



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland

Councillors: M Armstrong (Deputy Mayor)
G Bagnall
C Byrne
K Milne
W Polglase
P Youngblutt

Agenda

Ordinary Council Meeting Thursday 20 March 2014

held at Murwillumbah Cultural and Civic Centre
commencing at 5.00pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

- 1 [CONMIN] Confirmation of the Minutes of the Ordinary and Confidential Council Meetings held Thursday 20 February 2014

SUBMITTED BY: Corporate Governance



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
-

SUMMARY OF REPORT:

The Minutes of the Ordinary and Confidential Council Meeting held Thursday 20 February 2014 are attached for information and adoption by Council.

RECOMMENDATION:

That:

1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 20 February 2014 be adopted as a true and accurate record of proceedings of that meeting.
- 2 ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (f) matters affecting the security of the council, councillors, council staff or council property.

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.3.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Attachment 1 Minutes of the Ordinary Council Meeting held Thursday 20 February 2014 (ECM 3296784).

(Confidential) Attachment 2 Minutes of the Confidential Council Meeting held Thursday 20 February 2014 (ECM 3296783).

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR] Schedule of Outstanding Resolutions



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making processes
-

CODE OF MEETING PRACTICE:

Section 2.8 Outstanding Resolutions

No debate is to be allowed on Outstanding Resolutions. Any changes to or debate on Outstanding Resolutions should only be by way of a Notice of Motion or a report to Council.

18 APRIL 2013

13 [NOM-Cr K Milne] Climate Change Priority

NOTICE OF MOTION:

197

Cr K Milne
Cr G Bagnall

RESOLVED that Council prioritises climate change as an urgent and high priority in all relevant areas of Council policy and operations, and brings forward to a future Workshop, policy options to implement this approach.

Current Status: Workshop conducted 12 September 2013 and will be dealt with through the Environmental Sustainability Strategy.

20 JUNE 2013

13 [NOM-Cr K Milne] Commercial Wakeboarding Operations

NOTICE OF MOTION:

367

**Cr M Armstrong
Cr K Milne**

RESOLVED that Council brings forward a report no later than the April 2014 Council meeting outlining a comprehensive planning proposal capable of adoption by Council to regulate commercial wakeboarding operations and events throughout the Tweed Shire.

Current Status: Report to be prepared.

19 SEPTEMBER 2013

ORDERS OF THE DAY

4 [NOM-Cr B Longland] Aboriginal Employment Strategy

NOTICE OF MOTION:

532

**Cr B Longland
Cr K Milne**

RESOLVED that an Aboriginal Employment Strategy be developed as part of Council's Equal Employment Opportunity Management Plan which sets appropriate targets for aboriginal employment participation in the organisation and includes annual reporting against these targets. The Aboriginal Employment Strategy should also be included as an element of the yet to be developed Reconciliation Action Plan.

Current Status: The Aboriginal Employment Strategy is currently under review. Discussions in train with the Local Employment Coordinator and third party entities.

9 [NOM-Cr K Milne] Tweed River System - Recreational Use Strategy

NOTICE OF MOTION:

538

Cr M Armstrong
Cr C Byrne

RESOLVED that Council develops a 'Tweed River System - Recreational Strategy' to determine the Tweed community's desired future character for the river system in light of the current state of erosion of the River, and the desired level of recreational facilities.

This process to include:

1. Education of the community on the current issues affecting the Tweed River system from recreational use, including but not limited, to the cumulative impacts from boat wakes and wakeboarding on accelerating erosion and the 6kms of road along Tweed Valley Way, now subject to severe erosion, and the projected cost estimates of such works.
2. Consultation with the community and affected stakeholders, including but not limited to, a survey and public meetings, to determine:
 - a) The community's current use and engagement with the river,
 - b) The desired amenity, visual character and ecological aspirations for the River system,
 - c) Priorities eg revegetation, environmental facilities (walking trails, picnic tables, interpretive signs, bird hides, etc), boating facilities, rock revetment, etc
 - d) Support or objection to various recreational activities on the river in light of the erosion impacts and cost for revetment works,
 - e) Preference on whether the community would like to see waterway facilities increased, and if so, the types and sizes of recreational waterway facilities the community would prefer.

Current Status: Officers currently reviewing project scope, cost and resource implications. Presentation made at Tweed River Committee Meeting on 9 October 2013.

17 OCTOBER 2013

ORDERS OF THE DAY

6 [NOM-Cr M Armstrong] Graffiti Management Plan

634

**Cr M Armstrong
Cr G Bagnall**

RESOLVED that, in addition to investigating the feasibility of specified locations for graffiti walls and/or street art, Council brings forward a report outlining:

1. Strategies to engage with local youth to educate them on the costs arising from the damage caused by graffiti; and
2. The feasibility of developing a response team to assist local small businesses and landowners to clean up graffiti.

