketing and Education (Source Identification)

**Budget:** \$60,000

**Partner:** Regional Development Australia

Eighty-five (85) businesses from across the region are participating in a source identification project to increase the amount of northern rivers produce available in local stores. The project includes specialist assistance to recognise and value the importance of stocking and marketing local produce. Shelf markers have been supplied to enable retailers to identify the source of the local produce they are selling. Where possible, retailers are also encouraged to name the farm/farmer where the produce came from. Television advertising asking consumers to ask 'is it local?' is helping to drive this activity.

Participating retailers in the Tweed are:

Singh's Fruit and Vegetable, Earth Markets, Fruit Barn, Pottsville Fruit and Vegetable, Mate and Matts Farm Fresh Fruit and Vegetables, Kingscliff Farmstore, Vege Hut, IGA Murwillumbah, Spar Murwillumbah, Crabbes Creek General Store, Burringbar General Store, Ferryside General Store, IGA Xpress Tweed, Hastings Point General Store, Fresh Wholefoods, Dudgeons Meat the Meal, J & B Meats, Burringbar Meat and Cabarita Meats.

**Project Area:** Marketing and Education (Website Development)

**Budget:** \$30,000

**Partner:** Sustain Northern Rivers, Regional Development Australia

Two websites have been developed for the Northern Rivers Food Links Project.

[www.northernriversfoodlinks.com](http://www.northernriversfoodlinks.com) is a communication tool for the general community about the project. The website provides accountable and transparent information about the Northern Rivers Food Links project including the business plan, marketing plan, research findings and budget. The site is also linked to Northern Rivers E-Blast communication, which communicates with approximately 700 subscribers. This website has had nearly 4,000 visits since January 2011.

[www.sustainfood.com.au](http://www.sustainfood.com.au) is a partnership between Food Links, Sustain Northern Rivers and Northern Rivers Food. The website is divided into four key areas: Eat, Grow, Find and Inspire. Eat includes local food recipes and information on preserving seasonal produce; Grow includes the Grow Your Own Food 12 Week step by step guide and information on landsharing; Find includes the Northern Rivers Produce List and information on the Farmers

Markets in the Region; Inspire includes local food stories and links to the Local Food Blog where the sustain food community can share information on eating, growing and finding local food. The website is quickly becoming a valuable community resource with pages viewed on a monthly basis ranging between 7000 to over 14,000 in the first 6 months of going live.

Driving initial hits to the website and ongoing patronage can be attributed to the Northern Rivers Food Links promotional campaigns, Grow Your Own Food 12 Week Challenge (with over 600 registrations for the first Challenge) and the Know Your Farmer, Know your Food Campaign which has driven the Produce Listings to approximately 140 listings. The campaign promotion is tied to a high level of media advertising (through media partnerships with ABC North Coast Radio, NBN Television and APN publishing).

The sustain food website has been developed in a way which allows growers to self register and maintain their listing. The local food blog has been promoted and encouraged through the second Grow Your Own Food 12 Week Challenge campaign to drive social networking and further sustain the site through community interaction/assistance. Banner positions at the top of the page have been developed for the current campaigns however at a later stage can be used for generating income to provide for site maintenance.

**Project Area:** Marketing and Education (Skilling the Community)

**Budget:** \$53,000

**Partner:** Byron Community College

Commencing in March 2011 with a series of demonstrations and workshops being rolled out across the Region. Topics include composting, establishing a veggie garden and growing food in sandy soils through to cooking and preserving and looking after chooks in your backyard. Byron Region Community College has delivered ground breaking sustainability education for the Byron community for many years. The program is taking this skill and knowledge into the broader region through the network of Community Colleges and other partners. One of the Tweed workshops is scheduled for the Tweed Shire Council family fun day in August 2011.

**Project Area:** Marketing and Education (Consumer Research)

**Budget:** \$15,000

**Partner:** Jetty Research

A series of consumer and retailer surveys are being conducted across the region to determine consumer attitudes towards the price, availability and quality of local produce. These surveys are being run pre and post media campaigns to evaluate their effectiveness in raising awareness and influencing consumer behaviour.

**Project Area:** Marketing and Education (Food Links Documentary)

**Budget:** \$27,000

**Partner:** Louis Randall Consulting

This three part documentary will tell the story of the Northern Rivers Food Links project – why it is important, how it works, and what we can do - as regions, communities and individuals to secure a sustainable food future.

**Project Area:** Food Distribution (Project A)

**Budget:** \$81,000

**Partner:** House With No Steps

House With No Steps (Ballina Shire) produces around 100 tonnes of macadamias and 15,000 trays of avocados each year and provides a one stop service for regional growers of macadamias, avocados, peaches, nectarines, custard apples, limes and persimmons. Freight, fruit grading /sorting, packing, consignment and marketing is coordinated by staff on the farm, including 89 supported workers with disabilities. The 'Packing Shed' located on site, grades, packs and distributes approximately 250,000 trays of fruit to all major wholesale fruit markets in Australia and in some instances to major chain stores such as Coles and Woolworths. House With No Steps is currently establishing relationships with major supermarket chains – IGA, Coles and Woolworths with a view to providing local food through a local distribution model. The project aims to replace the food lines that are currently exported to metropolitan markets and retailer distribution hubs and then re-imported back into the region. Developing and implementing the model will showcase the challenges in re-engineering a complex and entrenched system of distribution systems and processes for fresh food products in Australia.

**Project Area:** Food Distribution (Project B)

**Budget:** \$34,000

**Partner:** North Coast Citrus Growers Association

North Coast Citrus Growers Association is an established cooperative specialising in Tahitian Limes and other citrus varieties. The Association supplies 100,000kg of limes at a national level to a supermarket group through an exclusive contract as well as supply arrangements with a number of larger wholesalers and retailers. Every year however, an equivalent quantity of second grade fruit is not harvested as it is not economical to pick and process/distribute through established contracts/markets. This edible fruit is therefore wasted directly as a consequence of inadequate distribution channels.

The model has commenced with a regional research scope to determine the quantities and requirements for whole fruit supply to the Northern Rivers hospitality and providore sectors. This research will underpin the development of a business plan (developed as an in-kind contribution of the Growers Association). Project funds will assist to implement the actions determined through the business plan with the aim to supply through a local distribution model, open new produce lines and effectively reduce the product going to waste.

**Project Area:** Food Distribution (Project C)

**Budget:** \$10,000

**Partner:** Food Links contractor

Developing a network of northern rivers farmers markets will allow for replication of the farmers market concept across the region, resource sharing and maximising produce availability. The new Caldera Farmers Markets in Murwillumbah highlights the benefits of this networking model.

**Project Area:** Sustainable Farming Practices

**Budget:** \$235,000

**Partners:** NSW Department of Primary Industries, Mara Seeds, Tweed Shire Council, Landshare Australia, Clarence Landcare, Northern Landcare Support Services

Each of the project partners listed above is working with primary producers in their local area to identify how new farming methods can be incorporated into their existing farm management practices.

Two projects are being delivered in the Tweed Shire. Project 1 is a broad-scale composting trial being delivered by Tweed Landcare with the assistance of Tweed Shire Council's Sustainable Agriculture Program. Thirty-five farmers have been supplied with up to 20 tonnes of compost each to demonstrate the benefits of compost in conventional agriculture. Project 2 is a sustainable agriculture discussion paper being delivered by Tweed Shire Council. This paper and the associated stakeholder consultation will help to inform the development of a sustainable agriculture strategy for the shire, which will be integral to delivery of the agricultural objectives contained with the Tweed Shire Community Strategic Plan.

**Project Area:** Local Government Resource Kit

**Budget:** \$35,000

**Partners:** 7 northern rivers councils, Food Links Project Management Team

Template policies being developed for the local government resource kit include a community gardens policy, market gardens policy, roadside stalls policy and sustainable catering policy. Each Council will have these resources at their disposal to implement as required. In addition to policy templates, the local government resource kit will also include community fact sheet templates and network lists for ongoing communication between staff within participating councils.

**Project Area:** Village Showcases

**Budget:** \$50,000 per local government area

**Partner:** Caldera Institute (Tweed area only)

Caldera Institute has successfully delivered the following projects under the village showcase project area:

- Establishment of a community garden at the Stokers Siding Public School.
- Establishment of a community garden at RSL Care Darlington (retirement village).
- Installation of a commercial kitchen in the Burringbar Community Hall.

For information on village showcase projects in the other local government areas visit [www.northernriversfoodlinks.com.au](http://www.northernriversfoodlinks.com.au)

**Project Area:** Food Production in Indigenous Communities

**Budget:** \$50,000

**Partner:** Muli Muli Women's Group Inc

The Muli Muli Community Garden will be implemented by the newly incorporated women's group, comprised of the matriarchs of the Muli community and auspiced by the Muli Muli Local Aboriginal Land Council. Permaculture gardening practices will inform the design of the garden, and training will also be provided to the women's group. The garden will enable the community to have better access to local fresh food. This is important in a community where remoteness, access to transport and therefore access to fresh food is quite limited.

## **Linkages to the Tweed Shire Community Strategic Plan**

To assist with the integrated planning and reporting process, this Council Report identifies how Northern Rivers Food Links supports the objectives of the Tweed Shire Community Strategic Plan (detailed below).

### **Strengthening the Economy**

Objective 3.2.1 – Foster a viable farming community

Objective 3.1.5 Support innovative employment generating projects.

### **Supporting Community Life**

Objective: 2.1.6 Provide social, economic and cultural initiatives which enhance access, equity and community well-being.

### **Caring for the Environment**

4.5.1 - Promote and encourage sustainable and innovative agricultural practices.

### **Where to from here?**

Northern Rivers Food Links is demonstrating how strategic direction combined with a well resourced delivery program ensures the agreed objectives are met.

This approach must now be considered in the context of the Tweed Shire Community Strategic Plan and the agricultural objectives contained therein.

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The only direct costs to Council associated with this project are of an in-kind nature though the commitment of staff time on the Steering Committee and the LGA Reference Group. The project budget has allocated funds for a project management team to provide the human resources required to deliver most of the activities covered by the project.

No legal implications have been identified.

### **POLICY IMPLICATIONS:**

Nil.

### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. Northern Rivers Food Links Project Update March 2011 (ECM 33541126)
-

**26 [CNR-CM] NSW Coastal Conference November 2011**

**ORIGIN:**

**Natural Resource Management**

**SUMMARY OF REPORT:**

Tweed Shire Council has won the right to host the NSW Coastal Conference on 9 - 11 November 2011. Cr Joan van Lieshout presented the winning bid for the 20th Annual 2011 Conference at the 2010 conference in Batemans Bay.

The Office of Environment and Heritage (OEH) is the main sponsor of the conference. A professional conference organising company (East Coast Conferences) has been appointed to ensure continuity from one year's conference to the next.

By hosting the NSW Coastal Conference, Tweed Shire Council is required to underwrite the conference. The conference does not require any upfront funding and is managed as a separate entity. Any profit generated from the conference will be forwarded to the host council upon completion.

**RECOMMENDATION:**

**That Council allocates \$10,000 from the Tweed Coastal Committee budget to underwrite any loss occurring as a consequence of Council hosting the 20th Annual NSW Coastal Conference in November 2011.**

## **REPORT:**

Tweed Shire Council has won the right to host the NSW Coastal Conference in November 2011. Cr Van Lieshout presented the winning bid for the 20th Annual 2011 Conference at the 2010 conference in Batemans Bay.

The NSW Coastal Conference has been run as an annual event since 1990. The conference has grown to become one of the most successful coastal industry events held in Australia. It attracts between 250 – 300 participants from throughout NSW and Australia.

The 20th Annual NSW Coastal Conference is to be held from Wednesday 9 to Friday 11 November 2011 at Twin Towns Services Club, Tweed Heads.

The Office of Environment and Heritage ("OEH") is the main sponsor of the conference. OEH, along with the host council, are the key stakeholders. A professional conference organising company (East Coast Conferences) has been appointed to ensure continuity from one year's conference to the next. East Coast Conferences ("ECC") holds the registered business name, website and ABN for tax-purposes.

By hosting the NSW Coastal Conference, Tweed Shire Council is required to underwrite the conference. The conference does not require any upfront funding and is managed as a separate entity. Council does not need to be involved with any financial transactions related to the conference organisation or GST reporting.

Any profit generated from the conference will be forwarded to the host council upon completion of the final budget wrap up (generally within 2 months following the conclusion of the conference), with the exception of a marketing contribution (15% of total profit) which is to be carried-over for the ongoing development of the next conference.

The program is comprised of all the traditional aspects of the Conference including plenary sessions, concurrent sessions or workshops, poster displays and half-day field trips addressing some of the local coastal zone management issues. Daily lunches and morning/afternoon teas, the welcome reception, a casual dinner and the conference dinner are included in the registration.

### **Entitlements for Host Council**

Included entitlements/benefits for the Host Council include the following:

- Two (2) full conference registrations, including social functions
- Two (2) additional tickets for each of the social functions
- Total of six (6) one-day only conference registrations (excludes social functions)
- Council logo and website link on conference website
- Opportunity to contribute the "Message from Host Council" and "About the Host Council" for inclusion on website and in program/registration material
- Opportunity for local Visitors Information Centre to take and manage all accommodation bookings
- Opportunity to review and approve all prepared marketing materials which include Host Council logo
- Opportunity to have a trade display area for the duration of the conference to promote local initiatives
- Opportunity to have a nominated local brochure (usually tourism-related) included with all delegate satchels

The Tweed Shire Council maintains primary responsibility for the following areas (with assistance from ECC as required):

1. Conference host
2. Financial underwriting of the event with all profits (less the 15% marketing contribution for future conferences) going the host council at conclusion
3. Determination of conference theme – with details for 'call for abstracts'
4. Speaker selection and program development ("Program Advisory Committee")
5. Field trip site selection

The conference website is [www.coastalconference.com](http://www.coastalconference.com).

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

By hosting the NSW Coastal Conference, Tweed Shire Council is required to underwrite the conference. The conference does not require any upfront funding and is managed as a separate entity. Council does not need to be involved with any financial transactions related to the conference organisation or GST reporting.

The Program Advisory Committee ("PAC") is a Committee organised by the host Council. The Committee includes Councillor Barry Longland and three Council staff, the regional Office of Environment and Heritage (OEH) representative, representatives from local tertiary education institutions and other relevant government agencies.

#### **POLICY IMPLICATIONS:**

Nil.

#### **UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**27 [CNR-CM] South Tweed Junior Rugby League Club Inc. - Assistance for Solar Power Installation**

**ORIGIN:**

**Natural Resource Management**

**SUMMARY OF REPORT:**

South Tweed Junior Rugby League Club Inc. is seeking financial assistance to install a 10kw solar power system on their clubhouse. The building is a Council owned asset located on Council land at Dave Burns Field, Fraser Drive, Tweed Heads South.

Council has capacity to provide a five year interest-free loan of \$25,000 through its Revolving Energy Fund to support the Club's proposal.

The Club would service the loan using financial benefit generated by the solar system.

**RECOMMENDATION:**

**That Council supports the South Tweed Junior Rugby League Club Inc. proposal for the installation of solar power on its clubhouse through the provision of a \$25,000 five year interest free loan funded through the Tweed Shire Council Revolving Energy Fund.**

**REPORT:**

South Tweed Junior Rugby League Club Inc. is seeking financial assistance to install a 10kw solar power system on their clubhouse, which is a council owned asset located at Dave Burns Field, Fraser Drive, Tweed Heads South.

Reproduced below is a copy of the Club's proposal.



**SOUTH TWEED JUNIOR RUGBY LEAGUE CLUB INC**

Grounds at: **Dave Burns Fields  
Fraser Drive,  
South Tweed Heads**

---

President: Paul Hildrew  
Phone: 0408 708576

Secretary: Leisa Hildrew  
Phone: 0408 679522  
Email: leisa.hildrew@bigpond.com.au

Treasurer: Kristine Dinsey  
Phone: 0418 737154

Correspondence: PO Box 471, Banora Point. NSW 2486  
FAX: 07 55233354

Mr Dan Walton  
Tweed Shire Council

Dear Dan

I am writing to you on behalf of South Tweed Junior Rugby League Football Club to make an application to Tweed Shire Council for a sustainability loan over five years to assist us with the installation of Solar Power at our Club House at Dave Burns Fields Fraser Drive South Tweed Heads.

The cost for the Solar System is \$39,500.00

We have received approval from Country Energy that we can install a ( 3 ) Three Phase 10kw Solar Power System with the Gross Feed in Tariff of 0.60cents per kw until 2017

This system would produce approximately 46kw per day;

Therefore:  $46 \times 365 = 16790 \times 0.60 = \$10,074.00/\text{year}$ .

With the cost of electricity increasing every year the committee see this as a way to offset our electricity account in the years to come, last year it cost us \$8000.00 for the football season as we train at least two nights a week for two hours and play every second Saturday night through the season.

The Club is aware that they will be responsible for upkeep and maintenance of the solar system, the Club would also have it insured on our contents policy. Also the club understands that if we move or relinquish our lease that the solar system will become the property of the Tweed Shire Council.

The Club is very environmentally minded and we are keen on obtaining Council's yellow recycling bins for our grounds as we like to recycle as much as possible and will endeavour to encourage our patrons.

South Tweed Heads Junior Rugby League is a progressive Junior Sporting Club committed to the development of young players from ages 5 to 16 years within the sport of Rugby League. Our aim is provide a safe environment for all players to enjoy the sport and develop their skills and knowledge of the game.

With support and approval from Tweed Shire Council our club will be able to keep the registration fees down for players, encouraging as many young players as possible to participate in the sport and also provide equipment for training and game days.

I look forward to meeting or hearing from you with a favourable response in the near future.

Yours faithfully  
Peter Mitchell  
0408 692 568  
South Tweed Junior Rugby League Club

Council has capacity to provide a five year interest-free loan of \$25,000 through its Revolving Energy Fund to support the Club's proposal. The Revolving Energy Fund was established in March 1999 through Council resolution. Its purpose is to fund energy efficiency initiatives on existing Council assets.

As per the Club's proposal (copy reproduced below), the loan would be serviced from the annual financial benefit generated by the solar system.



MTR2.B710872

Ref: NMI 40011484583

18 January 2011



STH TWEED JNR F/BALL CLUB  
C/- KRISTINE DINSEY  
PO BOX 471  
BANORA POINT NSW 2486

930NNNNNN

Dear STH TWEED JNR F/BALL CLUB

**APPROVAL TO INSTALL A SMALL SCALE GENERATOR**

I am pleased to advise that Country Energy has approved your application to install a small scale generation system at DAVE BURNS FIELD 16 FRASER DRIVE BANORA POINT .

**Important changes to the NSW Solar Bonus Scheme**

On 27 October 2010 the NSW Government announced important changes to the Solar Bonus Scheme.

To be eligible to receive a 60 cents per kilowatt hour feed-in tariff for the electricity produced by your system, you must have purchased or leased your renewable energy system, (or entered into a legally binding agreement to do so), by 27 October 2010.

Customers who have purchased or leased a renewable energy system after 27 October 2010 are eligible to receive a feed-in tariff of 20 cents per kilowatt hour.

Please note Country Energy or the Department of Industry and Investment may require you to demonstrate proof of purchase prior to 27 October 2010 to determine which feed-in tariff rate you are eligible to receive.

**System performance - check with your installer**

It is important to be aware that your installer, rather than Country Energy, is responsible for the installation's performance. Prior to installing your system the designer/installer should ensure that the power system is capable of supporting the installation. This is particularly important for installations with an output greater than 3kW, and we encourage you to contact your installer for any approval conditions.

Costs associated with augmenting the electricity network to allow your system to operate effectively may be at the installer's cost. Further information is available on our website - [www.countryenergy.com.au](http://www.countryenergy.com.au).

**Now that I am approved, what should I do next?**

1. Check the date when you entered an agreement to purchase or lease your renewable energy system, and ensure you have a record of this. This will determine which feed-in tariff rate you are eligible to receive.
2. Speak to your nominated installer or electrical contractor to ensure they submit a Certificate of Compliance - Electrical Work (CCEW) to Country Energy after the installation of your generator system.
3. Once your meter has been installed your Accredited Service Provider may connect your system to our network and submit a Notification of Service Works (NoSW) to Country Energy.



4. Country Energy undertakes sample inspections of meter installations and may visit your premise to inspect your new metering installation.
5. Upon receipt of the CCEW and the NoSW, your nominated installer and/or retailer will be advised of your system approval allowing them to apply the relevant tariff to your account. This will finalise the installation and connection process.