Current Status: This resolution will be addressed in the Graffiti Management Plan which is scheduled for delivery in 2014/15.

21 NOVEMBER 2013

7 [NOM-Cr K Milne] Water Conservation in Greenfield Developments

NOTICE OF MOTION:

705

**Cr K Milne
Cr G Bagnall**

RESOLVED that Council brings forward a report on mandating sustainable water conservation in Greenfield developments to minimise water use and achieve self sufficiency in water supply wherever possible, and includes in the report an estimate on when augmentation of the current water supply would be required under those conditions.

Current Status: Report to be prepared.

12 DECEMBER 2013

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

43 [CNR-CM] Community and Cultural Facility Options Interim Report

852

**Cr M Armstrong
Cr P Youngblutt**

RESOLVED that:

1. Council notes the preliminary information regarding site options and identified community infrastructure requirements for the Tweed Urban North region identified in this report.
2. Council notes that a cross-divisional working group will be established, led by the Community and Cultural Services Unit, to develop a framework for planning and developing Council's community infrastructure network.
3. A discussion paper is prepared for the April 2014 meeting of Council presenting the proposed Community Infrastructure Framework and summarising identified community infrastructure requirements in the Tweed Urban North region, to be released for public comment and facilitate community and stakeholder engagement, subject to Council approval.
4. Funding of \$20,000 (2013-14) is identified from Section 94 Contribution Plan 15 to provide external expert input and review for the proposed discussion paper, and assist with associated community engagement.
5. Subject to Council consideration of public comments and identified community infrastructure requirements:
 - (a) seek further funding under Section 94 CP 15 for detailed planning, analysis and preliminary design work for community infrastructure site options and facilities in the Tweed Urban North region
 - (b) commence detailed planning and analysis for community infrastructure in the Tweed Urban North region including costing of facility options, site analysis, feasibility assessment and preliminary/concept design.

Current Status: Report to be prepared for consideration at the April 2014 Council meeting.

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

54 [EO-CM] Response to Notice of Motion - Future Use of Murwillumbah Railway Station Building

866

Cr M Armstrong
Cr G Bagnall

RESOLVED that:

1. Council brings forward a report considering ways for incorporating the proposed community and cultural precinct at the Murwillumbah Railway Station into the proposed Rail Trail Network as originally envisioned in Council's motion.
2. This report be presented to Council after release of the Casino to Murwillumbah Rail Trail Feasibility Study.

Current Status: Feasibility Study not expected until April 2014.

10 [NOM-Cr K Milne] New Year's Sustainable Resolution

NOTICE OF MOTION:

12

Cr C Byrne
Cr P Youngblutt

RESOLVED to defer this matter until the report relating to Item 13 of Council's Meeting of 18 April 2013 has been brought back to Council.

Current Status: Workshop conducted 12 September 2013 and will be dealt with through the Environmental Sustainability Strategy.

11 [NOM-Cr G Bagnall] Tweed Valley Way/Tweed River Corridor

NOTICE OF MOTION:

15

Cr W Polglase
Cr M Armstrong

RESOLVED that:

1. Staff prepares an estimate of costs for preparation of the plan of management in (2) below to inform consideration of this item in the 2014/15 budget
2. Council considers the following item in the 2014/15 budget:

"Prepare a Plan of Management for the Tweed Valley Way/Tweed River Corridor. This Plan of Management is to be a guiding document to coordinate activities and ensure consistency for planned and future works along the corridor. Activities to be addressed by the plan will include, but not be limited to: signage, roadside plantings, river bank stabilisation, riverbank plantings and town entry statements."

3. A report be prepared that:
 - (a) Assesses the adequacy of existing town/village entry statements in Tweed Shire in regards to the functions of informing the travelling public, promoting the towns and villages and providing an attractive, culturally and environmentally appropriate village/town entries.
 - (b) Provides a detailed, prioritised and costed works program to upgrade the entry statements to an appropriate current standard over a suitable number of years.
 - (c) The Rural Villages Strategy be considered in preparing the Tweed Valley Way/Tweed River Corridor Plan of Management.

Current Status: Preliminary estimate of \$40,000 has been included for consideration in the 2014/2015 Draft Budget. Detailed estimate still to be determined.

12 [NOM-Cr G Bagnall] Review of Planting Guide

NOTICE OF MOTION:

16

Cr G Bagnall
Cr M Armstrong

RESOLVED that officers undertake a review of the planting guides that currently govern developments in this Shire, including Tweed Shire Council's own plantings, and a further

report be brought back to Council that examines the appropriateness and feasibility of requiring an increased sourcing of local occurring plants.

Current Status: Report to be prepared and workshop scheduled prior to report being submitted to Council.

13 [NOM-Cr G Bagnall] Budd Park

NOTICE OF MOTION:

19

**Cr B Longland
Cr M Armstrong**

RESOLVED that:

1. Council conveys its appreciation to Lifebridge for this generous offer; and
2. Subject to officer's assessment of the condition of the swing with respect to Australian Standards, this offer from Lifebridge for the supply of a "Liberty" swing be referred to the Equal Access Committee for their advice.

Current Status: In progress.

20 FEBRUARY 2014

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

24 [CNR-CM] Tyalgum Transfer Station - Consultation on Options for a Scenic Lookout and Transfer Station Closure

88

**Cr K Milne
Cr C Byrne**

RESOLVED that the Tyalgum Transfer Station item be deferred to 10 April 2014 Council meeting for Council Officers to bring forward an updated report as to negotiations with the community.

Current Status: Preliminary discussions held with representatives from the community and report to be prepared for consideration at April Council meeting.

ORDERS OF THE DAY

48 [NOM-Cr M Armstrong] Public Open Space

NOTICE OF MOTION:

114

**Cr M Armstrong
Cr K Milne**

RESOLVED that Council officers bring forward a report outlining the proposed public open space strategy identified in the Delivery Program 2013-2017 including information on:

1. The state of existing public open spaces focusing on, but not limited to, public facilities;
2. The status of current Section 94 contributions plan for open spaces; and
3. Identify future funding opportunities to increase the provision of public open space.

Current Status: In progress.

56 [NOM-Cr K Milne] Saltmarsh

NOTICE OF MOTION:

124

**Cr K Milne
Cr G Bagnall**

RESOLVED that Council brings forward a brief report on the state of saltmarsh in the Shire and options for a way forward to address any current or potential issues.

Current Status: Report to be prepared.

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MAYORAL MINUTE

3 [MM-CM] Mayoral Minute for the month of February 2014

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
-

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- § 7 February - NOROC Meeting - Ballina Council Chambers, Cherry Street, Ballina.
 - § 12 February - Sub-committee meeting - Tweed Coastal Committee - Canvas and Kettle Meeting Room, Murwillumbah Civic Centre - Crs Bagnall and Milne also attended.
 - § 12 February - Tweed Regional Gallery (TRAG) Foundation Extraordinary General Meeting - Friends Room, TRAG, Mistral Rd, Murwillumbah - Warren Polglase also attended as Foundation President.
 - § 13 February - Local Traffic Committee Meeting - Mt Warning Meeting Room, Murwillumbah Civic Centre, Murwillumbah.
 - § 20 February - Tweed Regional Museum Advisory Committee meeting - Coolamon Centre, Tumbulgum Road, Murwillumbah.
-

INVITATIONS:

Attended by the Mayor

- § 1 February - Life Education Barbecue - Bunnings, Greenway Drive, Tweed Heads South.
 - § 1 February - Minister Ajaka's visit to Tweed Community Options (Cops) - HACC Centre, Cnr Heffron St and Minjungbal Drive, Tweed Heads.
-

- § 7 February - Murwillumbah Chamber business breakfast - Greenhills on Tweed, 131 River St, South Murwillumbah.
- § 10 February - Cabarita Beach /Bogangar Residents' Association Meeting - Cabarita Sports Club, Cabarita Road, Cabarita.
- § 11 February - Tweed Chamber of Commerce Breakfast - Tweed Heads Bowls Club, Wharf Street, Tweed Heads - Cr Polglase also attended.
- § 11 February - Launch of SCU's 20th anniversary website - Room 30, Building B, Level 2, Gold Coast campus, Southern Cross Drive, Bilinga.
- § 11 February - Pottsville Men's Shed Meeting - Tri Care Hastings Point Retirement Community, Conference Rooms 87-89, Tweed Coast Road, Hastings Point - Cr Byrne also attended.
- § 16 February - Surf Life Saving Far North Coast Junior Branch Titles - Cudgen Headland Surf Lifesaving Club, Marine Parade, Kingscliff.
- § 18 February - Kingscliff & District Business Chamber Breakfast - Kingcliff Bowls Club, Marine Parade, Kingscliff - also attended by Crs Polglase and Byrne.
- § 18 February - Visit to Pottsville Community Preschool re plans for new building (& contributions) - Pottsville Community Preschool, 35 Pottsville Rd, Pottsville.
- § 19 February - Destination Tweed Board Meeting - World Heritage Rainforest Centre, Budd Park, Murwillumbah.
- § 24 February - Regional Mosquito Control Committee, Elected Representatives meeting - Kingscliff Surf Life Saving Club, Marine Parade, Kingscliff.
- § 25 February - Launch of the Domestic Violence Information Flip Chart for Health Workers hosted by Health Northern NSW - Crawford House, Ground Floor Meeting Room, Hunter Street, Lismore.
- § 28 February - Croquet Club Student Program - Tweed Heads Croquet Club, Recreation St, Tweed Heads.
- § 28 February - 2014 Gold Coast/Northern Rivers Regional Architecture Awards - Dreamworld Cinema and the Big Brother House, Dreamworld Parkway, Coomera.