**Does this mean that I am eligible to participate in the NSW Government's Solar Bonus Scheme?**

Customers wishing to participate in the Solar Bonus Scheme must meet the eligibility criteria established by the NSW Government. A summary of this list is enclosed and a full list and additional information can be found on the NSW Industry and Investment website at [www.industry.gov.au/energy](http://www.industry.gov.au/energy).

Please call our energyanswers team on 1800 ENERGY or 1800 363 749 if you have any queries.

Yours sincerely,



Peter Bereicua  
General Manager Network Operations and Customer Response

### IMPORTANT INFORMATION ABOUT THE NSW SOLAR BONUS SCHEME

Only one complying system per customer is eligible to participate in the NSW Solar Bonus Scheme. Dual systems (such as those that incorporate both solar and wind) are considered multiple systems and as such, only one will be eligible to participate in the Scheme.

A complying generator under the legislation has the following features:

- (a) is a solar photovoltaic or wind turbine generator that has a generating capacity of no more than 10 kilowatts, and
- (b) is installed and connected to the distribution network in a manner that provides for all the electricity generated by the generator to be supplied to the distribution network and allows Country Energy to measure at any instant the amount of electricity supplied, and
- (c) complies with, and is installed and connected in a manner that complies with, any safety, technical or metering requirements.
- (d) is connected to the premise of a residential or small business customer only (customers who use less than 160MWh consumption per annum).

Further information on eligibility requirements for the Solar Bonus Scheme is available on the NSW Industry and Investment website - [www.industry.gov.au/energy](http://www.industry.gov.au/energy).

Please note penalties apply if there is a change in your eligibility for the Solar Bonus Scheme and you do not notify Country Energy within 7 days.

#### Meter Installation

To receive credits for all energy generated by your complying system, you will need to install a gross meter.

To receive credits for energy that is fed back into the grid after household or small business needs are met, you will need to install a net meter.

You should discuss your metering options with your installer. Meters must be installed by a level 2, category 4 Accredited Service Provider. You can find a list of Accredited Service Providers at the NSW Office of Fair Trading website - [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au).

Country Energy provides meters at no charge, however customers are responsible for installation costs (material and labour) and any required changes to your existing metering arrangements.

#### Customers in other states

Please be aware the following State legislative requirements apply to Queensland, New South Wales and Victorian Country Energy network customers:

- Customers in Victoria that are connected to Country Energy's distribution network are eligible to participate in the NSW Solar Bonus Scheme.
- Customers in Queensland that are connected to Country Energy's distribution network are eligible to apply for participation in the QLD Solar Bonus Scheme only.

Details of the Club's eligibility for the \$0.60 feed-in tariff under the NSW Solar Bonus Scheme, which is supported by evidence of a financial deposit paid by the Club for purchase of a system is reproduced below:



SUNUP SOLAR TRADING AS  
Green Energy Planning Services  
1A/17 LAWRENCE AVE NERANG QLD 4211  
**PHONE**  
**1300 177 177**

<b>INVOICE</b>	<b>A100773</b>	<b>Purchase Price \$39,000.00</b>
TAX INVOICE	\$39,000.00	ABN 37 135 733 694
Terms:	Full Payment Upon installation to:	Sunup Solar
Date of Purchase:	24/10/2010	
Email:		<a href="mailto:brianpowell1@bigpond.com">brianpowell1@bigpond.com</a>
Contact Brian Powell:		0419 991 557
Web address:		<a href="http://solarpowergoldcoast.com">solarpowergoldcoast.com</a>
<b>Customer Name</b>	<b>Address</b>	
<b>SOUTH TWEED JUNIOR FOOTBALL CLUB</b>	DAVE BURNS FIELD 16 FRASER DRIVE BANORA POINT NSW 2486	
<b>PRODUCT PURCHASED:</b>	<b>10 KILOWATT SOLAR POWER SYSTEM</b>	
<b>PRICE INCLUDES:</b>	<b>INSTALLATION</b>	

Less 331 KECS @ no less than	<u>\$12,743.00</u>
Full price installed	
\$39,500.00	
Less deposit paid by P Mitchell	\$500.00
Balance due	\$39,000.00
Approximate GST content	\$3,545.50

**CONSTITUENTS OF THE SOLAR POWER SYSTEM**

SOLAR PANELS ARE QUANTITY 40 BY 250 WATT  
96 CELL MONOCHRYSTALINE PANELS.

EACH PANEL IS 1,064MM WIDE BY 1,590MM LONG

INVERTERS ARE - -  
TWO, DIEHL AKO 5300TL PHASE THREE  
PLATINUM SERIES  
MADE IN GERMANY.

Please note that the panel make, and inverter make are  
current warehouse stock that could change to other similar  
quality makes and brands as time progresses.

Therefore the South Tweed Football Club agrees to abide by  
the terms and conditions of this invoice.

The Club's proposal represents an opportunity for Tweed Shire Council to increase the amount of solar power generation from its community managed facilities, which is consistent with the community facility installs currently underway through the Tweed Shire Solar Community Program.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

\$25,000 loan from the TSC Revolving Energy Fund. There is currently \$127,218 available in this reserve.

**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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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**REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS**

**28 [EO-CM] Cadaga Road, Fernvale - Transfer of Crown Road**

**ORIGIN:**

**Design**

**FILE NO: DA10/0350**

**SUMMARY OF REPORT:**

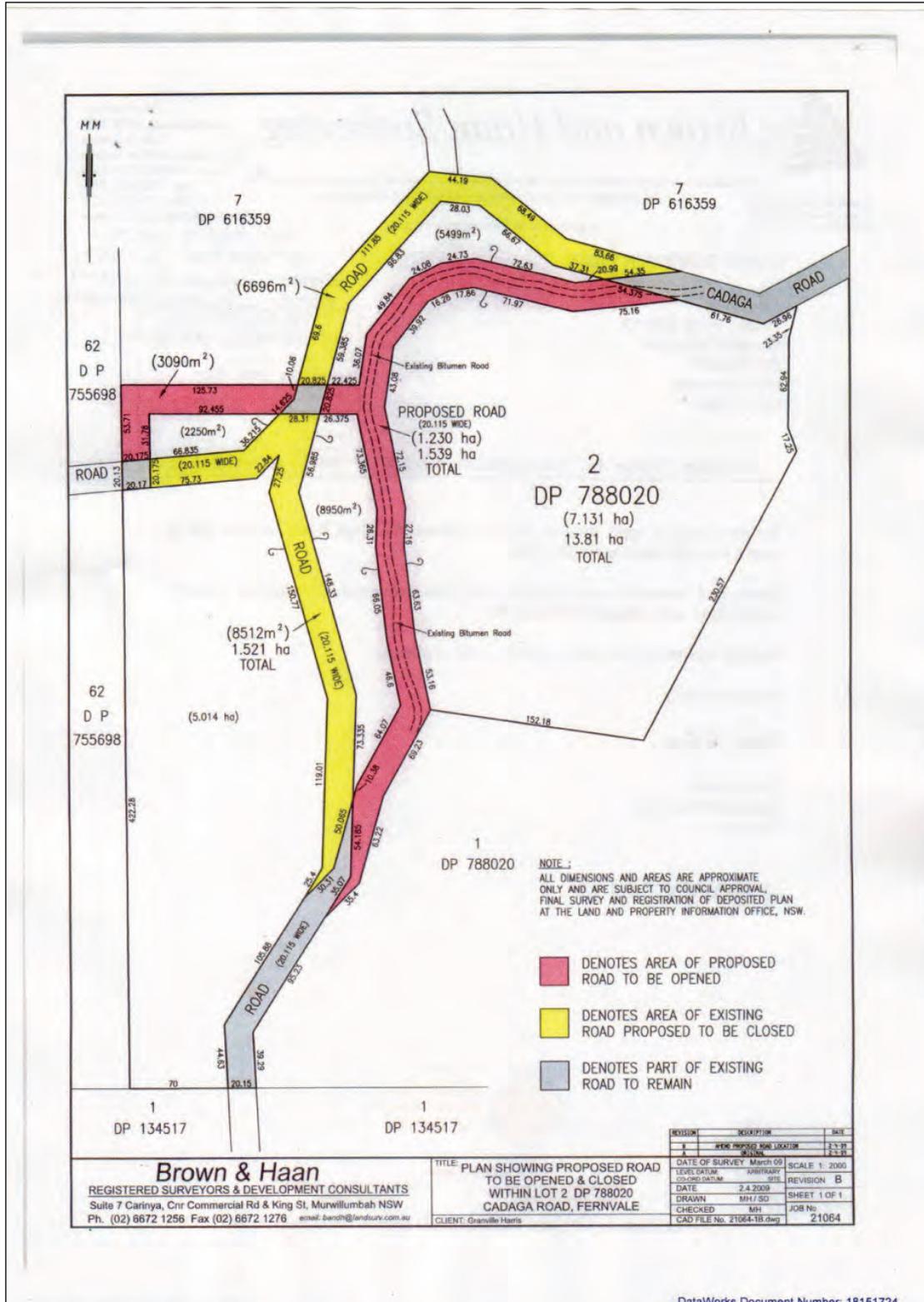
An application to close and purchase a section of Cadaga Road at Fernvale was recently submitted to Council by the owner of Lot 2 in DP788020, Mr Paul Harris. The application proposed to close the section of road which ran along the northern boundary and through Lot 2 and dedicate in its place a new road reserve running through the centre of Lot 2 as shown in the report.

**RECOMMENDATION:**

**That Council holds the application for transfer of the Crown Road reserve, which runs from the north eastern boundary and through Lot 2 in DP788020, in abeyance until such time as a determination has been received on the road closure application submitted to Land and Property Management Authority for the same section of road.**

**REPORT:**

An application to close and purchase a section of Cadaga Road at Fernvale was recently submitted to Council by the owner of Lot 2 in DP788020, Mr Paul Harris. The application proposed to close the section of road which ran along the northern boundary and through Lot 2 and dedicate in its place a new road reserve running through the centre of Lot 2 as shown below:



The section of road reserve proposed to be closed was fully constructed by Mr Harris and large sections of the constructed road fall outside the road reserve and into Lot 2, thus causing concern of liability issues for Mr Harris and prompting the application to close the road reserve.

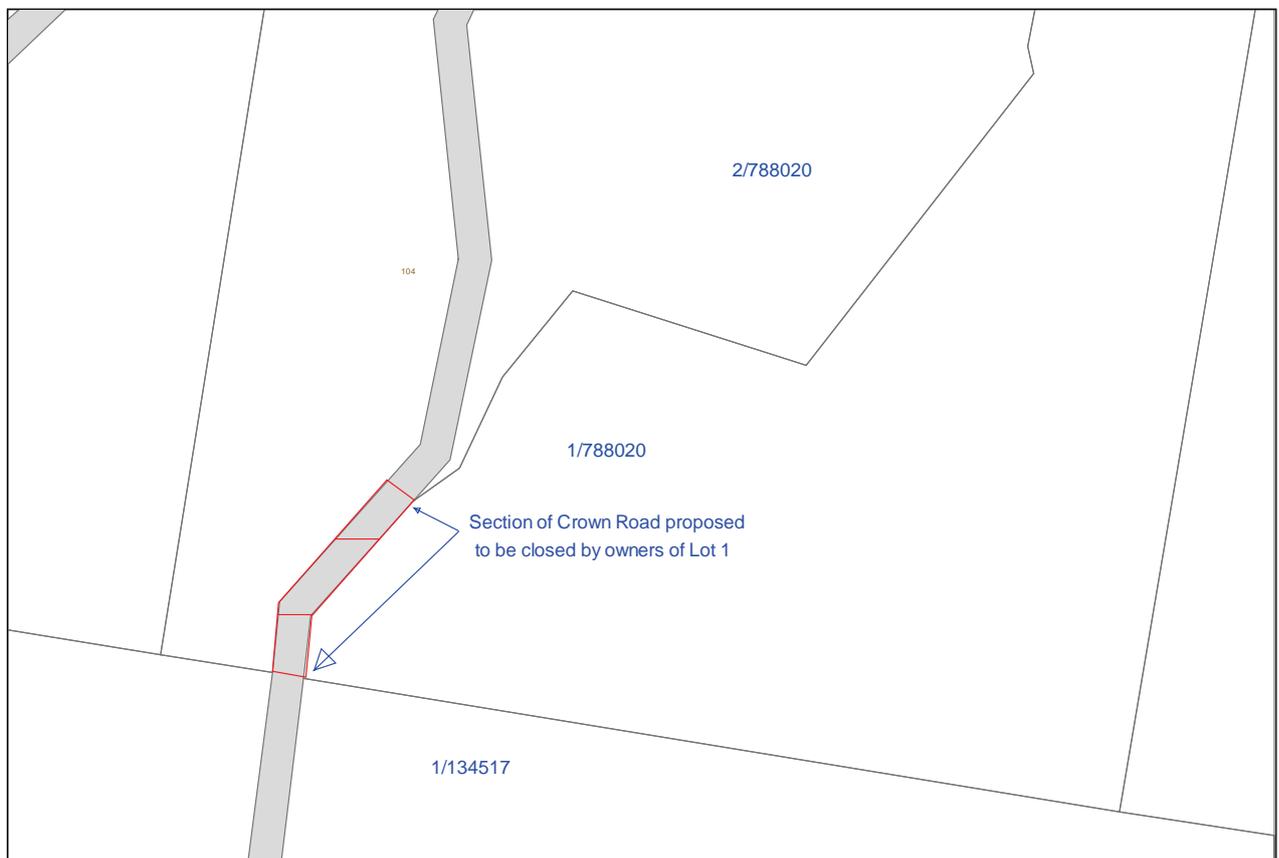
The purpose of the dedication of a new road through the property was to allow continued access from Cadaga Road to the two neighbouring property boundaries and thus not interrupt the network of road reserves.

Mr Harris, at full cost to himself, constructed an area of new road reserve proposed to be dedicated which ran from Cadaga Road at the north eastern boundary of Lot 2 to the south western boundary of the adjoining Lot 1 owned by Mrs Maria Johnson.

Mrs Johnson submitted to Council an objection to the closure of the road reserve at this time noting that the existing road provided a better and safer access to the southern section of her property (Lot 1) than the newly constructed road proposed to be dedicated.

Council in principle did not object to the proposal to close the road however it was discovered that the road was a Crown Road reserve and as such the application was required to be submitted directly to Land and Property Information (LPMA) for assessment and not Council. LPMA have confirmed that the road closure application has been received and is currently being assessed.

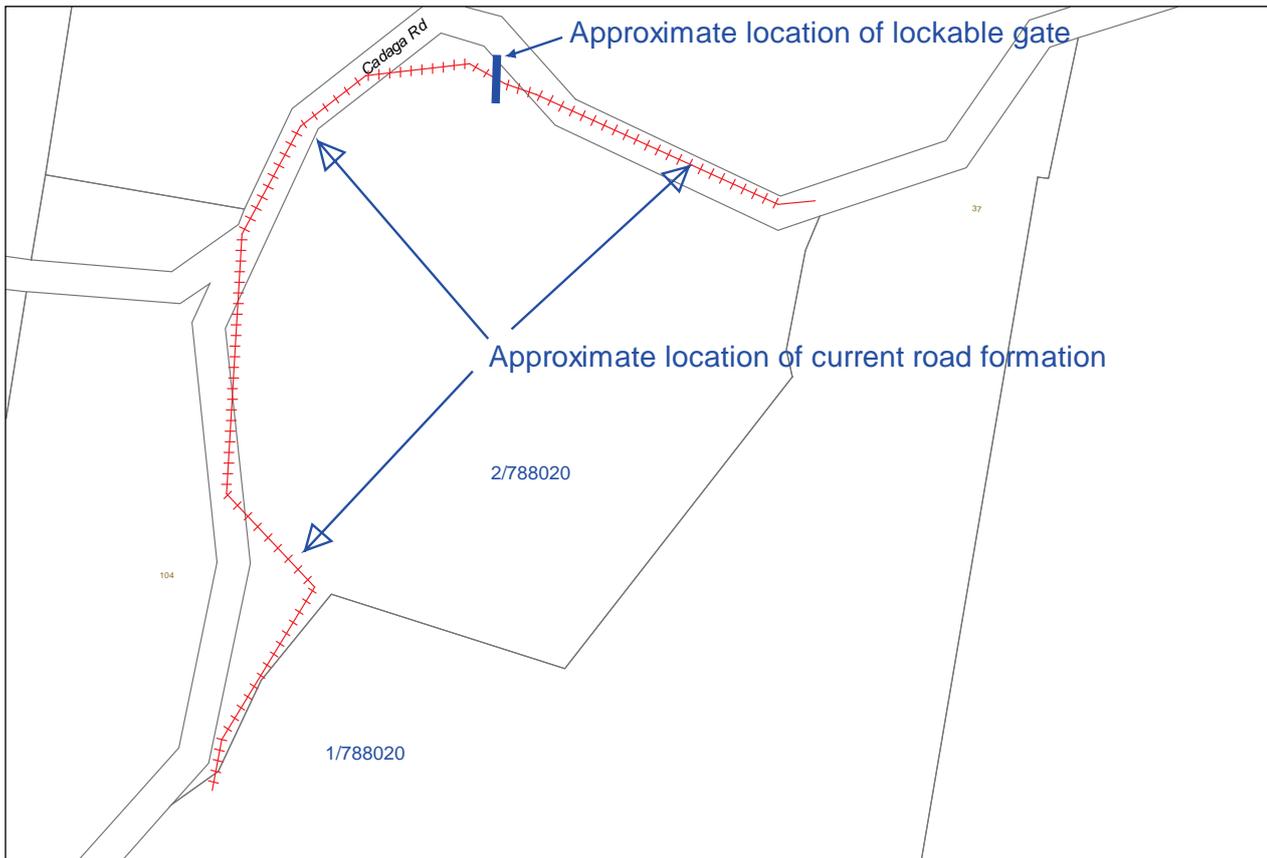
Mrs Johnson (Lot 1) has also submitted an application to close and purchase a section of the Crown road reserve which begins at the south western boundary of Lot 1 and runs to the northern boundary of Lot 1 in DP134517 as shown below.



Council has now received an application from Mrs Johnson to transfer the section of Crown Road reserve being the extension of Cadaga Road from the north eastern boundary and through Lot 2 in DP788020, owned by Mr Harris, to the north western boundary of Lot 1 in DP788020, owned by Mrs Johnson, for the purposes of further road construction. A separate Section 138 application to construct the sections of road which fall outside the designated road reserve has been submitted and is pending assessment on the outcome of this report.

As noted above there is currently existing sealed formation of the Crown road reserve through Lot 2 in DP788020 however large sections of it fall outside the road reserve and are formed over the private property owned by Mr Harris. Mr Harris currently allows Mrs Johnson to access the southern part of her land over this road formation however has advised that the access will soon be blocked from use for privacy purposes. A lockable gate has been constructed within a section of the road which is formed over the privately owned parcel within Lot 2.