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

- § 7 February - Aboriginal Advisory Committee meeting - Minjungbal Museum & Cultural Centre, Cnr Kirkwood Road & Duffy Street, Tweed Heads - Cr Milne attended.

Inability to Attend by or on behalf of the Mayor

- § 7 February - Arts Northern Rivers Board Meeting - Arts Northern Rivers Office, 2/5 Bruxner Highway, Alstonville.
- § 11 February - Tweed Education and Industry Forum (TEIF) Meeting - A Block, Kingscliff TAFE, Cudgen Road, Kingscliff (attended by General Manager, Manager Community and Cultural Services and Economic Development Coordinator).
- § 22 February - Seagulls League Club Season Launch - Mangroves Restaurant, Seagulls League Club, Tweed Heads.

REQUESTS FOR WORKSHOPS:

Date of Request	Requested by	Topic	Councillors For	Councillors Against	Proposed Workshop Date
5/2/14	Cr Polglase	Planning proposal for employment generating lands at Pottsville with Richard Cowan and Associates	Unanimous	-	13/3/14
6/2/14	Cr Milne	Impact of Trans-Pacific Partnership Agreement on local government regulation and services.	Milne Armstrong Bagnall	4 Remaining	-

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- § 28 Feb - 2 Mar Executive Certificate for Elected Members (Stage 1-2) - Aqualuna Beach Resort, Coffs Harbour - Cr Armstrong attended.

Information on Conferences to be held

- § 16-19 June - 2014 National General Assembly (NGA) of Local Government - National Convention Centre, Constitution Ave, Canberra - *The 2014 NGA is an opportunity for local government to identify and discuss issues which it believes should be addressed by the new Federal*

Government held against a backdrop of several key developments which could profoundly redefine the operation of Australia's system of government, including

- *the establishment, by the Commonwealth Government of a National Commission of Audit;*
- *a promise within two years of coming to office to develop a White Paper on the Reform of the Federation;*
- *a commitment to reduce duplication between governments; and*
- *a promise to develop a White Paper on Taxation within two years of coming to office.*

Early bird registration \$899pp by 28 April, plus \$230pp social events, plus flights and accommodation - Refer

www.alga.asn.au/site/misc/alga/downloads/events/2014NGA/NGARegistrationBrochure2014.pdf

SIGNING OF DOCUMENTS BY THE MAYOR:

- § 7 February - Request document - Acquisition of Land - Lots 10 - 14 DP 772294 Bilambil Road, Terranora.
- § 10 February - Transfer document - Riverbend Way and Oakbank Terrace, Murwillumbah.
- § 13 February - Request document - Acquisition of Crown Land - Anthony's Bridge, Mistral Road, Dunbible.
- § 13 February - Transfer document - Sale of 1 Nullum Street, Murwillumbah.
- § 14 February - Transfer document - Land Acquisition - Dulguigan Road, Kynnumboon.
- § 24 February - Transfer Granting Easement document - Lot 6 DP 237093 Holden Street, Tweed Heads South.
- § 25 February - Deposited Plan - Acquisition of land for Sewer Pump Station - Cox Drive, Tweed Heads South.
- § 25 February - Deposited Plan - Acquisition of land for Sewer Pump Station - Cox Drive, Tweed Heads South.
-

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.4.

b. Budget/Long Term Financial Plan:

Appropriate expenditure is allowed for attendance by Councillors at nominated conferences, training sessions and workshops.

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

RECOMMENDATION:

That:-

- 1. The Mayoral Minute for the month of February 2014 be received and noted.**
- 2. The attendance of Councillors at nominated Conferences be authorised.**

UNDER SEPARATE COVER:

Nil.

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4 [MM-CM] Mayoral Minute - Call for Motions - 2014 National General Assembly

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making processes.
-

Councillors,

CALL FOR MOTIONS - 2014 NATIONAL GENERAL ASSEMBLY (NGA)

The Australian Local Government Association (ALGA) is calling for motions for the 2014 National General Assembly (NGA) of Local Government, to be held in Canberra 15-18 June 2014. The theme is 'Getting Down to Business' and invites councils to reflect on the roles and responsibilities of local government, its funding and what it should expect from the Commonwealth and state and territory governments.

To be eligible for inclusion in the NGA Business Papers, motions must follow the principles:

1. Fall under the NGA theme described above
2. Be relevant to the work of local government nationally; and
3. Complement or build on the policies of state and territory local government associations.

To assist councils in preparing motions, a Discussion Paper is available on the ALGA website at www.alga.asn.au. The ALGA has requested that motions are submitted electronically via the online form no later than 17 April 2014. Councillors are invited to provide any Notices of Motion for consideration by Council and submission to the National General Assembly.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.4.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

RECOMMENDATION:

That Council determines the following Motions for submission, and consideration at the 2014 National General Assembly of Local Government:-

UNDER SEPARATE COVER:

Nil.

RECEIPT OF PETITIONS

5 [ROP] Receipt of Petitions

SUBMITTED BY: CORPORATE GOVERNANCE



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
-

SUMMARY OF REPORT:

Under Section 1.5.4 Receipt of Petitions in the Code of Meeting Practice Version 2.4, *Petitions received by Councillors or forwarded to the (Acting) General Manager will be tabled as per the Order of Business, Item 11, Receipt of Petitions.*

Unless Council determines to consider it in conjunction with a report already listed on the agenda, no motion (other than a motion to receive the same) may be made on any petition until the next Ordinary Meeting after that at which it has been presented.

RECOMMENDATION:

That the following tabled Petition(s) be received and noted:

REPORT:

As per Summary

OPTIONS:

That in accordance with Section 1.5.4 of the Code of Meeting Practice Version 2.4:

1. The tabled Petition(s) be considered in conjunction with an Item on the Agenda.
2. The tabled Petition(s) be received and noted.

CONCLUSION:

Any Petition tabled should be considered under Section 1.5.4 of the Code of Meeting Practice Version 2.3.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.4.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult-We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

6 [GM-CM] Destination Tweed Quarterly Report September - December 2013

SUBMITTED BY: Business and Economic Development

FILE REFERENCE: Destination Tweed

Valid



Strengthening the Economy

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities
- 3.1.4 Market the Tweed as a destination for business and tourism

SUMMARY OF REPORT:

As required by the current funding and performance agreement with Destination Tweed, a quarterly performance report and summary financial statement are to be provided for Council's review. This report provides Destination Tweed's quarterly reports for the quarter 1 October to 31 December 2013.

This report recommends that Council endorse this quarterly report from Destination Tweed.

RECOMMENDATION:

That Council:

1. Endorses Destination Tweed's Quarterly Report for the quarter October to December 2013.
2. ATTACHMENT 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (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:



Quarterly Report to Tweed Shire Council
October – December 2013

Marketing and Promotion of the Tweed

Visitation to the Tweed continues to grow in both the Domestic and International markets on the back of targeted marketing and organic growth in each. It needs to be clarified that the data used by DT is from Tourism Research Australia's full data set of the National Visitor Survey (NVS) and International Visitor Survey (IVS).

- Although only a 2% growth in Domestic Overnight visitors, there is a 7% growth in Visitor nights, which reflects the same trend as the last two quarters, which the visitors that are coming are coming for longer.
- There has been positive growth for the last 3 quarters - all of 2013, as opposed to the figures of 2012, which all had a decrease on 2011.

In comparison to other regions what is interesting and pleasing to note is the following:

- Gold Coast domestic visitor numbers have increased by 1.8% over the same period, however the number of nights that visitors are staying has decreased by 0.6%, of that they have seen a 17.2% drop in QLD tourists.
- The Tweed has seen an increase in market share of tourists coming to the Northern Rivers and has done for the last 3 quarters - indicating that visitor numbers are increasing faster than the other regions of the Northern Rivers, and as a result the Tweed is taking market share from other towns in the region.
- The Tweed has seen an increase of 7% in domestic day visitors - over the same period, Gold Coast has seen a decrease of 10.9% in day visitors, and QLD as a state have seen a drop of 6.6%. Domestic Day Trippers throughout Australia have also seen a decline of 4.8%, showing that the Tweed is bucking the trend.
- Tweed has also need a 5% increase in market share of day visitors to the Northern Rivers Region.