The current Road construction (approximate only) over the Crown Road reserve is shown below by the dotted lines:



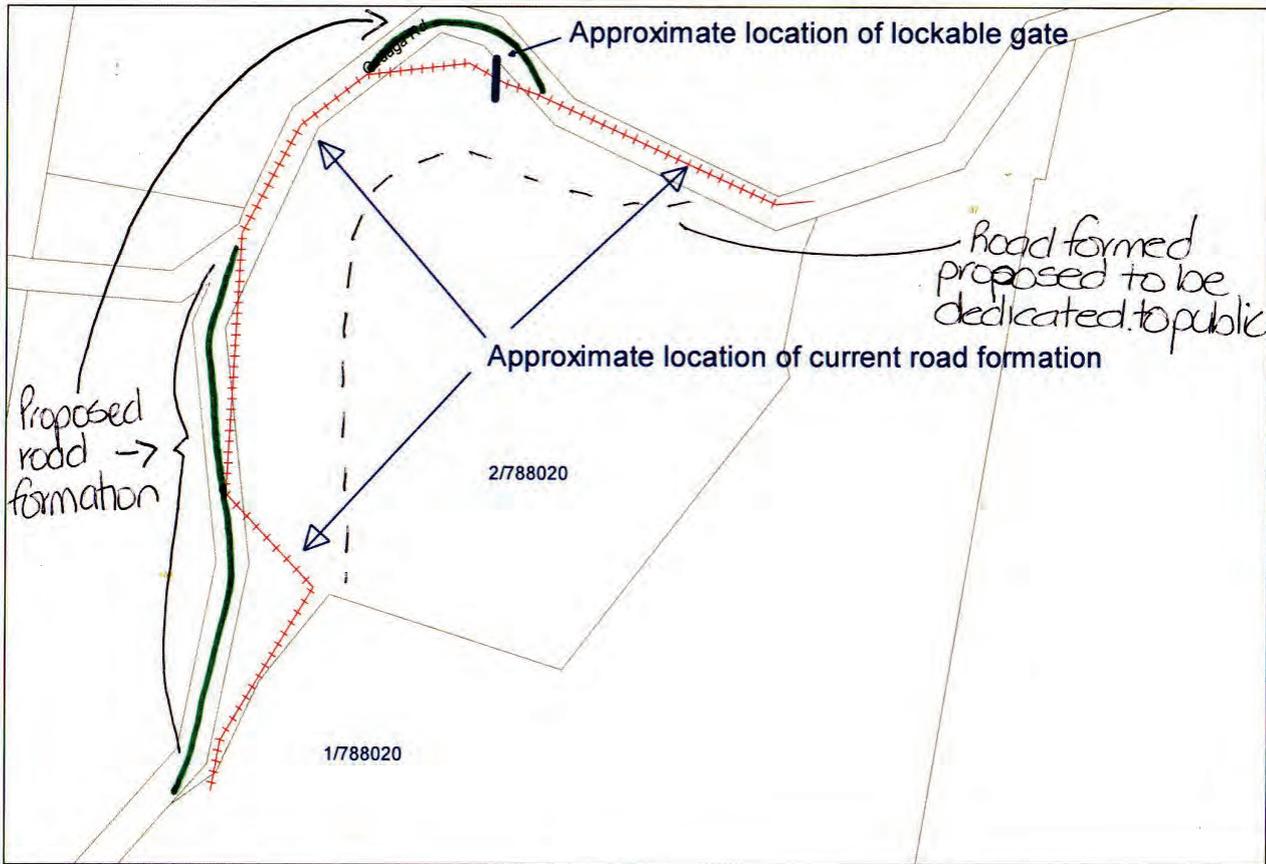
A development application is currently being assessed by Council for the construction of a dwelling by Mrs Johnson over Lot 1 in DP 788020. The site of the proposed dwelling is at the south western boundary of Lot 1.

Mrs Johnson has access to this southern section of her parcel, as shown below, via a gravel road which runs through her property and has advised Council that this road would be upgraded for the purposes of DA10/0350 in accordance with clause 11 of the conditions of consent which states as follows:

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



Mrs Johnson is however now seeking to utilise the already constructed sealed road formation through Mr Harris’s property, Lot 2, to comply with the condition of consent or alternatively construct the sections of the road which fall within the Crown road reserve only. In doing so this will create three road networks through Lot 2, one which falls fully within the designated road reserve, one which falls within and partially outside the road reserve and the further formed road reserve running through the centre of Lot 2 which is yet to be dedicated.



Due to the complexity of the matter it would be recommended that this application be held in abeyance pending the outcome of the road closure application submitted by Mr Harris. Land and Property Management have advised that they would be unlikely to approve the transfer of the road reserve to Council while a road closure application is under assessment.

Upon assessment and determination of the road closure application by Land and Property Management Authority further more comprehensive investigations could be held to determine the feasibility of the application to transfer and construct the road reserve from Crown to Council. Should the application to close the road through Lot 2 and dedicate the new road to the public be approved by Land and Property Management Authority no further consideration would be required.

**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](http://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] Lease to Police and Community Youth Club (PCYC) - Florence Street, Tweed Heads**

**ORIGIN:**

Design

**FILE NO: PF2100/190**

**SUMMARY OF REPORT:**

In September 1999 Council resolved to lease a building within the Recreation Ground, Tweed Heads, on the corner of Florence and Adelaide Streets, to the Police and Community Youth Club ("PCYC") for ten years, with a recommendation for a further ten years.

When the original lease was granted in 1999 the land was Crown Land reserved for Public Recreation, with Council as the Trustee.

The original term expired on 31 December 2010 and the PCYC have exercised the option for a second ten year term.

There are no objections to granting the next term, the PCYC continue to provide a worthwhile benefit to the community and have maintained the building to a good standard.

A lease has been prepared and it is necessary for Council to resolve to execute the lease agreement under the Common Seal of Council.

**RECOMMENDATION:**

**That Council approves the execution of a lease to the Police and Community Youth Club for a building within Lot 1 in DP 1082080 for a term of ten years under the Common Seal of Council.**

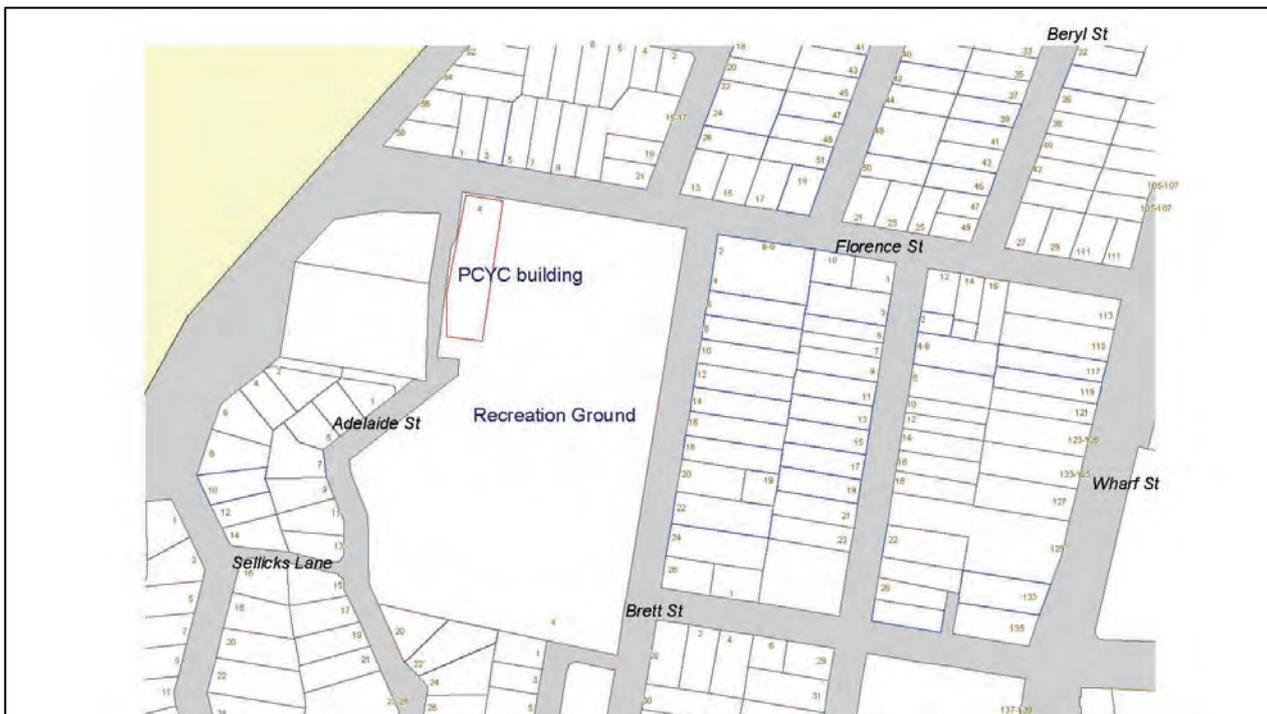
**REPORT:**

In 1999 Council resolved to lease a building on the corner of Florence and Adelaide Streets, Tweed Heads to the Police and Community Youth Club (“PCYC”) for ten years, with a recommendation for a further ten years.

The original term expired on 31 December 2010 and the PCYC have exercised the option for a second ten year term.

There are no objections to granting the next term, the PCYC continue to provide a worthwhile benefit to the community and have maintained the building to a good standard.

The plan below shows the location of the building:



However, the land was vested in Council as community land on 17 June 1977, and in accordance with the *Local Government Act 1993*, Council must not lease the land except in accordance with a plan of management.

Council adopted the Recreation Street Public Reserve Plan of Management in July 2004 which refers to 2 management units, one for sportsground and the other relating to community facilities, including the PCYC building and child care centres within the grounds.

The Management Plan provides for the leasing of the land in accordance with the *Local Government Act 1993*. Section 46(3) provides that Council must not grant a lease for a period exceeding 21 years, and in this regard, Council is able to approve the further term of ten years, as the total term will be twenty years.

A lease has been prepared and it is necessary for Council to resolve to execute the lease agreement under the Common Seal of Council.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**30 [EO-CM] Tennis Australia Partnership Agreement**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

Tennis Australia has identified Arkinstall Park as one of the 50 "Regional Tennis Centres" to be established nationally. Planning for the new tennis facility proposed for the Arkinstall Park Regional Centre has been progressing in consultation with Tennis Australia and Tennis NSW.

The intent has been to ensure the facility is designed and planned to integrate with Tennis Australia's "*Tennis 2020 – facility development & management framework for Australian tennis*" (framework). The Tennis 2020 framework identifies a hierarchy of facilities across Australia and development of these facilities through partnerships with local government and other agencies and organisation.

Tennis Australia is enthusiastic for the Arkinstall Park to be developed as a '**regional facility**' in accordance with the framework (figure 1) and has extended an offer to Council to enter into a Partnership Agreement (MOU). The agreement is not a legal document, and as such acts as a guide rather than a formal binding agreement. The agreement forms a relationship which aims to develop a premier regional facility, develop wider community use of tennis facilities, more active tennis players, more champions, more devoted fans, and improve facility infrastructure and facility operational performance, service and delivery.

The invitation to enter into the agreement with Tennis Australia presents a great opportunity for Council to gain access to facility grants and support from Tennis Australia and aligns with Council's intent for Arkinstall Park to be developed as a major regional sports centre.

**RECOMMENDATION:**

**That Council:**

- 1. Enters into a partnership agreement with Tennis Australia as attached to this report.**
- 2. Formally advises the Regional Development Authority of the partnership agreement with Tennis Australia for the Arkinstall Park facility.**

## REPORT:

The development and planning for the new tennis facility proposed for the Arkinstall Park Regional Centre has been progressed in consultation with Tennis Australia and Tennis NSW.

Tennis Australia has developed the “*Tennis 2020 – facility development & management framework for Australian tennis*” (framework). This is a strategic framework that outlines Tennis Australia’s vision and approach to nurturing and advancing the prospects of tennis and its facilities in partnership with their state and territory Member Associations, clubs, government and other stakeholders. To achieve the Mission as identified in the framework, Tennis Australia has been seeking suitable regions around Australia to be partners to establish the framework for tennis provision and to develop "best practice" facilities development and management to ensure that tennis services remain viable, sustainable and tennis facilities are valued community assets into the future. This includes grass roots development, social opportunities, strategic and business planning processes, facility development, identifying and nurturing talent, providing relevant competitions and tournaments and progressive management and governance practices. This is best achieved by working in partnership with all stakeholders.

Tennis Australia is enthusiastic for the Arkinstall Park to be developed as a ‘**regional facility**’ in accordance with the framework (figure 1) and has extended an offer to Council to enter into a Partnership Agreement (MOU). The agreement is not a legal document, and as such acts as a guide rather than a formal binding agreement. The agreement forms a relationship which aims to develop a premier regional facility, develop wider community use of tennis facilities, more active tennis players, more champions, more devoted fans, and improve facility infrastructure and facility operational performance, service and delivery.

Regional Partnership status will aim to foster growth in:

Community development: making the tennis venues within the region about which the local and surrounding regional community is proud

Economic development: greater tennis operational performance ensuring greater local economy performance

Destination development: patrons will recognise the facilities as great tennis venues to visit, play at and enjoy the services offered

Social and cultural development: by giving the venues within the region status as one of the premier tennis destination in Australia and encouraging access for all to the game

These select regional facilities will be modelled to deliver sustainable business practices (facility and operations) and to be centres of high performance for national initiatives for player development and community tennis. Recognition of these flagship facilities will provide the stimulus for “green field” facility development and redevelopments to build event hosting and management capabilities. Regional facilities will also be defined as venues capable of hosting premium events.

The complete Draft Partnership Agreement is included as an attachment to this report. In summary, the benefits to Council include:

- Access to facility establishment and development funds.
- Coach Commitment - Tennis Australia will afford coaches within the Region with priority bookings to coach training initiatives to support the continual improvement of the tennis coach(es).
- Branding - Tennis Australia will provide the regional centre with commercial promotional items such as banners, letterhead and posters (production fee for which will be met by the Centres at cost) to highlight the status of the Centre as a Tennis Australia recognised partner.
- Tournaments and Events - The regional facility within the region will be a preferred destination for national/state level events with an expectation that the region partner and centre aspires to host the highest possible level of event. Tennis Australia will provide a staff contact to assist the region in delivering events.
- Quality Monitoring - Tennis Australia will designate a relevant staff member as a link to the region to assist in ensuring that the regions commitments to Tennis Australia, the facility operators, owners, coaches and players are met.
- Naming Rights Sponsorship - Tennis Australia, where there is an agreed benefit, reserves the right to seek and obtain a naming rights sponsor and to offer sponsor benefits for all Tennis Regions.

The obligations to Council in the agreements are:

- To develop a documented strategy that in principle aligns with the National framework and addresses minimum facilities, programs and services, facility, management and operational requirements that will be provided within a realistic timeframe from the commencement of this MOU.
- Subject to feasibility, the Regional Partner agrees to develop a sustainable regional centre to meet the objectives of the regional partner and the needs of tennis within the region
- Display an ongoing commitment and capacity to grow the game of tennis within the region.

The invitation to enter into the agreement with Tennis Australia presents a great opportunity for Council to gain access to facility grants and support from Tennis Australia and aligns with Council's intent for Arkinstall Park to be developed as a major regional sports centre.

5 A hierarchy of facilities

Proposed hierarchy of facilities



Figure 1: Tennis Australia hierarchy of facilities from “Tennis 2020 – facility development & management framework for Australian tennis”

**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](http://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. Tennis Australia Partnership Agreement (ECM 34277955).
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**31 [EO-CM] Cudgera Creek Park Upgrade - Hastings Point**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

At its meeting held 19 April 2011 Council resolved to place a draft concept plan for the upgrade of the Cudgera Creek Park area at Hastings Point on public exhibition for 28 days inviting comments.

At the close of the exhibition period one submission was received expressing support for the plan.

**RECOMMENDATION:**

**That Council endorses the draft concept plan for the upgrade of the Cudgera Creek Park area at Hastings Point as placed on public exhibition and proceeds to implement the detailed design and construction.**

**REPORT:**

As per Summary of Report.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Funded through 7 year plan 'park asset renewal' program and Developer Contribution Plan 5.

**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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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**32 [EO-CM] Murwillumbah BMX Park Renovations**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

Council made the following resolution on 21 July 2009 regarding the BMX track off William Street, Murwillumbah:

- "1. Undertake immediate works to render the BMX Park safe by removing the shelter and any other elements that present safety issues.*
- 2. Undertake a consultation process with identified stakeholders to determine options for the park, including consolidation, upgrading or relocation.*
- 3. Reports back to Council on identified options including cost estimates."*

Works to render the area safe have been completed. Following input from interested users and local residents, minor renovations to the site are proposed. These include reducing the area covered by the track, increasing the distance of the track from neighbouring residences, and addressing drainage and maintenance issues.

The works will alter the nature of the track from traditional 'BMX racing' to suit individual 'dirt jump bike riders', which is consistent with requests from the majority of current users.

**RECOMMENDATION:**

**That Council:**

- 1. Approves the proposed alterations to the existing BMX track off William Street, Murwillumbah.**
- 2. Installs risk warning signs and information signs aimed at minimising negative impacts on other users of the facility and neighbouring residents.**

## REPORT:

Council made the following resolution on 21 July 2009 regarding the BMX track off William Street Murwillumbah:

- "1. Undertake immediate works to render the BMX Park safe by removing the shelter and any other elements that present safety issues.*
- 2. Undertake a consultation process with identified stakeholders to determine options for the park; including consolidation, upgrading or relocation.*
- 3. Reports back to Council on identified options including cost estimates."*

Following this resolution, the shelter shed has been removed and old tyres representing a risk to users have been removed. The old skateboard half pipe is no longer suitable for use by skateboards, however may be used by bikes. Some minor earthworks were done to address some safety concerns on this half pipe.

Consultation was undertaken with interested people regarding options for consolidation, upgrading or relocation of the BMX facility. A difficulty in such consultation is there are no organised user groups. Accordingly, discussions were held with students from Murwillumbah High School, residents from the area, and individual people who have expressed interest in redesign of the facility.

Outcomes of consultation include:

- Two letters requested track removal. One of these came from an adjoining resident.
- 11 letters or emails and two phone calls requested retention of the track. One of these came from an adjoining resident, with another from within 100m of the track.
- Five petitions supporting track retention were received containing 410 signatures. One of these included signatures from almost all residents that adjoin or are within 100m of the park. Of the 9 residences that adjoin the park, only two owners or residents did not sign the petition.

Key concerns regarding the track included:

- One neighbour strongly opposed the track, considering it a haven for drug taking, drinking, sex and vandalism. Specific concerns were raised regarding activities in the shelter shed. Removal of the shed has addressed this matter.
- The track is in very poor condition and is an eyesore.
- Trailbikes use the track causing noise and damage.
- Cars often 'hoon in the park'.

Supporters of the track provided comments such as:

- One resident who backs onto the track states 'one of the reasons I purchased a house in Harwood Street was the close proximity of this track'.
- An improved maintenance and drainage program is needed.
- The track is important because we need more, not less activities for youth.

- My boys loved the BMX track.
- I am an older rider (age given as 43) and still ride the track almost daily.
- A smaller and more compact design would help.

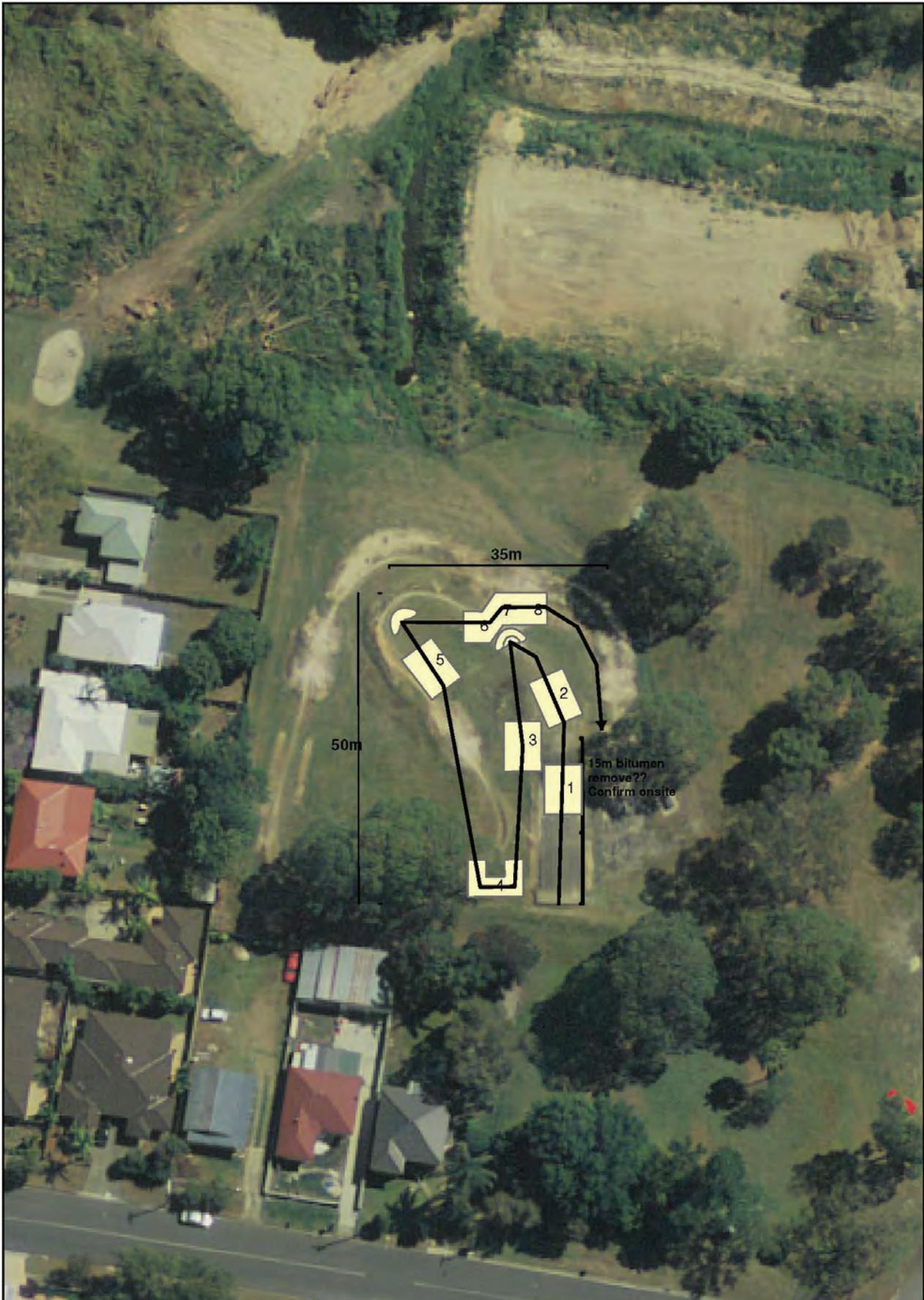
The track was originally built to support BMX racing, which involves organised races with several riders competing. Such BMX tracks rely on an organised club to arrange events, do basic track maintenance and manage general issues at the site. The current concerns began to appear once the club folded around 20 years ago. There has been no community initiative to start another BMX club in Murwillumbah.