International figures show a small share of the total visitor numbers; however they have consistent growth through all of 2013. The opportunity to grow the International market is a key area of development for DT with visitation being consistent for the last four years. With Scoot and Air Asia flying into the Gold Coast Airport and increasing their weekly flights, the Singaporean and Malaysian Markets are pivotal in this growth. Research shows that this market is comfortable with car hire, and self-drive holidays, making the Tweed a great base for travellers coming to the area for a short break. With limited holidays and short travelling times, the key is to provide pre-arranged 3-5 day itineraries that can be booked through travel agents or directly, with everything pre-arranged for them. As the Japanese market begins to travel again, Jetstar flights into the Gold Coast open a market that the region has not had a strong focus on in the past.

Marketing and Promotion

Marketing the region requires a balanced approach taking in the need to both penetrate target markets and influence their behaviour. Destination Tweed constantly review target markets in order to maximise the opportunity to deliver a higher economic return to the region.

Destination Tweed engaged in a variety of marketing and promotional activities across a broad range of media to achieve its marketing objectives. We continue to undertake marketing activities in conjunction with strategic campaigns and cooperative industry opportunities. As a way of working more closely with the industry and providing a plan to allow Tweed tourism businesses to budget and plan to work co-operatively with DT, a 'Partnership Program' has been created (Attachment 1), showing upcoming events for the next 12 months with prices and dates.

DT is working towards increasing the marketing funds available and the activities that are participated in by encouraging the industry to commit to co-operatively funding marketing activities. The advantages are two fold: DT is able to create a stronger presence in market, therefore having a greater opportunity to reach target markets and promote the region; and individual operators, that could not afford to attend shows, or take out marketing space in magazines are able to create a presence and reap the rewards of the increase in visitor numbers to the region.

Advertising Activities

DT continues to undertake print advertising in conjunction with marketing campaigns and cooperative marketing opportunities. This type of marketing is about developing the regions destination profile and the experiences contained within to the various target markets.

- Holidays with Kids (magazine)
- Holidays for Couples (magazine)
- The Legendary Pacific Coast (magazine)
- Byron Bay and Beyond (brochure)
- Out & About With Kids (magazine)
- Australian Traveller (magazine)
- Traveller (magazine)
- Backpacker Essentials (magazine)
- Make Tracks (magazine)

DT Website

The new consumer website for Destination Tweed - www.destinationtweed.com.au - was launched on 1 December 2013. Users will find over 160+ tourism based and bookable products on the new website.

The website is visually appealing, polished and professional. Our website may be the first, and only, impression a potential visitor receives of our region, therefore it needs to satisfy multiple audience types, target markets and users of various demographics and tech-ability.

It has been designed for multiple users: 1) consumers, 2) tourism operators and 3) management. With this in mind it has been built as strong platform that is functional, has good usability and comprehensive content. The platform allows for plug-ins and ad-ons to allow for the growing needs of our tourism operators and our organisation.

What does this mean for Tweed-based Tourism operators?

Tourism based businesses will find value in the website for a multitude of reasons:

- All Tweed-based tourism operators have the ability to create a free business profile on the website. Creating a profile is simple and only takes 10 minutes. It is a straightforward process that even the busiest operator or someone with low computer literacy skills will find easy enough to do.
- Marketing activity conducted by Destination Tweed is aimed at driving traffic to the website; it is essentially "free marketing" for all Tweed based business.

- The website supports links to two popular and trusted third-party booking platforms. Accommodation operators have the ability to link their business to an existing account. It means there is no additional data entry required for operators, they do not need to provide additional room allotment, manage yet another booking channel or manage additional inventory.
- Activity and attraction operators are also able to link their profiles to a trusted third-party platform.
- The new website is a chance for small business to have a web-presence if they don't yet have their own website.
- Business profiles can be mapped to multiple sections across the website depending on product relevance which allows-increased product exposure.
- Operators have the ability to include active links to their social media platforms to increase engagement and communication with new and potential customers.
- Operators are able to log-in and update content of their listing when/if necessary to keep information up-to-date, relevant and engaging.

Visual deconstruction of an operator website profile:

The image shows a screenshot of a website profile for 'BIG4 NORTH STAR HOLIDAY RESORT'. The profile includes a header with the business name and a breadcrumb trail, a main image gallery, a detailed business description, a list of features and facilities, contact details, and social media links. Red arrows point from text annotations to specific elements on the page.

Annotations and their corresponding elements:

- "Share" option allows users to share content with friends and followers from a selection of 300+ platforms. (Points to a share icon in the top right of the profile header)
- Image gallery allows operators to upload up to 10 images to create visual product appeal. (Points to a gallery of images showing resort facilities)
- Prominent business heading and cookie-crum trail for users to identify page location and site index. (Points to the business name and breadcrumb trail)
- Operators have the ability to feature a 200 word business / product description. (Points to the main text block of the profile)
- Drop-down menu with list of features and facilities from which operators are able to choose from when building their unique profile. (Points to a list of features and facilities)
- Contact details including active web links. (Points to contact information and a 'BOOK ONLINE' button)
- Website has the capacity to link to two popular and trusted third-party booking platforms to convert consumer enquiry to bookings. (Points to logos for Expedia and Booking.com)
- Ability for operators to include active links to their social media platforms. (Points to social media icons for Facebook, Twitter, and LinkedIn)

What does this mean for consumers?