Informal usage of the track remains reasonably high, although specific usage figures are not available. Anecdotal advice states up to 20 people at a time can be found using the site on weekends, and many adolescents state they regularly ride there. Mature age riders and parents have also stated they often visit or use the track.

The strongest preference among users is to convert the track into a 'dirt bike jump area'. This would cater primarily for individual activities by riders, such as trick jumps as shown below. Note 'dirt bike jumping' does not include motorcycles, which will continue to be excluded from the area.



Accordingly, it is proposed to undertake small scale renovations to the existing track to reduce the area covered, to improve drainage and maintenance needs, and to modify the jumps to cater for dirt bike jumps rather than BMX racing. An overlay of the modified layout is provided below.



Once works are completed, risk warning signs and signage encouraging users to respect others and people living in the area will be installed.

Estimates of cost obtained from local earthmoving contractors indicate the works will cost around \$15,000.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

\$15,000 will be allocated from the 2011/2012 Sportsfields Capital Works 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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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**33 [EO-CM] EC2011-075 Annual Supply of Ready Mixed Concrete**

**ORIGIN:**

**Contracts**

**FILE NO: EC2011-075**

**SUMMARY OF REPORT:**

This report outlines the tender for EC2011-075 Annual Supply of Ready Mixed Concrete with a twelve (12) month contract period commencing 1 July 2011 until 30 June 2012. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the tenders of Boral for the Annual Supply of Ready Mixed Concrete to Area 1 and Brims Concrete for Areas 2 and 3.

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 tenders from Boral for Area 1 and Brims Concrete for Areas 2 and 3 are accepted for Tender EC2011-075 Annual Supply of Ready Mixed Concrete for the period 1 July 2011 until 30 June 2012.**
- 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 EC2011-075 Annual Supply of Ready Mixed Concrete closed on 11 May 2011. The tender sought prices for the supply and delivery of ready mixed concrete for maintenance and construction purposes in various mix types and quantities across the Shire. The supply contract is for the period 1 July 2011 until 30 June 2012.

### Tenders Received

A total of four (4) responses were received for tender EC2011-075 Annual Supply of Ready Mixed Concrete.

Submissions were received from the following suppliers:

Hymix	Areas1 and 2
Holcim Australia	Areas 1, 2 and 3
Brimms	Areas 1, 2 and 3
Boral	Area 1

### Tender Evaluation

A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

Based on tendered rates, it is recommended that the tenders from Boral for Area 1 and Brimms Concreting for Areas 2 and 3 be accepted for the supply of Ready Mixed Concrete for the period 1 July 2011 until 30 June 2012.

### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding is provided within the 2011/2012 Budget for EC2011-075 Annual Supply of Ready Mixed Concrete.

### 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](http://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** - EC2011-075 Annual Supply of Ready Mixed Concrete (ECM 33993905).
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34 [EO-CM] EC2011-033 Registration of Interest for Contract Truck Haulage

**ORIGIN:**

Contracts

**FILE NO: EC2011-033**

**SUMMARY OF REPORT:**

This report outlines the tender for EC2011-033 Registration of Interest for Contract Truck Haulage for the period 1 July 2011 until 30 June 2013. Rankings were established by comparing hourly hire rates tendered for each truck category and are listed in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the ranking schedule for Contract Haulage for the period 1 July 2011 until 30 June 2013 as included as a confidential attachment to this report.

Attachments A and B are **CONFIDENTIAL** in accordance Section 10A (2)(d) of the Local Government Act 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

**RECOMMENDATION:**

**That:**

- 1. Council accepts the ranking schedule for EC2011-033 Registration of Interest for Contract Truck Haulage for the period 1 July 2011 until 30 June 2013 as listed in the Confidential attachment to this report.**
- 2. ATTACHMENTS A and B be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.**

## REPORT:

### Background

Council Tender EC2011-033 closing 20 April 2011 has been called for the Registration of Interest for Contract Truck Haulage for the period 1 June 2011 until 30 June 2013.

Tenderers were required to submit hourly rates for the following haulage categories:-

- A Rate - Truck Hourly Rate (11.5 – 15 Tonne capacity)
- A Rate - Truck with 500 mm Dia. Rock Hourly Rate
- A Rate – truck and Dog Trailer Hourly Rate
- A Rate – Semi Tipper

Rates submitted will remain fixed and will be reviewed at six monthly intervals over the term of the agreement. Contract rate variations will be made in accordance with a formula which addresses variations in fuel, labour and other costs (registration, insurance etc) fluctuations.

### Tenders Received

A total of twenty eight (28) contractors submitted sixty one (61) submissions to tender EC2011-033. Submission numbers were slightly down on the ninety two (92) submissions received in the 2009/2011 tender period.

Rates received were generally very competitive with no significant increase to rates submitted for the 2009/2011 contract period.

### Tender Evaluation

The Tender Evaluation was conducted by Council's Engineering and Operations Division Contract Unit staff with input from Council's Works Coordinator. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

In accordance with the hourly rates submitted for each truck category it is recommended that Council accepts the ranking schedule, included with this report as a Confidential attachment, for EC2011-033 Registration of Interest for Contract Truck Haulage for the period 1 July 2011 until 30 June 2013.

### 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](http://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** - EC2011-033 Registration of Interest for Contract Truck Haulage (ECM 33991781).
  2. **Confidential Attachment B** - Spreadsheet (ECM 34564412).
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**35 [EO-CM] EC2011-032 Registration of Interest for the Hire of Plant and Equipment to Council**

**ORIGIN:**

**Contracts**

**FILE NO: EC2011-032**

**SUMMARY OF REPORT:**

This report outlines the tender for EC2011-032 Registration of Interest for the Hire of Plant and Equipment to Council for the period 1 July 2011 until 30 June 2013. Tenders were called for the supply of a wide range of plant categories to be hired by Council to service its operational requirements over the period of the hire agreement. Rankings were established by comparing hourly rates tendered for each plant category and are listed in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the ranking schedule for EC2011-032 Registration of Interest for the Hire of Plant and Equipment to Council for the period 1 July 2011 until 30 June 2013 as included as a confidential attachment to this report.

Attachments A and B are **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 hourly hire rate. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

**RECOMMENDATION:**

**That:**

- 1. Council accepts the ranking schedule for EC2011-032 Registration of Interest for the Hire of Plant and Equipment to Council for the period 1 July 2011 until 30 June 2013 as listed in the Confidential attachment to this report.**
- 2. ATTACHMENTS A and B be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.**

## REPORT:

### Background

Council tender EC2011-032 closing 20 April 2011 has been called for the Registration of Interest for the Hire of Plant and Equipment to Council.

Tenders were called for the following categories of plant and equipment:-

- Backhoe
- Crushing Plant
- Dozers
- Excavator - mini
- Excavator - tracked,
- Excavator - "long-Reach"
- Excavator - with Rock-breaker hammer
- Excavator - wheeled
- Loader - skid-steer & attachments
- Loader - tracked
- Loader /Front end - wheeled
- Low-Loader
- Pavement Milling Profiler & attachments
- Roller - footpath
- Roller - Multi-tyre
- Roller - 3 Point
- Roller - padfoot - vibrating and non vibrating
- Roller - smooth drum, vibrating & non – vibrating
- Screening Plant
- Water Cart

### Miscellaneous Plant and Equipment:

- Cherry-picker / Travel-Tower
- Concrete Pump equipment
- Cranes
- 1 Tonne Utes
- High Pressure Drain Cleaner, including Root-cutter and CCTV
- Under-road Borer
- Tilt Tray Truck – suitable for container transport
- Wheeled Tractor - with or without attachments, including flail –mower, slasher & spray units etc.

### On-site Plant and Equipment:

- Dewatering
- Directional Arrow
- Lighting Tower
- Portable Traffic Light
- Portable Toilet, including servicing
- Road Barriers, including New Jersey Kerbs and Water Filled Safety Barriers
- Temporary Site Sheds, including generator and associated equipment
- Tree Mulching machinery & gang
- Trenching & Shoring
- Variable Message Board.

Rates submitted will remain fixed and will be reviewed at six monthly intervals over the term of the agreement. Contract rate variations will be made in accordance with a formula which addresses variations in fuel, labour and other costs (registration, insurance etc) fluctuations.

## Tenders Received

A total of ninety (90) contractors submitted to tender EC 2011-032. This is a decrease from the three hundred and thirty one (331) contractors who submitted to the 2009/2011 Plant and Equipment contract however there is still strong interest from local and regional contractors.

## Tender Evaluation

The Tender Evaluation was conducted by Council's Engineering & Operations Division's Contract Unit staff with input from Council's Works Coordinator who has extensive knowledge of road construction plant performance and capabilities. 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 hourly hire rate. 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.

In accordance with the hourly rates submitted for each plant item category it is recommended that Council accepts the ranking schedule for EC2011-032 Registration of Interest for the Hire of Plant and Equipment to Council for the period 1 July 2011 until 30 June 2013 as included as a confidential attachment to this report.

## 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](http://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** EC2011-032 Registration of Interest for the Hire of Plant & Equipment to Council (ECM 33990737).
  2. **Confidential Attachment B** Spreadsheet (ECM 34173203).
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**36 [EO-CM] EC2011-047 Registration of Interest for the Hire of Small Plant**

**ORIGIN:**

**Contracts**

**FILE NO: EC2011-047**

**SUMMARY OF REPORT:**

This report outlines the tender for EC2011-047 Registration of Interest for the Hire of Small Plant to Council for the period 1 July 2011 until 30 June 2013.

Small Plant are construction tools, for example powered hand tools, plate compactors, generators, concrete finishers etc that are used in construction work and not carried as a Council plant item.

These items are generally hired for daily or short term periods and are collected and returned from the place of hire by Council operational staff. There were ten (10) submissions received to the tender however only six (6) of the tenders received were considered conforming submissions with each tenderer providing a catalogue of hire items and rates of hire to apply. The remaining four (4) submissions offered plant materials that were considered to be classified in the larger Plant and Equipment category. These items were duly listed for consideration under tender EC2011-032 Registration of Interest for the Hire of Plant and Equipment.

It is recommended that Council accepts the tenders as submitted and hire decisions be made following reference to catalogue rates and additional charges that would apply.

**RECOMMENDATION:**

**That Council accepts the tender submissions from; Hakka Hire, Twin City Hire, Premiair Hire, Kingscliff Hire & Landscape Supplies, Kennards Hire and Coates Hire for EC2011-047 Registration of Interest for the Hire of Small Plant to Council for the period 1 July 2011 until 30 June 2013 with hire decisions to be made following reference to submitted catalogue rates and additional charges that may apply.**

## REPORT:

Tender EC2011-047 for the Registration of Interest for the Hire of Small Plant to Council for the period 1 July 2011 until 30 June 2013 closed on 20 April 2011.

Small Plant are construction tools, for example powered hand tools, plate compactors, generators, concrete finishers etc that are used in construction work and not carried as a Council plant item.

These items are generally hired for daily or short term periods and are collected and returned from the place of hire by Council operational staff.

There were ten (10) submissions received to the tender however only six (6) of the tenders received were considered conforming submissions with each tenderer providing a catalogue of hire items and rates of hire to apply.

### Tenders Received

A total of six (6) conforming and four (4) non – conforming submissions to tender EC2011-047 Registration of Interest for the Hire of Small Plant.

Conforming submissions were received from the following hire companies:

Hakka Hire	Twin City Hire Service
Premiair Services	Kingscliff Hire & Landscape Supplies
Kennards Hire	Coates Hire

Non Conforming submissions:

Barry Brothers	Border Roadcare
Kenreach	Coast 2 Coast Earthmoving

The non conforming tenders were for items that were considered outside those required under tender EC2011-047 and should have been included in tender EC2011-032 Registration of Interest for the Hire of Plant and Equipment. The non conforming tender items were duly listed in the schedules for EC2011-032.

### Tender Evaluation

The tender evaluation was conducted by Council's Engineering & Operations Division's Contract Unit staff with input from Council's Works Coordinator who has extensive knowledge of road construction plant performance and capabilities.

Hire decisions will be made following consideration of where the hire items are to be used in relation to the hire Company's place of business, reference to catalogue rates and additional charges that might apply. For example hire items required for works in the Murwillumbah region could be obtained from Hakka Hire and similarly for works in the Tweed Heads area could be obtained from Twin City Hire or Coates Hire thus minimising any operational delays and delivery charges if the item was required to be delivered to site.

As with hire decisions made for the hire of larger plant items Council's Works Coordinator is considered in the best position to direct staff to the most beneficial cost and operational hire company location for each particular small plant hire requirement.

It is recommended that Council accepts the conforming tender submissions from; Hakka Hire, Twin City Hire, Premiair Hire, Kingscliff Hire & Landscape Supplies, Kennards Hire and Coates Hire for EC2011-047 Registration of Interest for the Hire of Small Plant to Council for the period 1 July 2011 until 30 June 2013 with hire decisions to be made following reference to submitted catalogue rates and additional charges that may apply.

**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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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## 37 [EO-CM] EQ2011-077 Supply of Selected Materials

## ORIGIN:

Contracts

## FILE NO:

## SUMMARY OF REPORT:

This report outlines the tender for EQ2011-077 Supply of Selected Materials with a twelve (12) month contract period from 1 July 2011 until 30 June 2012. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in **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:

1. That the contracts for the EQ2011-077 Supply of Selected Materials for the period 1 July 2011 until 30 June 2012 be awarded to the following suppliers:-

ITEM	SUPPLIER
Geotextile Material	Geofabrics Australia
Reinforcing Mesh	JH Williams
100mm Dia Slotted/Socked Agriculture Pipe	JH Williams
100mm Dia Slotted Agriculture Pipe	JH Williams
Premix Cement	JH Williams
General Purpose Bagged Cement	JH Williams
Herbicides	Lindsay Rural
Concrete Surrounds	Rocla
300mm – 1050mm Concrete Pipes	Rocla
Concrete Headwalls	Rocla
Concrete Kerb Inlets	Rocla
Welding Rods	JH Williams
Padlocks – Keyed alike	JH Williams
90mm PVC Stormwater Pipe	JH Williams
Form Ply	JH Williams
Woven Silt Film / Silt Stop	JH Williams

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**

Quotations closing 11 May 2011 were called for the supply of Selected Materials into Council's Murwillumbah Depot Store for the period 1 July 2011 until 30 June 2012.

The supply contracts are called on an annual basis for selected large dollar turnover items purchased for issue through Council's Store.

Items offered to tender are as follows:

Geotextile Material	Herbicides
Reinforcing Mesh	General Purpose Bagged Cement
Premix Cement	90mm PVC Stormwater Pipe
100mm Dia Slotted Agriculture Pipe	100mm Dia Slotted / Socked Agriculture Pipe
300 mm – 1050mm Dia Concrete Pipes	Concrete Surrounds
Concrete Headwalls	Concrete Kerb Inlets
Welding Electrodes	Form Ply
Padlocks – Keyed alike	Woven Silt Film / Silt Stop

**Tenders Received**

A total of ten (10) responses were received for tender EQ2011-077.

Submissions were received from the following suppliers:-

Icon – Septech Pty Ltd	Redox
Lindsay Rural	ABC Brick Sales
Rocla	Geofabrics Australia
Rural Buying Service	Williams Group Australia Pty Ltd
Reinforced Concrete Pipes Australia	Budds Mitre 10

**Tender Evaluation**

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 of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

Based on the conforming prices received and previous supply history considerations, it is recommended that the following suppliers be awarded supply contracts for the period 1 July 2011 until 1 July 2012.

ITEM	SUPPLIER
Geotextile Material	Geofabrics Australia
Reinforcing Mesh	JH Williams
100mm Dia Slotted/Socked Agriculture Pipe	JH Williams
100mm Dia Slotted Agriculture Pipe	JH Williams
Premix Cement	JH Williams
General Purpose Bagged Cement	JH Williams
Herbicides	Lindsay Rural
Concrete Surrounds	Rocla
300mm – 1050mm Concrete Pipes	Rocla
Concrete Headwalls	Rocla
Concrete Kerb Inlets	Rocla
Welding Rods	JH Williams
Padlocks – Keyed alike	JH Williams
90mm PVC Stormwater Pipe	JH Williams
Form Ply	JH Williams
Woven Silt Film / Silt Stop	JH Williams

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Funding is provided within the 2011/2012 Budget for EQ2011-077 Supply of Selected Materials.

**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](http://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** EQ2011-077 Supply of Selected Materials (ECM 33981415).
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**38 [EO-CM] EC2011-012 Registration of Interest (ROI) for Kirkwood Road Project**

**ORIGIN:**

**Contracts**

**FILE NO: EC2011-012**

**SUMMARY OF REPORT:**

Registrations of Interest (ROI) were called for the Construction of the Kirkwood Road Project. A total of six expressions of interest were received by the advertised closing date of 18 May 2011.

The Kirkwood Road Project has been the subject of numerous reports to Council. The detailed design is being progressed by Council's internal design unit and external consultants.

The objective of the ROI was to determine interest from Contractors prepared to undertake the required works with a view to inviting five Contractors to submit a fully priced tender.

The ROI required the submission of prescribed information which was scored by a Council officer assessment panel in accordance with the approved ROI Management Plan.

This report provides a recommendation of five preferred Contractors who will be invited to submit a fully priced tender.

**RECOMMENDATION:**

**That Council:**

- 1. Invites fully priced tenders from the following preferred Contractors for Tender EC2011-012 Registration of Interest (ROI) for Kirkwood Road Project:**
  - **BMD**
  - **SEEcivil**
  - **Probuild Civil**
  - **HazelBros Lund**
  - **RTA (Project Services Northern Region)**
  
- 2. Invites fully priced tenders from the following alternative Contractors for the Kirkwood Road Project should any preferred Contractor not be able or willing to tender (in order of preference):**
  - **Civil Team Engineering**

**REPORT:**

Registrations of Interest (ROI) were called for Kirkwood Road Project. A total of six ROI's were received by the advertised closing date of 18 May 2011.

The KRP has been the subject of numerous reports to Council. The design is progressing well with recommended contractors being requested to provide information and design improvements during the final design stages prior to official tender documents being released.

The main objective of the ROI was to receive interest from Contractors prepared to undertake the required works with a view to inviting five Contractors to submit a fully priced tender.

The ROI required the submission of prescribed information which was scored by a Council officer assessment panel in accordance with the approved ROI Management Plan.

The scope of the proposed works includes the provision of all materials, plant and labour for the construction of the following:-

- South bound off ramp
- South bound on ramp
- Eastern interchange
- Extension of Kirkwood Road from Falcon Way to the Eastern interchange
- Sunshine Ave termination (Cul de sac)
- Revised cemetery and crematorium access road
- Associated service relocations and;
- Drainage works

The ROI documentation included complete preliminary concept drawings for contractors to gauge the extent and type of the works required.

A total of Six ROI were received by the advertised closing date of 18 May 2011. Expressions of interest were received from the following companies:-

1. BMD
2. Civil Team Engineering.
3. RTA (Project Services Northern Region)
4. Pro Build Civil
5. SEE civil
6. HazellBros Lund

**Registration of Interest Assessment Panel**

Prior to ROI being called, an assessment panel was established to carry out the assessment of the expressions of interests. The composition of the panel was as follows:-

<i>Senior Contracts Engineer</i>
<i>Environmental Scientist</i>
<i>Co-ordinator of Civil Engineering Design</i>
<i>Development Engineer</i>

The general terms of reference for the Assessment Panel were as follows:-

- Assess the ROI submitted in accordance with the specified criteria;
- Undertake an individual initial assessment of the ROI non-price data;
- Review any written responses;
- Identify and seek further clarifications (as required) from the submissions and review any qualifications and departures;
- Score all responses against the specified non-price assessment criteria and agreed assessment criteria weightings; and
- Summarise the assessment score results and sign the summary documents as a true record of the decisions made.

### Expressions of Interest Evaluation

The ROI were assessed by the assessment panel against the criteria set out in the ROI document. This assessment is the subject of the Confidential Attachment. The attachment is listed as CONFIDENTIAL in accordance with Section 10A(2) (f) of the Local Government Act 1993, as discussion of the information in open Council may disclose information which may affect the security of Council Staff.

The submissions were scored against various prescribed, non-priced criteria which attracted various weightings as follows:-

<b>Assessment Criteria</b>	<b>Weighting</b>
Executive Summary	45%
Criteria No. 1	30%
Criteria No. 2	10%
Criteria No. 3	15%

A detailed assessment sheet which provides the assessment panel's scores for the above criteria and an overall score for each submission is shown in the confidential attachment to this report.

The five highest scoring companies are shown below in order:-

- BMD
- SEECivil
- Probuild Civil
- HazelBros Lund
- RTA (Project Services Northern Region)

The evaluation panel recommended that tenders be sought from the five top scoring companies with the one subsequently high scoring company being offered a backup tender role should any of the 5 preferred tenderers not be able or willing to submit a tender for the works.

## Early Contractor Involvement

The proposed tendering process will adopt an Early Contractor Involvement (ECI) process for this project to enable the selected tenderers to become fully aware of all obligations required under the contract, with the aim being to ensure that Council receives tenders which offer the best value for money. This ECI process involves the conducting of two workshops expected to be held in July 2011. Any design changes, as well as, alternative finishes and materials that offer project savings over the design detailed will be discussed and implemented during this time.

The ECI process will allow the pre-qualified tenderers to review and comment on final draft tender documents with a view to:-

- refining risk allocation to best suit Tweed Shire Council and the Contractor,
- identifying and eliminating errors, ambiguities and discrepancies in the documents and
- identifying design and other improvements that can be incorporated in the documents and produce improved project outcomes.

The previous use of the ECI process has given considerable benefits to both clients and contractors. The anticipated ECI process will encompass the following (which may be subject to minor change):-

### *Phase 1 – Initial Contract Review Workshop (expected early July 2011 2 weeks duration)*

The intent of the workshop is to:-

- Issue the Stage 1 draft contract documentation including drawings;
- Provide an update on the project approvals and anticipated date for invitation of prices;
- Discuss the philosophy of the contract and the importance of the collaborative contracting approach and how this is to be addressed in the documentation;
- Provide an overview of the Development Approval and environmental issues associated with the work; and
- Discuss the allocation of risks within the contract documentation.

Contractors will be expected to attend with their proposed key personnel for the project.

### *Phase 2 – Final Contract Review Workshop (expected Mid July 2 weeks duration)*

The intent of the workshop is to:-

- Issue the Stage 2 draft contract documentation including drawings;
- Provide an update on the project approvals and anticipated date for invitation of prices;
- Discuss the philosophy of the contract and the importance of the collaborative contracting approach and how this is to be addressed in the documentation;
- Provide an overview of the Development Approval and environmental issues associated with the work; and
- Discuss the allocation of risks within the contract documentation.

Contractors will be expected to attend with their proposed key personnel for the project.

### *Phase 3 – Final Tender Submissions*

Final Tender submissions are expected to be received by mid August 2011.

Throughout Phases 1 – 3 of the process, Contractors' performances will be assessed. This will form part of the overall tender evaluation criteria.

### **Expected Project Timeframe**

An indicative project timeframe for the tendering and construction process is as follows:-

- |                                               |                |
|-----------------------------------------------|----------------|
| • Receive expressions of interest             | May 2011       |
| • Select Preferred Tenderers                  | June 2011      |
| • Briefing workshops with Preferred Tenderers | July 2011      |
| • Invite tenders                              | August 2011    |
| • Close tenders                               | August 2011    |
| • Award Contract                              | September 2011 |
| • Complete construction                       | December 2012  |

### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The construction will occur over the 2010/2011 and 2011/2012 financial years. Funding is expected as advised in previous reports. Additional funding is presently being sort from the RTA.

### **POLICY IMPLICATIONS:**

The tendering process complies with Council policies and NSW legislation. The GC21 General Conditions of Contract is being used to encourage early contractor involvement and a co-operative partnership between contractor and principal.

### **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](http://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** - EC2011-012 Registration of Interest (ROI) for Kirkwood Road Project (ECM 34234091).
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**39 [EO-CM] Kingscliff Foreshore Master Plan - Central Park**

**ORIGIN:**

**Design**

**SUMMARY OF REPORT:**

In accordance with the Resolution of Council from its meeting on 15 February 2011 the concept layout for the Kingscliff Central Park was placed on public exhibition.

Council undertook an extensive community consultation process from 8 March 2011 to 26 April 2011, which included on online internet forum, presentations to the Kingscliff Ratepayers and Progress Association and the Kingscliff and District Chamber of Commerce, an information booth at the NSW SLSC Championships at Kingscliff as well as displays at Council's Libraries, Offices and internet site.

The feedback from Tweed Shire residents was overwhelmingly (over 70%) in favour of the Central Park progressing and much constructive feedback was received. It is recommended that the development of the Concept plans be undertaken in accordance with the Actions listed in this report and that further Community Information sessions be held in the future.

**RECOMMENDATION:**

**That Council endorses the concept layout (Drawing Nos. PD08015/2A, PD08015/3A, PD08015/C, PD08015/CE, PD08015/04) for the Kingscliff Central Park and progresses with detailed design.**

## REPORT:

Approximately 10 years ago, it was recognised that many of the facilities within the Kingscliff Beach Holiday Park (KBHP) were reaching the end of their useful life. At that time community meetings were held to determine the future of the Holiday Park. From those meetings 3 options were developed being:

1. Complete removal of the Holiday Park
2. Upgrade the Holiday Park within its current footprint
3. Upgrade the Holiday Park with a reduced footprint

Approximately five (5) consultation meetings involving the Kingscliff Ratepayers and Progress Association, the then Kingscliff Business Corporation and the community were held. As a result of these discussions Option 3 was identified as the preferred option for the redevelopment of the Kingscliff Beach Holiday Park (KBHP). This option provided for the creation of a Central Park in Kingscliff in the reduced footprint of the Holiday Park, between the Cudgen Headland Surf Life Saving Club (CHSLSC) and the southern side of the Grand Pacific Hotel.

At around the same time Consultants were completing the Coastline Hazard Definition Study. This study identified the immediate, 50 and 100 year hazard lines and was completed in 2001. With respect to Kingscliff it was predicted that the CHSLSC, the Kingscliff Community Hall and the KBHP are all located within the 50 and 100 year erosion hazard zones, and in fact the surf club building and significant areas of the Holiday Park are actually within the immediate hazard zone. The location of the hazard lines meant that redevelopment of the KBHP had to be put on hold until foreshore protection measures were determined.

On completion of the Hazard Definition Study, Council went to the Kingscliff community to determine what management measures, if any, should be implemented to protect these assets. Out of a variety of options, a sea wall with sand nourishment was selected by the community as the preferred option to protect foreshore assets between the Bowling Club and the CHSLSC. The documentation of the proposed coastline management strategies became the Coastline Management Plan, which was adopted by Council in 2005.

To enable sand placement on the beach environmental studies had to be undertaken so that the proposal could be assessed. During the development of the Environmental Impact Statement for sand placement the consultants revisited and refined the preferred option and determined that the erosion hazard lines could be moved seaward by initial sand nourishment and then held in a static position by ongoing periodic (every 5 to 10 years) sand placement. This effectively removed the need for a seawall from the Bowls club to south of the surf club. However, a small section of sea wall in front of the CHSLSC was still recommended due to the location of the club building within the immediate hazard zone and that sea wall was completed in September 2010.

With Coastline management options defined, Council began developing the Kingscliff Foreshore Master Plan for the area from Cudgen Creek to North Kingscliff Holiday Park to guide future upgrade works along the foreshore parklands. The village of Kingscliff was chosen as the first area for a Foreshore Master Plan to be undertaken due to the increasing level of property development, the requirement from the Coastline Management Plan for the provision of terminal beach protection, the proposed upgrading of the Kingscliff Beach Holiday Park and subsequent creation of a new central foreshore park beside the

Community Hall. The Master Plan establishes a vision for future upgrade works along the Kingscliff foreshore, which allows staged implementation as funds become available. Throughout the development of the Master Plan extensive community consultation was undertaken to define the Master Plan recommendations. The Kingscliff Foreshore Master Plan was adopted by Council in July 2007. Since that time Council has implemented sections of the master plan including Jack Bayliss Park upgrade and construction of a seawall in front of CHSLSC.

## **RECENT CONSULTATION**

Council's meeting on 15 February 2011 resolved to place the concept layout for Kingscliff Central Park on public exhibition.

Council undertook an extensive community consultation process while the concept plan was on exhibition from 8 March 2011 to 26 April 2011. (The exhibition period was originally scheduled to end on 12 April but was extended by two weeks to allow the community to provide feedback on an option for an underground car park as part of Central Park.)

During the exhibition period, the following engagement techniques were employed:

- Bang The Table website [www.yoursaytweed.com.au](http://www.yoursaytweed.com.au) – including online forum.
- Direct mail to Kingscliff ratepayers
- Community information session at NSW Surf Life Saving Championships
- Address to Kingscliff Ratepayers and Progress Association
- Address to Kingscliff and District Chamber of Commerce
- Video podcasts on Council website and at Cudgen Headland SLSC, Kingscliff Beach Bowls Club and Cudgen Leagues Club
- Tweed Link articles
- Media releases
- Customer Service Centre displays at Tweed and Murwillumbah Civic Centres
- Library displays at Tweed and Kingscliff
- Kingscliff Central Park shown on Council's corporate website under On Exhibition
- Supporting materials
  - Kingscliff Foreshore Master Plan fact sheet
  - Kingscliff Foreshore Master Plan Frequently Asked Questions document
  - Pull-up banners
  - Posters

A full report on the community engagement has been completed separately and is summarised below.

## **Results of the Community Consultation**

During the seven week consultation period:

- 1623 people visited Council's website to view online material.
- 1128 visited the dedicated Central Park website.
- There were 2989 visits to the yoursaytweed website with 157 registrations to participate.
- Plans and videos on the website were viewed 613 and 522 times respectively.
- Approximately 40 people attended the community information session at Kingscliff Lions Park.
- 19 written submissions were received (including email).

- Two phone calls were received.
- 74 chamber members attended the Kingscliff and District Chamber of Commerce breakfast at the Kingscliff Beach Bowls Club.
- Approximately 12 people attended the Kingscliff Ratepayers and Progress Association meeting.
- Approximately 400 Brochures on the Central Park were distributed.
- Approximately 400 Fact Sheets on the Kingscliff Foreshore Master Plan were distributed.
- The Mayor personally visited each business along Marine Parade.
- ABC radio conducted an interview with Council's Coordinator Civil Engineering.
- There were five media releases, which generated 19 articles in Tweed local newspapers and four articles appeared in the Tweed Link

### **Submissions/Comments Received**

Submissions received included:

- 194 forum comments from 92 forum participants (some participants made multiple comments).
- 39 comments at the information session.
- 19 written and/or email submissions.
- Two phone calls.

Written submissions were also received from Kingscliff Sub Branch RSL, Kingscliff Beach Bowls Club, Kingscliff and District Chamber of Commerce (KDCC) and Kingscliff Ratepayers and Progress Association (KRAPA). The RSL and Kingscliff Beach Bowls Club raised issues that are better dealt with on an individual basis and ongoing consultation with these groups will be made as the plan progresses.

### **Discussion of Submission/Comments**

The consultation program was primarily intended to discuss and analyse design aspects of the Kingscliff Central Park concept plans so the design can be refined. However, the consultation period was used by some respondents to discuss some of the original options that were explored over 10 years ago (Refer Background section above).

An analysis of the raw figures from the community online forum indicated 51 per cent of participants favoured the Central Park (Original Option 3), 44 per cent favoured retaining the Holiday Park at its current size (Option 2) and four per cent of comments were neutral. Seventy per cent of those who favoured Option 2 were from Queensland, with some identifying themselves as long-term casual site holders at KBHP. When only Tweed Shire Council residents were considered, the results indicated 72 per cent in favour of Central Park, 22 per cent in favour of Option 2 and six per cent neutral.

A breakdown of the written responses, not including those from organisations, produced similar results - showing 67 per cent favoured Central Park, with 13 per cent opposed. The information stall was more overwhelming, with 95 per cent support for the Central Park and both phone conversations favoured the Central Park.

Of the organisations that made submissions, the RSL and Kingscliff Beach Bowls Club raised issues that are better dealt with on an individual basis and ongoing consultation with these groups will be made as the plan progresses. Both the KRAPA and KDCC

submissions supported the project, with the latter requesting the provision of “substantial car parking”.

### Submissions/Comments on Concept Plans

The following table details the issues raised by submissions dealing with the Kingscliff Central Park concept plans, Council’s response and its resulting actions. The issue of car parking was the most noted and led to an extension of the exhibition period. For this reason, it will be dealt with as a separate issue.

Issue	Comment	Response	Action
Shelter Design	Orientate shelters for maximum benefit during each season.	Council has a standard set of park furniture for its coastal reserves that will be utilised for this project.	Shelters will be orientated for prevailing conditions.
	Shelter from elements more important than aesthetics of shelters	Refer previous response.	
Look of park	Don't want park to be sterile or like Gold Coast	Kingscliff Foreshore Master Plan (KFMP) was formulated to ensure the existing and future values of Kingscliff were included.	The park will be designed to ensure Kingscliff's character is retained.
	More native trees	Trees incorporated into the design will be endemic to the area.	Refer Action listed above.
	Park design must be consistent	The park will be designed in accordance with the KFMP. Council has a standard set of park furniture for its coastal reserves that will be utilised for this project to ensure consistency.	Refer Action listed above.
	Should be able to see beach from Marine parade	The park is designed to enable sight lines from Marine Parade across the park to the beach.	Concept design caters for this comment.
Concert /Performance Area	Great concept		Incorporate connection between Community Hall and park.
Half Basketball Court	Why is a half basketball court included in the Concept?	The half basketball court is an attempt to provide a dedicated 'youth space' in the heart of the park, so the youth of the area feel included and not alienated from the Central Park. It is a multi-use area and it is envisaged it could be used for skating and rip sticks, etc, as well as basketball and other ball games.	Retain half basketball court in project.
	Why not a full court?	There is insufficient space to include a full court. As well, the Central park is not designed to be a sports facility, which are provided elsewhere.	Refer Action listed above.
	Too close to other facilities/conflicting use	The area will be designed to ensure conflicts are avoided.	Refer Action listed above.
Cenotaph Area	Must be bigger to cope with crowds	The area provided is larger than the existing area.	Liaise with RSL during design development
	What shelter/shade is available?	Existing shade trees will be kept where possible. As well, shade structures as is the current situation can be utilised.	Incorporate shade trees into Park.

Issue	Comment	Response	Action
Skate Park	Include in Central Park	Skate park location is north of the Kingscliff Beach Club, in accordance with the KFMP.	Do not include skate park in Central Park.
Threat of antisocial behaviour	Proximity of Park to hotel and clubs	The park will be designed to minimise the possibility of antisocial behaviour. The existing CCTV network can be expanded to include the Park if necessary.	Design park in accordance with CPTED principles.
	After dark security	Refer previous response.	Include lighting in park.

### **Car Parking**

Public car parking in Kingscliff has been an issue within the local community for some time. Council has previously considered reports on this issue at its meetings on 21 November 2001 and 7 May 2003. At the 2003 meeting an underground car park was recommended as the preferred option for providing public car parking at Kingscliff for the following reasons:

- Provides car parking opportunities where the community believes there is a shortfall.
- Convenient to the beach, hall and businesses of Marine Parade.
- Environmentally friendly in that only minimal areas of land are occupied by the proposal as it is underground.
- Provides covered car parking which will be attractive to patrons.

In accordance with that recommendation Developer Contribution Plan CP23 was amended and holds approximately \$0.5 million for the provision of public car parking in Kingscliff.

Although not originally part of the engagement campaign for the Kingscliff Central Park concept plans repeated community submissions for extra parking and the prospect of Federal Regional Development funding for Kingscliff Central Park prompted Council to incorporate the underground car park as part of the Central Park consultation process. The campaign was extended from the original period of 37 days, for an additional two weeks to enable the public discussion to include plans for an underground car park at the site.

During the original exhibition period there were 14 responses requesting additional car parking to be provided. The extra period with the underground car park elicited a further 9 responses including a submission from the Kingscliff and District Chamber of Commerce. Of the submissions received two were in favour of an underground car park 6 were against and the Chamber asked for "substantial (ie Approx 100 spaces) car parking", but did not indicate a preferred location.

Of those submissions against an underground car park the most common reasons were the location of a structure within an erosion zone and locating a structure below the water table. As mentioned in the Background section of this report none of the proposed foreshore works can be undertaken until sand nourishment of the beach is completed. Effectively sand nourishment moves the erosion hazard line east and periodic replenishment maintains its position. Therefore, the proposed underground car park will be located outside of the erosion zone. Furthermore the current proposal locates the base of the car park above the water table, so both of the major concerns have been taken into account, but will be considered further during engineering investigations.

Council recently ranked Kingscliff Central Park as its top priority in an application for funding through the Regional Development Australia Fund at the 19 April 2011 Council meeting.

This grant funding is staged and Council submitted a stage one application, which included \$5 million for the underground car park on 13 May 2011. If the grant funding is successful the funding shortfall between currently available funds in CP23 and the cost of the project would be overcome.

## **CONCLUSIONS**

Council undertook an extensive community consultation process while the concept plan was on exhibition from 8 March 2011 to 26 April 2011.

The feedback from Tweed Shire residents was overwhelmingly (over 70%) in favour of the Central Park progressing and much constructive feedback was received. It is recommended that the development of the Concept plans be undertaken in accordance with the Actions listed in this report and that further Community Information sessions be held in the future.

Regarding the underground car park, the reasons that it was selected as the preferred option in 2003 are still valid and it is recommended that it remain the preferred option for providing public car parking in Kingscliff.

## **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Implementation of the elements of the plan will be subject to detailed design, planning approval and would be carried out as finance becomes available.

On 10 March the Department of Regional Australia, Regional Development and Local Government announced the Regional Development Australia Fund would be accepting applications for large scale capital grants up to \$25 million per project.

Council recently ranked Kingscliff Central Park as its top priority in an application for funding through the Regional Development Australia Fund at the 19 April 2011 Council meeting.

This grant funding is staged and Council submitted a stage one application, which includes the Kingscliff Central Park, including an underground car park in its Stage 1 on 13 May.

## **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](http://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. Kingscliff Central Park Concept Plans (ECM 34238500).
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**REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES**

**40 [TCS-CM] Mayor and Councillors Annual Remuneration 2011-2012**

**ORIGIN:**

**Corporate Governance**

**SUMMARY OF REPORT:**

The Local Government Remuneration Tribunal has made a determination under sections 239 and 241 of the Local Government Act 1993 in relation to fees payable to Mayors and Councillors for the 2011/2012 financial period.

The Tribunal determined to increase the fees for Councillors and Mayors by 4.2 per cent.

Council needs to determine the fees payable to the Mayor and Councillors for 2011/2012.

**RECOMMENDATION:**

**That the annual fees payable for the Mayor and Councillors for the financial period 2011/2012 be:**

<b>Mayor</b>	<b>\$36,320</b>
<b>Councillors</b>	<b>\$16,640</b>

**in accordance with the maximum fee as determined by the Local Government Remuneration Tribunal.**

**REPORT:**

The Local Government Remuneration Tribunal has made a determination under sections 239 and 241 of the Local Government Act 1993 in relation to fees payable to Mayors and Councillors for the 2011/2012 financial period.

Council is classified along with 31 other councils within the Regional Rural category.