Intensive tourism research has proven that when searching for content, users browse by experience. A vital function of a good website is prominent, logical navigation. The new website has been designed with these key factors in mind. Users will find experiential based product under the “experience” section and accommodation is arranged logically by style and type. This also allows Tweed tourism businesses to be listed in multiple sections across the website depending on product relevance and it allows for logical navigation by users.

Site layout is also extremely important for usability. The new website demonstrates use of consistent layout. Certain elements are repeated throughout the site to aid users in navigation.

- By utilising third-party platforms we are streamlining the booking process making it easier and more appealing for consumers to transact on our site; which in turn means we can send more customers to our tourism operators.
- When consumers click the “Book Online” button they are redirected to a trusted third-party booking platform as chosen by the tourism operator.
- When viewing a product the “Share” option allows users to share content with friends and followers from a selection of 300+ platforms
- Important elements are repeated to make the browsing process for users as easy as possible.



Tourism product is categorized by experience to best suit user needs.

The accommodation and experiences sections allow for ease of navigation through repetition of important elements.

CHOOSE YOUR EXPERIENCE



Tweed-based tourism operators have the capacity to be listed in multiple sections across the website depending on product relevance.

Additional Features and Functions:

- Consumers also have the opportunity to search for accommodation via an accommodation map. Users can select the region they are interested and narrow the search results down to type and style (example below).
- News & Media section allows operators to access up-to-date news info and media releases
- The new event calendar is the port-of-call for anyone and everyone looking for event info and things to do in our region. The calendar has more functionality than ever before. Users have different preferences for searching for the information they require. We have developed the online calendar to have four search functionalities and once an event is selected, the user can save the event to multiple calendars (iCal, outlook, etc) and share the event via multiple channels (FB, Twitter, Pinterest and 290+ other channels). For event organisers submitting an event for inclusion in the calendar is simple and only takes five minutes. If organiser are using a booking platform (i.e. trybooking, ticketbooth, eventbrite, eventhost, etc) they can include a BOOK ONLINE NOW button to their listing that will take users directly to the booking platform.



Website Statistics - A Snapshot Since Launch

Site Usage	December 2013	January 2014	February 2014
Number of visits	3 325	4 198	2 873
Absolute unique visits	2 359	3 184	2 075
Time spent per visit	3:55	3:49	4:31
Total Page Views	11 295	14 395	10 472
Page views per visit	3.40	3.43	3.46
Bounce rate	39.37%	43.16%	43.79%
New visits	68.81%	72.13%	66.79%

In comparison to the previous websites:

- Average time spent on the new site has increased
- Bounce rate has decreased
- The site is experiencing a higher percentage of new visitors

Top 5 pages:

- 1- Events
- 2- Nature + Eco
- 3- Family Fun
- 4- Arts + Culture
- 5- Beach + Watersports

Product development

Sports Tourism

The DT's sports tourism strategy has been achieving its objectives and the Tweed region is becoming recognised as a strong sporting destination for sports such as cycling, triathlon and water sports events.

- Partnership with Sports Marketing Australia (SMA) contributed over \$9 million to the Tweed economy and brought around 14,000 people to the region in 2013 for events ranging from the Kelloggs Ironman and Iron woman series, Battle on the Border and Queensland State Bowls Pennants Finals. DT continues to work with SMA and is ready to sign contracts to bring a number of Surf lifesaving events to the Tweed for 2014, 15, 16.
- DT continue to work with a number of other sporting events, Battle on the Boarder, Kingscliff triathlons, Australia Longboard Championship as well a number of events in development which will see sporting activities with spectators in other areas of the Tweed Shire.
- DT have negotiated and developed a number of packages for competitors and spectators that include airfares, accommodation and transfers. These packages are being promoted direct to participants.

Engage with Industry

DT continues its long term strategy in engaging with the broader travel industry. This includes the development and facilitation of tourism distribution channels for Tweed based products to be channelled through. This is a longer term strategy is beginning to see more product available in packages and through industry distribution channels.