In accordance with section 241 of the Local Government Act 1993 the tribunal has determined minimum and maximum annual fees payable to the Mayor and Councillors. The determination in relation to the Regional Rural category is shown in the table below along with current fees:

	2011/2012		2010/2011	
	Minimum	Maximum	Minimum	Maximum
Councillor	\$7,550	\$16,640	\$7,250	\$15,970
Mayor *	\$16,080	\$36,320	\$15,430	\$34,860

\* This fee must be paid in addition to the fee paid to the Mayor as a Councillor in accordance with section 249 (2) of the Local Government Act 1993.

Council has previously determined that the maximum fees are payable to both the Mayor and Councillors. The recommended fees for 2011/2012 are a 4.2 per cent increase above the 2010/2011 fees.

A copy of the Local Government Remuneration Tribunal report is included for Council's information.

A determination is now required from Council in setting the annual fees payable to the Mayor and Councillors in accordance with sections 248 and 249 of the Local Government Act 1993 to be applied from 1 July 2011.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Maximum fees would result in an expenditure of \$152,800.

**POLICY IMPLICATIONS:**

In accordance with the relevant sections of the Local Government Act 1993.

**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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

1. Report and Determination of the Local Government Remuneration Tribunal under Sections 239 and 241 of the Local Government Act 1993, dated 28 April 2011 (ECM 33153650)
-

**41 [TCS-CM] Monthly Investment Report for period ending 31 May 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 \$162,380,639 invested as at 31 May 2011 and the net return on these funds was \$735,600 or 5.44% annualised for the month.

**RECOMMENDATION:**

**That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 May 2011 totalling \$162,380,639 be received and noted.**

**REPORT:**

**Report for Period Ending 31 May 2011**

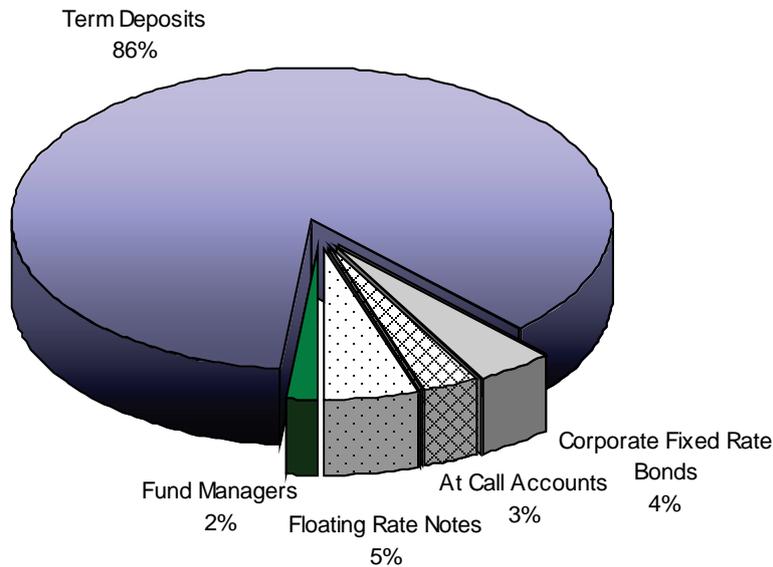
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

**1. RESTRICTED FUNDS AS AT 1 JULY 2010**

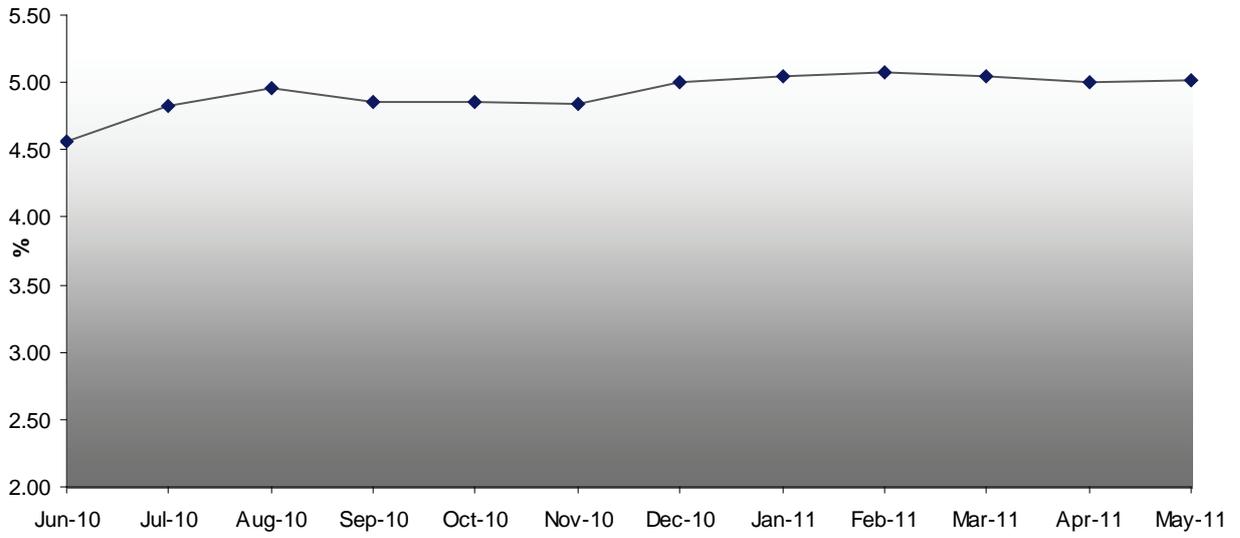
Description	(\$'000)			
	General Fund	Water Fund	Sewer Fund	Total
<b>Externally Restricted</b>	948	14,977	37,039	<b>52,964</b>
Crown Caravan Parks	11,013			<b>11,013</b>
Developer Contributions	30,195	16,801		<b>46,996</b>
Domestic Waste Management	8,262			<b>8,262</b>
Grants	4,261			<b>4,261</b>
<b>Internally Restricted</b>	15,097			<b>15,097</b>
Employee Leave Entitlements	1,833			<b>1,833</b>
Grants	3,185			<b>3,185</b>
Unexpended Loans	9,847			<b>9,847</b>
<b>Total</b>	<b>84,641</b>	<b>31,778</b>	<b>37,039</b>	<b>153,458</b>

*Note: Restricted Funds Summary updated September 2010*

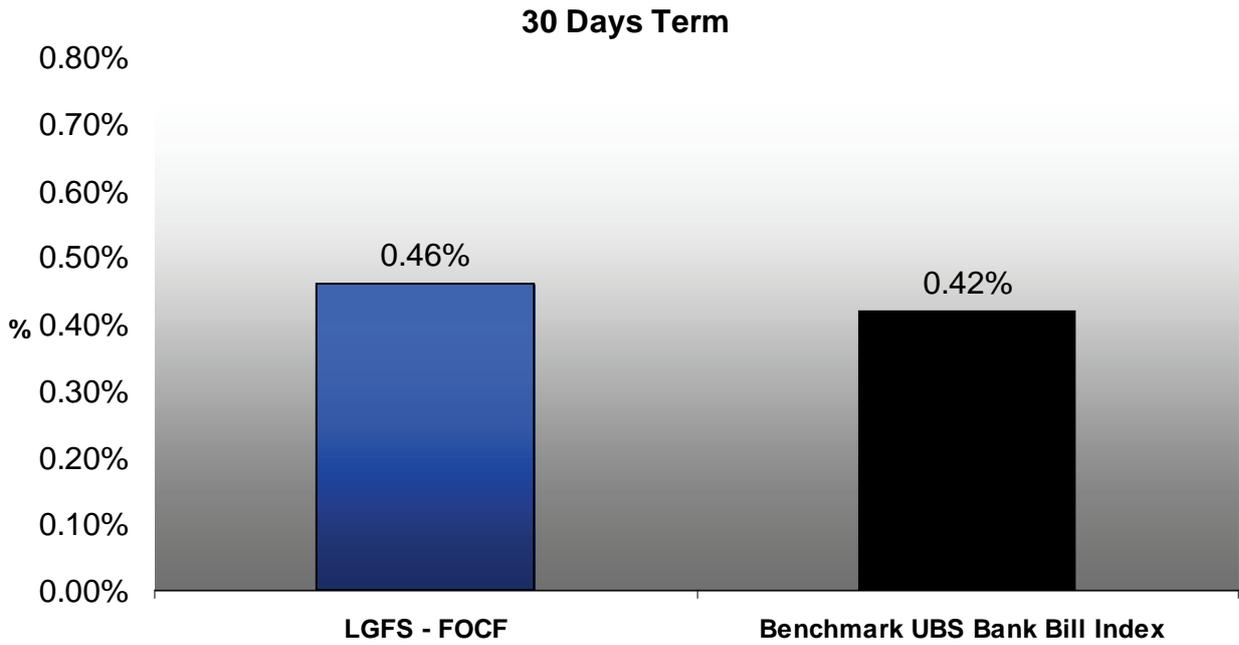
**2. CURRENT INVESTMENT PORTFOLIO BY CATEGORY**



**3. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)**



**4. FUNDS MANAGERS PERFORMANCE FOR MONTH - NET OF FEES (NOT ANNUALISED)**



**5. FUND MANAGERS - DETAILED INFORMATION**

<b>Fund</b>	<b>Credit Rating</b>	<b>Percentage of Total Fund Managers Current Month</b>	<b>Fund Managers Balance end of Previous month</b>	<b>Fund Managers Balance end of Current month</b>	<b>Distribution for Month/Quarter</b>
LGFS - FOCF	AA-	100%	\$2,746,282	\$2,758,833	\$12,551
Total		100%	\$2,746,282	\$2,758,833	\$12,551

**6. DIRECT SECURITIES FOR MONTH**

<b>Counterparty/ Product Name</b>	<b>Face Value</b>	<b>Market Value</b>	<b>% Return on Face Value</b>	<b>Investment Type</b>	<b>Final Maturity Date</b>	<b>Next Quarterly or Final Coupon</b>
ANZ Bank	1,000,000.00	1,061,270.00	6.50	Fixed Rate Bond	08/11/2011	32,500.00
ANZ Bank	1,000,000.00	1,009,316.15	8.65	Fixed Rate Bond	22/04/2013	42,500.00
CBA	1,000,000.00	999,000.00	6.04	FRN	24/12/2015	18,500.00
CBA	1,000,000.00	1,016,201.84	6.00	FRN	17/04/2012	15,378.50
CBA/Merrill Lynch Zero Coupon Bond	4,000,000.00	2,560,000.00	7.28	Fixed Rate Bond	22/01/2018	0.00
Deutsche Bank Members Equity Bank	1,000,000.00	921,299.00	5.99	FRN	23/11/2012	15,102.37
National Australia Bank	2,000,000.00	1,973,260.00	5.99	FRN	08/03/2012	30,196.16
National Australia Bank	1,000,000.00	1,009,020.00	6.10	FRN	05/11/2015	15,501.37
Suncorp Metway	2,000,000.00	2,000,860.00	6.12	FRN	26/05/2014	30,180.82
Westpac Bank	1,000,000.00	1,035,790.00	7.25	Fixed Rate Bond	24/09/2012	36,250.00
Westpac Bank	1,000,000.00	1,035,790.00	7.25	Fixed Rate Bond	24/09/2012	36,250.00
Total	16,000,000.00	14,621,806.99	6.65			272,359.22

ABS=Asset Backed Security  
 Bond = Fixed Rate Bond  
 CDO = Collateralised Debt Obligation  
 FRN = Floating Rate Note

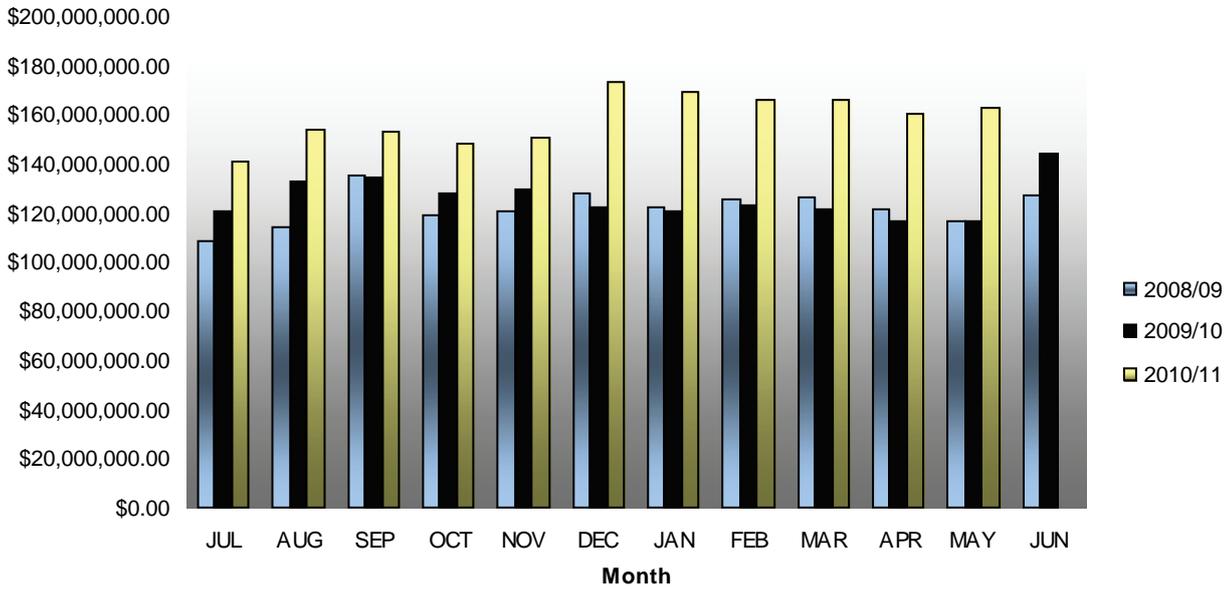
## 7. TERM DEPOSITS FOR MONTH

TERM DEPOSITS SORTED BY MATURITY AS AT 31/05/11									
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE	FORM	Notes	Maturity
4/08/10	14/06/11	Bank of QLD	2,000,000.00	314	6.330	108,910.68	TD	Fixed Rate	14/06/2011
15/03/11	14/06/11	CPS CU	1,000,000.00	91	6.150	15,332.88	TD	Fixed Rate	14/06/2011
12/01/11	14/06/11	NECU (RIMSEC)	1,000,000.00	153	6.250	26,198.63	TD	Fixed Rate	14/06/2011
21/03/11	20/06/11	LGFS CRI	1,000,000.00	91	5.640	14,061.37	TD	<b>Floating 90DBBSW + 0.80</b>	20/03/2012
22/12/10	21/06/11	QLD Country Credit Union	1,000,000.00	181	6.450	31,984.93	TD	Fixed Rate	21/06/2011
19/01/11	28/06/11	LGFS	5,000,000.00	160	6.350	139,178.08	TD	Fixed Rate	28/06/2011
28/03/11	28/06/11	LGFS CRI	4,000,000.00	91	5.970	59,536.44	TD	<b>Floating 90DBBSW + 1.05</b>	27/06/2012
11/04/11	11/07/11	Westpac Bank	8,000,000.00	91	6.150	122,663.01	TD	<b>Floating 90DBBSW +1.25%</b>	11/01/2016
6/07/10	12/07/11	Summerland Credit Union	1,000,000.00	371	6.550	66,576.71	TD	Fixed Rate	12/07/2011
11/01/11	12/07/11	Suncorp Metway (RBS)	5,000,000.00	182	6.320	157,567.12	TD	Fixed Rate	12/07/2011
22/07/10	19/07/11	Wide Bay CU	1,000,000.00	362	6.550	64,961.64	TD	Fixed Rate	19/07/2011
12/01/11	26/07/11	NAB Suncorp Metway (RIMSEC)	10,000,000.00	195	6.300	336,575.34	TD	Fixed Rate	26/07/2011
9/11/10	9/08/11	(RIMSEC)	2,000,000.00	274	6.520	97,889.32	TD	Fixed Rate	09/08/2011
12/05/11	12/08/11	Bank of QLD Adelaide Bendigo Bank	2,000,000.00	92	6.473	32,632.53	TD	Floating 90DBBSW + 1.50	12/11/2013
17/02/11	16/08/11	Bank	2,000,000.00	180	6.250	61,643.84	TD	Fixed Rate	16/08/2011
11/08/10	16/08/11	AMP Bank (RIMSEC)	1,000,000.00	370	6.310	63,964.38	TD	Fixed Rate	16/08/2011
18/05/11	18/08/11	IMB (RIMSEC)	1,000,000.00	92	6.240	15,728.22	TD	Floating 90DBBSW + 1.25	18/11/2011
18-May-11	18/08/11	Westpac	2,000,000.00	92	6.200	31,254.79	TD	Floating 90DBBSW +1.21%	18/02/2016
16/02/11	23/08/11	ADCU	1,000,000.00	188	6.230	32,088.77	TD	Fixed Rate	23/08/2011
1/12/10	30/08/11	ANZ	4,000,000.00	272	6.420	191,368.77	TD	Fixed Rate	30/08/2011
1/09/10	30/08/11	Bankwest	3,000,000.00	363	6.000	179,013.70	TD	Fixed Rate	30/08/2011

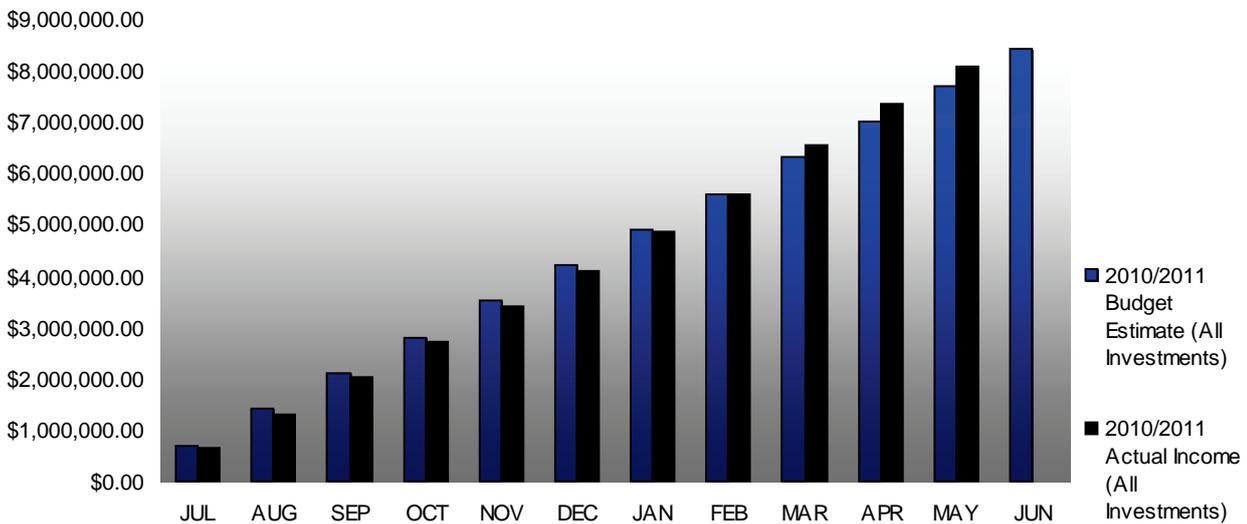
TERM DEPOSITS SORTED BY MATURITY AS AT 31/05/11									
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE	FORM	Notes	Maturity
31/08/10	31/08/11	AMP Bank (RIMSEC)	1,000,000.00	365	6.310	63,100.00	TD	Fixed Rate	31/08/2011
31-May-11	31/08/11	IMB	2,000,000.00	90	6.270	30,920.55	TD	Fixed Rate	03/12/2013
31-May-11	31/08/11	ING (RIMSEC) Adelaide Bendigo Bank	1,000,000.00	90	6.170	15,213.70	TD	<b>Floating 90DBBSW + 1.15%</b>	29/05/2012
1/09/10	6/09/11	Heritage BS	3,000,000.00	370	6.200	188,547.95	TD	Fixed Rate	06/09/2011
3/09/10	6/09/11	RaboDirect	1,000,000.00	368	6.250	63,013.70	TD	Fixed Rate	06/09/2011
10/03/11	6/09/11	CUA	1,000,000.00	180	6.400	31,561.64	TD	Fixed Rate	06/09/2011
15/09/10	20/09/11	Bankwest	1,000,000.00	370	6.330	64,167.12	TD	Fixed Rate	20/09/2011
31-May-11	28/09/11	Suncorp Metway	1,000,000.00	120	6.200	20,383.56	TD	Fixed Rate	28/09/2011
8/02/11	4/10/11	Bank of QLD	1,000,000.00	238	6.330	41,275.07	TD	Fixed Rate	04/10/2011
14/01/11	11/10/11	Bank of QLD (RIMSEC)	5,000,000.00	270	6.450	238,561.64	TD	Fixed Rate	11/10/2011
12/01/11	18/10/11	Suncorp Metway	4,000,000.00	279	6.400	195,682.19	TD	Fixed Rate	18/10/2011
19/04/11	18/10/11	Suncorp Metway	2,000,000.00	182	6.150	61,331.51	TD	Fixed Rate	18/10/2011
10/05/11	25/10/11	Bankwest	2,000,000.00	168	6.130	56,429.59	TD	Fixed Rate	25/10/2011
24/05/11	25/10/11	ING (RIMSEC)	1,000,000.00	154	6.060	25,568.22	TD	Fixed Rate	25/10/2011
3/02/11	8/11/11	Bank of QLD	2,000,000.00	278	6.450	98,252.05	TD	Fixed Rate	08/11/2011
12/11/08	11/11/11	Suncorp Metway	4,000,000.00	1094	6.880	824,846.03	TD	Fixed Rate	11/11/2011
12/11/08	14/11/11	Investec Bank	1,000,000.00	1099	6.880	207,153.97	TD	Fixed Rate	14/11/2011
5/01/11	5/12/11	Suncorp Metway	5,000,000.00	334	6.440	294,652.05	TD	Fixed Rate	05/12/2011
5/01/11	5/12/11	Suncorp Metway	2,000,000.00	334	6.440	117,860.82	TD	Fixed Rate	05/12/2011
1/03/11	13/12/11	Bank of QLD	2,000,000.00	287	6.350	99,860.27	TD	Fixed Rate	13/12/2011
4/04/11	10/01/12	RaboDirect	1,000,000.00	281	6.400	49,271.23	TD	Fixed Rate	10/01/2012
11/01/11	17/01/12	Members Equity Bank	1,000,000.00	371	6.500	66,068.49	TD	Fixed Rate	17/01/2012
17/02/11	14/02/12	ING (RIMSEC)	1,000,000.00	362	6.450	63,969.86	TD	Fixed Rate	14/02/2012
2/03/11	6/03/12	IMB	1,000,000.00	370	6.360	64,471.23	TD	Fixed Rate	06/03/2012

TERM DEPOSITS SORTED BY MATURITY AS AT 31/05/11									
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE	FORM	Notes	Maturity
7/03/11	6/03/12	RaboDirect	1,000,000.00	365	6.600	66,000.00	TD	Fixed Rate	06/03/2012
18/05/11	20/03/12	RaboDirect	1,000,000.00	307	6.300	52,989.04	TD	Fixed Rate	20/03/2012
3/05/11	8/05/12	NAB Adelaide Bendigo Bank	2,000,000.00	371	6.330	128,681.10	TD	Fixed Rate	08/05/2012
24/05/11	22/05/12	Bendigo Bank	2,000,000.00	364	6.350	126,652.05	TD	Fixed Rate	22/05/2012
25/05/11	22/05/12	ANZ	2,000,000.00	363	6.400	127,298.63	TD	Fixed Rate	22/05/2012
22/07/10	18/07/12	Suncorp Metway Adelaide Bendigo Bank	2,000,000.00	727	6.720	267,695.34	TD	Fixed Rate	18/07/2012
6/08/10	7/08/12	Bendigo Bank	2,000,000.00	732	6.600	264,723.29	TD	Fixed Rate	07/08/2012
8/12/10	11/12/12	NAB	2,000,000.00	733	6.950	279,142.47	TD	Fixed Rate	11/12/2012
4/03/11	5/03/13	Westpac Bank Adelaide Bendigo Bank	2,000,000.00	735	6.350	255,739.73	TD	Fixed Rate	05/03/2013
22/03/11	19/03/13	Bendigo Bank	1,000,000.00	728	6.500	129,643.84	TD	Fixed Rate	19/03/2013
22/03/11	26/03/13	NAB	1,000,000.00	735	6.380	128,473.97	TD	Fixed Rate	26/03/2013
17/05/11	21/05/13	Investec Bank Suncorp Metway (RBS)	1,000,000.00	735	7.100	142,972.60	TD	Fixed Rate	21/05/2013
21/07/10	23/07/13	(RBS)	1,000,000.00	1097	7.300	219,400.00	TD	Fixed Rate	23/07/2013
12/08/10	13/08/13	Bank of QLD	2,000,000.00	1097	7.050	423,772.60	TD	Fixed Rate	13/08/2013
1/09/10	2/09/13	NAB	4,000,000.00	1098	6.520	784,543.56	TD	Fixed Rate	02/09/2013
22/03/11	25/03/14	Bank of QLD	1,000,000.00	1099	6.750	203,239.73	TD	Fixed Rate	25/03/2014
4/04/11	8/04/14	Bank of QLD	2,000,000.00	1100	6.390	385,150.68	TD	Fixed Rate	08/04/2014
11/08/10	11/08/15	NAB (RBS)	2,000,000.00	1095	6.000	360,000.00	TD	Fixed & Floating 1.96	11/08/2015
27/08/10	27/08/15	NAB (RBS)	2,000,000.00	365	7.000	140,000.00	TD	Fixed & Floating 1.20	27/08/2015
22/03/11	22/03/16	RaboDirect	1,000,000.00	1827	7.150	357,891.78	TD	Fixed Rate Fixed 1yr x 7% Floating 4yrs x 90DBBSW +1.30% Capped 7.25%	22/03/2016
7/04/11	7/04/16	Westpac Bank	2,000,000.00	1825	7.000	700,000.00	TD		07/04/2016
			140,000,00 0.00		6.427				

**8. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED**



**9. TOTAL PORTFOLIO INCOME YEAR TO DATE**



**10. INVESTMENT POLICY DIVERSIFICATION AND CREDIT RISK GUIDELINES**

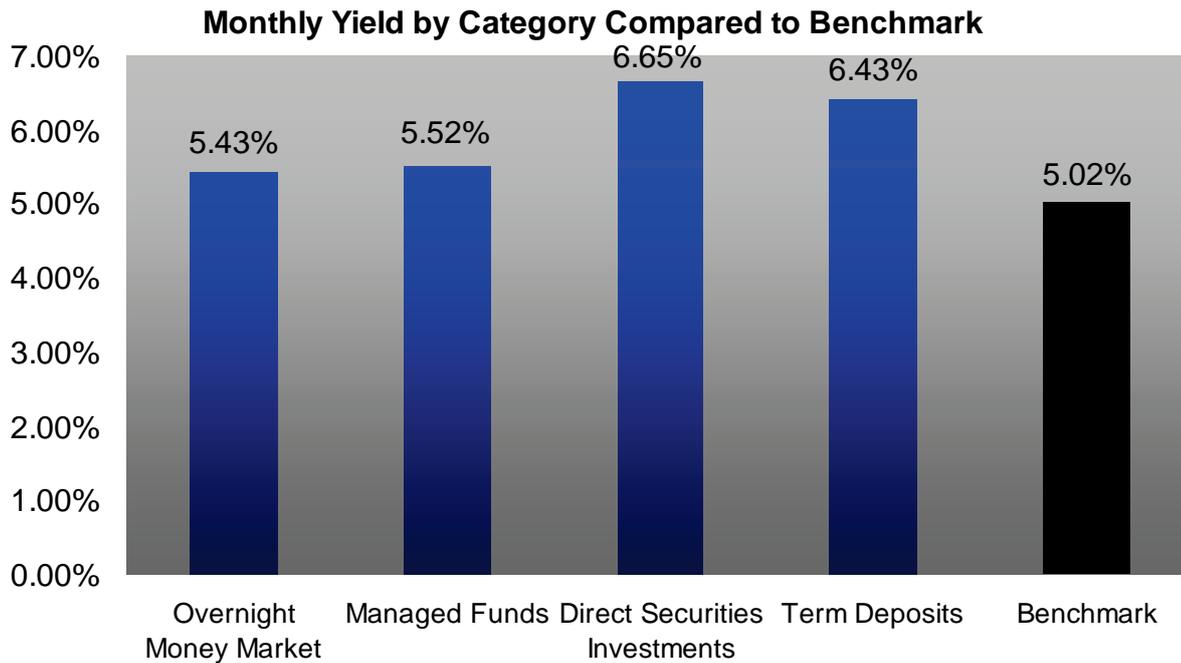
<b>Total Portfolio Credit Limits Compared to Policy Limits</b>					
<b>Long-Term Credit Ratings</b>	<b>Investment Policy Limit</b>	<b>Actual Portfolio</b>	<b>Short-Term Credit Ratings</b>	<b>Investment Policy Limit</b>	<b>Actual Portfolio</b>
AAA Category	100%	0.61%	A-1+	100%	20.76%
AA Category	100%	18.93%	A-1	100%	17.10%
A Category or below	60%	6.72%	A-2	60%	19.54%
BBB Category or below	20%	7.33%	A-3	20%	0.61%
Unrated	10%	4.13%	Unrated	10%	4.27%

**11. INVESTMENT POLICY TERM TO MATURITY LIMITS**

<b>Maturity Profile</b>	<b>Actual % Portfolio</b>	<b>Policy Limits</b>
Less than 30 days	65.8%	Less than 1 year maximum 100% of portfolio minimum 40%
Between 30 and 60 days		
Between 60 and 90 days		
Between 90 and 180 days		
Between 180 and 365 days		
Between 365 days and 2 years	35%	
Between 2 years and 5 years	31.76%	
Between 5 years and 7 years	2.44%	25%
<b>Total</b>	<b>100.00%</b>	

**12. PERFORMANCE BY INVESTMENT CATEGORY**

<b>Category</b>	<b>Face Value</b>	<b>Market Value</b>	<b>Average Return</b>	<b>Above/(Below) 30 day BBSW Benchmark</b>
Overnight Money Market	\$5,000,000.00	\$5,000,000.00	5.43%	0.41%
Managed Funds	\$2,758,832.74	\$2,758,832.74	5.52%	0.50%
Direct Securities Investments	\$16,000,000.00	\$14,621,806.99	6.65%	1.63%
Term Deposits	\$140,000,000.00	\$140,000,000.00	6.43%	1.41%
<b>Benchmark</b>	<b>\$163,758,832.74</b>	<b>\$162,380,639.73</b>	<b>5.02%</b>	<b>Benchmark 30 Day UBS Bank Bill Index</b>



**13. SECTION 94 DEVELOPER CONTRIBUTIONS - MONTHLY BALANCES REPORT - PERIOD ENDING - 31 MAY 2011**

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	DCP3 Open Space	3,891,728	-
02	Western Drainage	494,002	-
03	DCP3 Community Facilities	35,917	-
04	Tweed Road Contribution Plan	11,282,267	85,006
05	Open Space	1,180,163	1,549
06	Contribution Street Trees	225,468	-
07	West Kingscliff	484,177	-
10	Cobaki Lakes	(749)	-
11	Libraries	1,585,893	792
12	Bus Shelters	45,788	-
13	Cemeteries	(46,807)	120
14	Mebbin Springs	74,355	-
15	Community Facilities	1,332,714	-
16	Surf Lifesaving	385,228	-
18	Council Administration & Technical Support	1,441,536	1,969
19	Kings Beach	986,476	-
20	Seabreeze Estate	620	-

<b>Contribution Plan</b>	<b>Plan Description</b>	<b>End of Month Balance</b>	<b>Contributions Received for Month</b>
21	Terranora Village Footpath	25,457	-
22	Shirewide Cycleways	332,208	-
23	Shirewide Carparking	1,831,692	-
25	Salt Development	833,287	-
26	Shirewide Open Space	2,966,531	4,229
27	Tweed Heads Masterplan & Streetscaping	86,823	-
28	Seaside City	(696)	-
90	Footpath Cycleway	(41,904)	-
91	DCP14	88,983	-
92	Public Reserve Contributions	111,692	-
95	Bilambil Heights	435,134	-
<b>Total</b>		<b>30,067,984</b>	<b>93,665</b>

#### 14. ECONOMIC COMMENTARY

##### Global Economy

The US and Europe are showing signs of equity market volatility and increasing risk aversion. European sovereign debt default risk heightened and growth forecasts for the US, UK and China have been downgraded.

##### Domestic Economy

The Reserve Bank of Australia left the cash rate on hold at 4.75% at their meeting on 7 June, 2011.

Growth in employment has moderated over recent months and the unemployment rate has been little changed, near 5 per cent. Most leading indicators suggest that this slower pace of employment growth is likely to continue in the near term. Reports of skills shortages remain confined, at this point, to the resources and related sectors. After the significant decline in 2009, growth in wages has returned to rates seen prior to the downturn.

Overall credit growth remains quite modest. Signs have continued to emerge of some greater willingness to lend, and business credit has expanded this year after a period of contraction. Growth in credit to households, on the other hand, has softened, as have housing prices. The exchange rate remains, in real effective terms, close to its highest level in several decades. If sustained, this could be expected to exert continued restraint on the traded sector.

CPI inflation has risen over the past year, reflecting the effects of extreme weather and rises in utilities prices, with lower prices for traded goods providing some offset. The weather-affected prices should fall back later in the year, though substantial rises in utilities prices are still occurring. The Reserve Bank expects that, as the temporary price shocks dissipate over the coming quarters, CPI inflation will be close to target over the next 12 months.

The Reserve Bank has previously warned the cash rate will have to rise "at some point" because of potential inflation pressures from a record terms of trade and a massive business investment pipeline as a result of the mining boom.

The TD Securities-Melbourne Institute monthly inflation gauge also showed prices grew by just 0.2 per cent in May, trimming the annual rate to 3.3 per cent from 3.6 per cent in April, albeit remaining above the RBA's two to three per cent target band.

National accounts for the first three months of the year showed the economy shrank by 1.2 per cent, the largest quarterly decline in 20 years.

At the same time, more up-to-date economic data suggests the economy is far from operating a full capacity and price pressures in the economy have yet to take hold.

In other news, the credit ratings of the four major Australian banks were downgraded from Aa1 to Aa2 during May by Moody's Ratings Agency to bring the agencies' credit ratings in line with Standard and Poors and Fitch. The reason given for the downgrade was the local banks reliance on international wholesale markets for approximately 40% of their funding.

### **Council's Investment Portfolio**

The Federal Government Guarantee Scheme for term deposits up to \$1m in value is due to end 12 October, 2011. The Council of Financial Regulators (Treasury, APRA and RBA) have recommended the Government reduce the cap to between \$100,000 and \$250,000 after October. Large wholesale investors such as Tweed Shire Council will be affected by this recommendation as Council's term deposits are generally \$1m minimum and the majority of its term deposits will no longer benefit from the Federal Government Guarantee.

The impact of a significant reduction in the Government Guarantee is unknown at this stage. It is likely that conservative investors, such as Tweed Shire Council, will move funds from institutions perceived as riskier (i.e. unrated credit unions) to the safer option of the four major Australian banks. It is also possible that the four major banks will receive large term deposit inflows after the Government Guarantee is reduced in October and interest rate yields for term deposits with the major banks will fall. Council's income from investments may in turn reduce.

Council's investment portfolio continues to be conservatively structured in accordance with Division of Local Government guidelines with 89% of the portfolio held in term deposits or cash at call. This investment segment continues 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 2.50% pa above the 30 day UBS bank bill index for the last 12 month period.

**15. INVESTMENT SUMMARY AS AT 31 MAY 2011**

**GENERAL FUND**

COLLATERISED DEBT OBLIGATIONS	0.00	
COMMERCIAL PAPER	0.00	
CORPORATE FIXED RATE BONDS	6,702,166.15	
FLOATING RATE NOTES	7,919,640.84	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSIT - LOAN 104 OFFSET	0.00	
TERM DEPOSITS	53,000,000.00	
CALL ACCOUNT	5,000,000.00	<b>72,621,806.99</b>

**WATER FUND**

TERM DEPOSITS	27,000,000.00	
FUND MANAGERS	2,758,832.74	<b>29,758,832.74</b>

**SEWERAGE FUND**

TERM DEPOSITS	60,000,000.00	
FUND MANAGERS	0.00	<b>60,000,000.00</b>

**TOTAL INVESTMENTS** 162,380,639.73

It should be noted that the General Funds investments of \$72 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](http://www.tweed.nsw.gov.au) (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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**42 [TCS-CM] Integrated Planning and Reporting Framework - 2011/2015 Delivery Program, 2011/2012 Operational Plan and Resourcing Strategy**

**ORIGIN:**

**Corporate Governance**

**SUMMARY OF REPORT:**

This report details the outcome from the public exhibition of the Delivery Program 2011/2015, Operational Plan 2011/2012, the Resourcing Strategy and the Revenue Policy and Statement incorporating the Budget and Fees and Charges for 2011/2012.

It is recommended that Council adopts the documents as amended following the community consultation phase.

**RECOMMENDATION:**

**That:**

- 1. The Delivery Program 2011/2015, Operational Plan 2011/2012 and associated Resourcing Strategy and Revenue Policy and Statement 2011/2012 incorporating the Delivery Program Estimates and Fees and Charges for 2011/2012, be adopted in accordance with Sections 404 and 405 of the Local Government Act 1993.**
- 2. The Asset Management Policy Version 1.4, Asset Management Strategy as at April 2011 and the Asset Management Plans for:**
  - Building**
  - Drainage**
  - Open Space**
  - Plant and Fleet**
  - Transportation**
  - Wastewater and**
  - Water**

**be adopted.**

## REPORT:

At the April Council meeting, in considering the draft program and plans, the following was resolved:

- "1. *The Draft Delivery Program 2011/2015, Draft Operational Plan 2011/2012 and associated Resourcing Strategy and Draft Revenue Policy and Statement 2011/2012 incorporating the Delivery Program Estimates, be placed on public exhibition inviting submissions in accordance with Sections 404 and 405 of the Local Government Act 1993 with an amendment to the Draft Budget to allocate \$200,000 in loan funds towards the Fingal Surf Life Saving Club for clubhouse extensions, with repayments to be funded from the Civic Reserves.*
2. *Asset Management Planning be noted and reported to the June 2011 Council Meeting for formal adoption."*

As a result of the resolutions of Council at the April meeting to allocate \$200,000 to the Fingal Surf Life Saving Club for clubhouse extensions and the financial implications resulting from the Museum Building Projects the various elements within the planning documents have been amended to reflect these decisions.

## Consultation Feedback

In placing the documents on public exhibition from 27 April to 27 May 2011, the following forms of consultation were undertaken:

Independently facilitated online forum hosted by Bang the Table, meetings with community groups, community information sessions at markets and shopping centres, the Tweed Link, various media articles, letters to non resident ratepayers and displays at the customer service centres and branch libraries.

These forms of consultation have enabled various aspects of Council's role within the community to be showcased which in turn has been well received by the community.

Positive feedback has been received into the key actions and activities of the Delivery Program and Operational Plan, with particular emphasis regarding more realistic and meaningful key performance indicators and the associated targets. This feedback has been reviewed and has resulted in a number of key performance indicators and targets being amended to provide a greater degree in reporting the status of the activity to the community.

Additional activities have been included that directly take into account the feedback provided as follows:

- 2.3.1.2.2 Advocate on behalf of the community for a high school in Pottsville
- 3.2.1.2.1 Prepare and implement a Rural Lands Strategy
- 4.4.2.1.2 Scenic Protection Strategy/DCP prepared

A number of operational matters were also raised, particularly from the meeting with community representatives. Some of these issues directly relate to the UKI area, with the Recycling Enclosure to be reinstalled in the near future and consideration to be given to the

provision of suitable fill for the 'pump' track. Other matters have been referred to the relevant operational areas within Council for consideration.

An evaluation summary covering the various Engagement methods is attached to this report for information.

### **Sustainability Definition**

Since the adoption of the Community Strategic Plan in December 2010 the Australian Government has provided a definition of sustainability as follows.

The Australian Government defines sustainability as:

*"the maintenance or improvement of wellbeing now and for future generations. Wellbeing is a term aimed at capturing all of the economic, environmental and social aspects of people's lives. It is not a single measure, but rather can be viewed through a wide range of indicators across each or all of the three aspects."*

This definition has been included in the "Overview" of Delivery Program 2011/2015.

### **Asset Management Planning**

There have been no submissions received relating specifically to the various asset management plans, other than a concern expressed as follows:

*There is a large shortfall in the current funding level and the required funding level.*

*We are concerned that this shortfall will be the catalyst for a future increase in our rates or that some projects may have to be either cut back or removed from the planning. If it requires some form of cut backs, will the community be advised of this.*

This funding shortfall has been identified in the Long Term Financial Plan and it is not envisaged to fund this shortfall within the term of the plan.

During the period of public exhibition an opportunity has been taken to conduct an internal review of the specific Asset Management Plans, with an outcome that the Water Asset Management Plan has had elements of Table 2 on page 5 of the Plan amended, with the amendments being Maximum water pressure at the property boundary will be **780kPa** rather than 750kPa and Minimum flow and water pressure at hydrant for fire fighting will be:

**11L/s** at 150kPa (residential)

**20L/s** at 150kPa (commercial, industrial, high rise) and

**15L/s** at 150kPa (local commercial)

These targets were previously expressed in Minutes rather than now in Seconds.

The amended Water Asset Management Plan is attached to this report for information, with the other Asset Management Plans for Building, Drainage, Open Space, Plant and Fleet, Transportation and Wastewater as well as the Asset Management Policy and Strategy proposed for adoption as advertised and previously reported to Council. A copy of the Asset Management Policy and Strategy is attached to this report for information.

### **Fees and Charges**

Since the adoption by Council to advertise the documents, advice has been received from the Division of Local Government in Circular Number 11-05 dated 21 April 2011 of the determination of the fee for the issue of Section 603 Certificates (which are rating certificates). The determined fee is **\$65** for 2011/12 and is an increase from the previous fee of \$60.

Following representations from Private Certifiers to the Northern Rivers Councils to assist in the backlog of applications, it is proposed to apply a new fee of **\$250** plus any required inspection fees for Transfer of Applications (transfer of PCA) from Private Certifiers. This proposed fee will be charged to the Private Certifiers on transfer of any applications and is designed to assist those Certifiers in clearing a backlog of applications.

The Fees and Charges Schedule for 2011/2012 has been amended on page 3 to disclose the prescribed Section 603 Certificate fee and on page 19 to reflect the new fee for Transfer of Applications. Attached to this report is the amended Fees and Charges Schedule for 2011/12.

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

As reported within the Budget 2011/2012 which has a balanced result and the Long Term Financial Plan.

#### **POLICY IMPLICATIONS:**

In accordance with Sections 404 (Delivery Program) and 405 (Operational Plan) of the Local Government Act 1993.

#### **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](http://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. Delivery Program 2011/2015 and Operational Plan 2011/2012 *(to be distributed prior to the Council meeting)*
2. Resourcing Strategy 2011/2015 *(to be distributed prior to the Council meeting)*
3. Part A - Revenue Policy and Statement 2011/2012 (ECM34531214)
4. Part B - Budget 2011/2015 *(to be distributed prior to the Council meeting)*
5. Part C - Fees and Charges 2011-2012 (ECM34530158)
6. Evaluation - Community Engagement for the Delivery Program 2011/2015 and Operational Plan 2011/2012 *(to be distributed prior to the Council meeting)*
7. Asset Management Planning:
  - a. Asset Management Policy Version 1.4 (ECM31451076)
  - b. Asset Management Strategy (ECM31456451)
  - c. Water Asset Management Plan (ECM34531213)
8. Late Submission received on 30 May 2011 (ECM33878325)

**Documents as per Attachments to April 2011 Council Meeting (NOT REPRODUCED):**

- Building Asset Management Plan (ECM34530175)
  - Drainage Asset Management Plan (ECM34530176)
  - Open Space Asset Management Plan (ECM34530181)
  - Plant and Fleet Asset Management Plan (ECM34530192)
  - Transportation Asset Management Plan (ECM34530195)
  - Wastewater Asset Management Plan (ECM34530170)
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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 43 [SUB-TRRMAC] Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 19 May 2011

Venue:

Coolamon Cultural Centre

Time:

4.05pm

Present:

Cr Barry Longland; Gary Corbett (Manager Community & Cultural Services); Joshua Tarrant (Senior Museum Curator); Max Boyd (Community); Gary Fidler (Community); Sandra Flannery (Community); Faye O'Keeffe (Community); Joan Smith (Tweed Heads Historical Society); Denise Garrick (Tweed Heads Historical Society); Helena Duckworth (Uki & South Arm Historical Society); Mary Lee Connery (Uki & South Arm Historical Society); Carol Piggott (Murwillumbah Historical Society).

Apologies:

David Oxenham (Director Community & Natural Resources); Beverley Lee (Murwillumbah Historical Society).

Before declaring the meeting opened, Max Boyd asked the Committee if they were all happy for him to continue to Chair the meetings. There was unanimous agreement.

Minutes of Previous Meeting:

Moved: Helena Duckworth

Seconded: Mary Lee Connery

RESOLVED that the Minutes of the Tweed River Regional Museum Advisory Committee meeting held 17 March 2011 be accepted as a true and accurate record of the proceedings of that meeting.

Carried

Business Arising:

Nil

Correspondence

2 emails received from Tweed Heads Historical Society regarding delegates for this Committee: Joan Smith and Denise Garrick are delegates with Syd Miller being the alternate delegate.

1 email received from Murwillumbah Historical Society regarding delegates for this Committee: Carol Piggott and Beverley Lee are delegates with Ron Johansen being the alternate delegate.

Moved: Carol Piggott  
Seconded: Gary Fidler  
RESOLVED that the correspondence be accepted.

Carried

Barry Longland arrived at 4:15pm

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Agenda Items:

1. Senior Museum Curator's Report

May 2011

Volunteer Week

May 15-19 is Volunteer Week. I'd like to take this opportunity to thank all of the volunteers for their support of The Tweed River Regional Museum and its activities. It is heartening to see such dedicated groups of volunteers working towards providing the community with opportunities to engage with the unique heritage of this region. Thank You.

Migration Projects

The Caravans and Communes publication has been under heavy scrutiny, with the third and final design proof having been finally completed. A printers proof will be produced later next week for checking before being finally sent to print. All going well, we are expecting a mid afternoon launch on Saturday the 18<sup>th</sup> June at the Tumbulgum Hall. If anyone is interested in assisting, please let me know.

The SSI and Sikh documentary project is still progressing well. The film has been completed, and the cover art for the case and DVD are being designed. Ideas for the launch have also been discussed with the community, and we hope to set a date soon. A requirement of the grant was for the TRRM to produce a small exhibition and accompanying educational resources in 2011. This component is yet to be finalized.

2011 Friends of the Museum Film Night & Matinee

The 2011 Friends Film Night at the Murwillumbah Regent and Matinee screening at Kingscliffe Cinemax were a spectacular success, selling out both venues. The Friends have organized a second screening at the Kingscliffe Cinemax on Saturday 28<sup>th</sup> May. Our thanks go to the Friends, as well as other volunteers who have assisted with sourcing materials from the collection, copying film, and other tasks.

IT equipment upgrade

By this stage, IT will have completed most of the upgrades to the computers at the Murwillumbah site. I am in the process of investigating cost for additional upgrades to hardware and software.

Recommendation:

That the Senior Museum Curator's report be received and noted by the Committee.

Moved: Josh Tarrant

Seconded: Denise Garrick

RESOLVED that the Senior Museum Curator's Report be received and noted by the Committee.

Carried

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Discussion followed on the Friends' Vintage Film Night and how successful the showings were.

Sandra Flannery offered thanks to Sheraden and Darren for creating the film.

Moved: Fay O'Keeffe

Seconded: Mary Lee Connery

RESOLVED that the Museum Advisory Committee send a letter to the Friends of TRRM congratulating them on their successful vintage film events.

Carried

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## 2. Tweed Heads Historical Society Report

Report tabled, circulated and read out.

Moved: Joan Smith

Seconded: Denise Garrick

RESOLVED that the Tweed Heads Historical Society Report be received and noted by the Committee.

Carried

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## 3. Uki and South Arm Historical Society Report

Report tabled, circulated and read out.

Moved: Helena Duckworth

Seconded: Mary Lee Connery

RESOLVED that the Uki & South Arm Historical Society Report be received and noted by the Committee.

Carried

Discussion followed on the Museum project.

Gary Corbett advised he would supply a copy of the letter sent to Paul Berkemeier regarding the potential building options at Murwillumbah Museum (Attachment 1).

Moved: Barry Longland

Seconded: Joan Smith

RESOLVED that whilst the Museum community expresses some disappointment on Council's decision regarding the extensions to Murwillumbah Museum, it stands ready to work with Tweed Shire Council in completing the building project in Murwillumbah and welcomes the proposal put forward by Council Staff to negotiate with the Architect to ensure a positive outcome.

Carried unanimously

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#### 4. Murwillumbah Historical Society Report

Report was tabled and circulated.

There was no time to read out or discuss the Report.

Sandra Flannery left the meeting at 5:45pm.

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#### General Business:

#### 5. Thank you from Senior Curator

Josh Tarrant wished to thank the Committee for their enthusiasm.

He stated that it has been an intense time lately, and we need to harness the enthusiasm of members and use it to drive the project forward.

He said everyone should be working together for the Tweed River Regional Museum project.

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#### 6. Museum staffing levels

Moved: Mary Lee Connery

Seconded: Helena Duckworth

RESOLVED the Committee supports the increase in professional full-time staff for Tweed River Regional Museum.

Carried Unanimously

#### RECOMMENDATION:

That Council considers the employment of additional full-time professional staff for Tweed River Regional Museum.

Carried Unanimously

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#### 7. Cultural Development Officer

Denise Garrick queried what had happened to the hours of the Cultural Development Officer position.

Gary Corbett reported that half the budget had been retained by the Cultural Development Officer position, and half had gone to the Education & Audience Development Officer position at the Art Gallery.

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Next Meeting:

The next meeting of the Tweed River Regional Museum Advisory Committee will be held Thursday 21 July.

The meeting closed at 5:50pm.

**EXECUTIVE MANAGEMENT TEAM COMMENTS:**

**Discussion on the Museum project - refer EMT Recommendations**

**EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:**

**Discussion on the Museum project**

- 1. That Council notes the Museum Advisory Committee resolution being that whilst the Museum community expresses some disappointment on Council's decision regarding the extensions to Murwillumbah Museum, it stands ready to work with Tweed Shire Council in completing the building project in Murwillumbah and welcomes the proposal put forward by Council Staff to negotiate with the Architect to ensure a positive outcome.**
- 2. That Council in its budget deliberations considers the employment of additional resources for the Tweed River Regional Museum.**

Attachment 1

Council Reference: Tweed River Regional Museum

19 May 2011

Mr Paul Berkemeier  
67 Milsons Road  
**CREMORNE NSW 2090**

Dear Paul

**Tweed River Regional Museum- Murwillumbah**

I recently forwarded correspondence regarding the construction of a single storey on the Tweed River Regional Museum-Murwillumbah. The budget for the project is \$2.6m which includes all costs.

There are a number of options that you may wish to consider regarding the single storey design proposal:

- a new design;
- design as per previous;
- opportunity for a mezzanine floor within the building whilst maintaining the single storey classification;
- roof and building design to allow for future 2<sup>nd</sup> storey;
- a pitched roof which could be in keeping with the heritage considerations to allow an integrated design of solar panels etc.;
- internal open spaces which are as large as possible and flexible enough to accommodate objects both small and large (some objects to be housed in cabinets). Most objects will be housed off-site;
- consider environmental and sustainable design solutions to reduce operating costs and passive design and ventilation techniques

Could you please provide me with a cost for the additional work which will be undertaken.

I look forward to working with you again.

Should you require further information regarding this letter please contact me on (02) 6670 2261.

Yours faithfully

**Gary Corbett**  
**MANAGER COMMUNITY AND CULTURAL SERVICES**

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- 44        **[SUBCOM] Reports from Subcommittees and/or Working Groups for Distribution**
1.    **Minutes of the Tweed Coastal Committee Meeting held Wednesday 13 April 2011 (ECM 33943105)**
  2.    **Minutes of the Tweed River Art Gallery Advisory Committee Meeting held Wednesday 18 May 2011 (ECM 33880393)**
  3.    **[SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 19 May 2011 (ECM 33994982)**
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## ORDERS OF THE DAY

### 45 [NOR-Crs D Holdom, W Polglase, P Youngblutt] [EO-CM] Disposal of Land - Quarries at Duroby and Chillingham

#### NOTICE OF RESCISSION:

Councillors D Holdom, W Polglase and P Youngblutt move that Minute Number 299 at Item 22 [EO-CM] Disposal of Surplus Land - Quarries at Duroby and Chillingham being:

*"... that Council defers the Disposal of Surplus Land - Quarries at Duroby and Chillingham report, until the June Council meeting to enable consultation with the relevant community associations."*

**be rescinded.**

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### 46 [NOM-Cr D Holdom] Disposal of Surplus Land - Quarries at Duroby and Chillingham

#### NOTICE OF MOTION:

Councillor D Holdom moves that Council:

1. Approves the sale by public tender of the Duroby Quarry located at Duroby Creek and comprised in Lot 10 in DP 262383 and Chilcotts Quarry located at Chillingham and comprised in Lot 1 in DP 794307; and
  2. Appoints an estate agent within the Tweed local government area, to conduct the sale of these parcels; and
  3. Advertises the sale of these parcels by public tender; and
  4. Adopts the Probity Plan for the sale of the Duroby Quarry and Chilcotts Quarry; and
  5. Allocates the proceeds of the sales to provide capital for the future development, operation and restoration of the remaining and future quarries.
-

**47 [NOM-Cr B Longland] Biosphere**

**NOTICE OF MOTION:**

Councillor B Longland moves that Council officers bring forward a report on the request put forward by the Caldera Environment Centre to support the nomination of the Caldera and surrounds as a Biosphere Reserve under the principles set down by the United Nations Educational, Scientific and Cultural Organisation (UNESCO).

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**48 [NOM-Cr K Milne] Environment Significance of the Tweed**

**NOTICE OF MOTION:**

Councillor K Milne moves that:

1. Council produce an educational DVD and brochure on the outstanding significance of the environmental values of the Tweed, incorporating advice provided by Mr John Hunter at Council's workshop of Tuesday 7<sup>th</sup> June 2011, and the Green Cauldron concept.
  2. Council consider developing an appropriate motto to be included in Council's branding, such as the header for the Tweedlink, to reflect this outstanding environmental significance.
- 

**49 [NOM-Cr K Milne] Forum for Tweed Developers on the Environmental Significance of the Tweed and Sustainability Opportunities**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council investigates and brings forward a report on organising a forum for developers with projects in the Tweed Shire, in regard to the environmental significance of the Tweed Shire and improving outcomes for sustainability.

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**50 [NOM-Cr K Milne] Community Health and Food Security for New Developments**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council brings forward a report on enhancing food security opportunities for all new developments of an adequate scale, including but not limited to, the provision of, and adequate planning for community gardens, and potential for a proportion of large lot development reserved for small crops of organic perishables.

Northern Rivers Foodlinks organisation has not yet addressed food security in new developments but could be called on to assist in such a process.

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**51 [NOM-Cr K Milne] Multi-purpose Community Precincts**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council brings forward a report on the opportunity of creating multi-purpose community precincts for developments of an adequate scale.

Such a precinct could provide a community activity hub including the community centre, community technology centre, reading room, community gardens, men's shed, market and festival area, art space, a community shop for local art, craft and recycled goods to provide an income stream, skate park etc, and/or waste collection areas.

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**52 [NOM-Cr K Milne] Community Input for Regional Development Australia**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council brings forward a report on providing greater opportunities for the community to have input into the prioritisation of projects proposed for the Regional Development Australia funding applications.

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**53 [NOM-Cr K Milne] Greenhouse Gas Emissions Target**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council brings forward a report on developing a Greenhouse gas emissions target for Council and the Shire.

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**54 [NOM-Cr K Milne] Sustainability Assessments for New Developments**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council brings forward a report on requiring comprehensive sustainability assessments for all new developments of an adequate scale.

Note At the Planning Institute of Australia Conference a new program to make detailed sustainability assessments was outlined.

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**55 [NOM-Cr K Milne] Cobaki Lakes Development Works Under the Existing Approvals**

**NOTICE OF MOTION:**

Councillor K Milne moves that:

1. Council brings forward a report outlining if any of the conditions of consent for works carried out under previous development approvals for the Cobaki Lakes development which may have not been enacted appropriately?
  2. Is Council aware of any breaches of conditions of consent at the Cobaki development and if so could these please be outlined?
- 

**56 [NOM-Cr K Milne] Cobaki, Kings Forest and Bilambil Rise**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council brings forward a report on the issues that Council raised during the Concept Plan application processes that were not adequately addressed in these determinations of these major developments.

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**57 [NOM-Cr K Milne] Cobaki Road Infrastructure**

**NOTICE OF MOTION:**

Councillor K Milne moves that Council brings forward a report on the road and bridge infrastructure required to service the Cobaki development, including the staging and responsibilities for funding of these works, and whether the widening of Kennedy Drive or extension of Kirkwood Road will be funded from this development.

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**QUESTIONS ON NOTICE**

**58 [QoN-Cr D Holdom] Stage 1 - Jack Evans Boat Harbour**

**QUESTION ON NOTICE:**

Councillor D Holdom asked could the General Manager extend to all concerned a formal appreciation letter of a job well done with regard to Stage 1 of the Jack Evans Boat Harbour?

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**59 [QoN-Cr D Holdom] Seniors Expo 2011**

**QUESTION ON NOTICE:**

Councillor D Holdom asked could the General Manager send a letter on behalf of the Council, to thank the staff/manager responsible for the obvious effort they applied to organising the Seniors Expo this year?

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**60 [QoN-Cr D Holdom] Section 94 Contributions Plan 26 Shirewide/Regional Open Space**

**QUESTION ON NOTICE:**

Councillor D Holdom asked that as there appears to be some confusion as to how the Jack Evans Boat Harbour public facilities are to be funded and given that Section 94 Contributions Plan 26 Shirewide/Regional Open Space is providing the funding for the Jack Evans Boat Harbour public facilities and not ratepayers, can the General Manager or his delegate explain Section 94 Contributions Plan 26 Shirewide/Regional Open Space and who contributes to this Plan?

---

**61 [QoN-Cr D Holdom] Regionally or State Significant Farmland**

**QUESTION ON NOTICE:**

Councillor D Holdom asked can the Director of Planning and Regulation give a brief overview of the history of the Northern Rivers Farmland Protection Project and subsequent planning policies put into place for the protection of farmland considered to be either Regionally or State Significant, and to broadly describe where these zones are in NSW, and in particular, within the Tweed Shire?

**62 [QoN-Cr D Holdom] Sustain Northern Rivers**

**QUESTION ON NOTICE:**

Councillor D Holdom asked can the General Manager give an overview of the organisation 'Sustain Northern Rivers' and it's objectives?

---

**63 [QoN-Cr K Milne] Flexibility under Cobaki Concept Plan**

**QUESTION ON NOTICE:**

Councillor K Milne asked can Council clarify the extent of the control Council or the JRPP have under the approved Cobaki Concept Plan to provide for large lot sizes to facilitate enhanced wildlife corridors, e.g. how large can the lots be and how much wider could such an enhanced corridor extend, before being considered as invalid under the Concept Plan?

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**64 [QoN-Cr K Milne] Cobaki Development Nutrient Targets**

**QUESTION ON NOTICE:**

Councillor K Milne asked can Council provide the level of nutrients estimated to be released from the Cobaki development with the implementation of the Concept Plan and Precincts 1,2 and 6, in relation to the target of a 30% nutrient reduction required outlined in the Cobaki and Terranora Broadwater Management Plan?

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**65 [QoN-Cr K Milne] Waste Decentralisation**

**QUESTION ON NOTICE:**

Councillor K Milne asked how does the cost of operating a centralised waste disposal facility compare to the cost of operating more decentralised facilities when the costs of the rubbish dumped in the bushland, including these ecological costs, the lesser likelihood of toxic materials being separated, and the greater convenience for the community are included?

---

**66 [QoN-Cr K Milne] Kennedy Drive**

**QUESTION ON NOTICE:**

Councillor K Milne asked can Council outline if there will be any private land resumption required to facilitate the widening of Kennedy Drive and if so details of the most affected properties.

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**CONFIDENTIAL ITEMS FOR CONSIDERATION**

**REPORTS THROUGH GENERAL MANAGER IN COMMITTEE**

**REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE**

**1 [CNR-CM] Delta Electricity Australia Pty Ltd - Sunshine Renewable Energy Pty Ltd**

**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

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**2 [CNR-CM] Kingscliff Wastewater Treatment Plant - Land Matters**

**REASON FOR CONFIDENTIALITY:**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

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

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