- DT continues to working with inbound tour operators to package the region, this has been in cooperation with NCDN and DNSW activities. A current campaign in place for the Singaporean and Malaysian markets.
- Further engagement with industry has been through the product development workshops designed to provide a platform for businesses to work towards becoming internationally ready. Destination

Tweed (DT), in partnership with Northern Rivers Tourism (NRT), was successful in gaining additional state funding to undertake these industry activities.

- DT continues its close working relationship with Australian Tourism Export Council (ATEC) in providing inroads into the emerging markets of South East Asia as well as the traditional markets of China, Singapore and Malaysia.
- As a member of the Tourism Managers Group, the CEO maintains a high level of contact with the regions LGA's and Regional Tourism Organisation
- Destination Tweed remains the lead agency for NSW in the Australia's Green Cauldron (AGC) National Landscapes Programme (NLP)
- Regular meetings with Destination NSW & Tourism Australia
- Relationship development with travel trade (retail, wholesale, ITA's, airlines, ITO's & DMC)
- Regular communication and attendance of industry forums such as ATEC and RTO
- Ongoing marketing, product development and PR with local operators

Australia's Green Cauldron (AGC)

DT continue to play a major role in the AGC Landscape and are key part of the AGC steering committee and ongoing product and experience development projects. It is essential to understand the National Landscape is not a marketing campaign by Tourism Australia, but an experience development initiative.

As the experience development activities through the Strategic Investment Grants Programme (STIG) are in final stages, we are exerting pressure on Tourism Australia to convert the National Landscapes into a marketing objective, with appropriate resources and support given to the landscapes to enable competitive marketing of Australia to the international experience seekers.

The above is key outcome sought by Destination Tweed for the AGC as it will enable operators to engage and be supported by TA activities and initiatives, where currently only regions with large industry 'heavy weights' dominate these resources.

- **Product mentoring programme-** DT through the AGC steering committee are part in a selection panel that selected two operators for mentoring under the STIG funding which was co-funded by Tourism Queensland. The successful applicants from the Tweed were Water sports Guru, International Park Tours and Nightfall Wilderness Camp from QLD. The operators were mentored by the consultants for the Signature Experience Development Program (SEDP), EC3 Global.
- **Industry Tool Kit -**DT through the AGC has been working with the SEDP and EC3 Global to develop an industry tool kit. This tool kit will be available to all operators to implement and step through a number of self-help steps to better place themselves in alignment with the experience development objectives of the region.
- **Wild Journeys-** DT are part of the Wild Journeys steering committee, this pertains to the development of hero experiences programme managed and run through NSW National Parks & Wildlife Service. The steering committee oversees this project on behalf of the Office of Environment and Heritage as the Green Cauldron representative. The project has been part completed and final report on standing camps provided to the Department for review. The models for commercial tours operators to access National Parks have been recommended and the concepts for standing camps has been submitted to the department for review and comment. This project provides commercial opportunities for overnight stays in national parks in the Tweed with the development and promotion of unique visitor experiences in National Parks targeting the international experience seeker.
- **Industry workshop-** The AGC Steering committee, reference group and industry workshop were moved to now be held in March, the purpose it to start to develop and build on the regions product offer, share knowledge and provide opportunities for collaboration.
 - Keynote speakers will attend to provide updates on the national Landscape programme.
 - EC3 Global will be invited to inform operators of the value of the tool kit and how to use it.
 - Research will be presented to operators on markets, size, scope and opportunity.

Tweed Fusion - Tweed Fusion Background Briefing Note

Destination Tweed and the Caldera Institute for Sustainable Community Development have over the past three years worked in partnership to progress and develop several major initiatives that are based on both identified community economic and community development priorities and sound tourism development criteria. These have been the Tweed Valley Recreational Trails and Tweed Fresh projects. The projects sit within Destination Tweed's product development and marketing framework.

The Tweed Fusion concept was originally developed as a component of the Tweed Fresh project which sought to create a blueprint for a signature event that incorporated a food element. This involved research of both food, place and culturally based major regional (and metro) festivals elsewhere in Australia, including: timing, program funding and price points – as well as researching emerging trends in festival experience development. Also taken into account has been ensuring synergy with the more recent strategic priorities of destination and economic development planning.

The Tweed Fusion weekend is an initial building block within a broader product development framework, enabling DT to deliver the outcomes required by both DT and NSW Visitor Economy targets and objectives. It represents a first step in developing a product suite that includes our local artists and creative industries.

Broadly, the concept is based on a fusion of the arts, environment and local food, and encapsulating the Tweed's visual amenity, rural landscape and villages. As described in last year's pilot weekend collateral: Experience the Tweed Valley's diverse scenery, exquisite cuisine and eclectic arts hub during the inaugural Tweed Fusion Weekend. This signature event will showcase the scenery and highlights of the region: the Tweed River, Mt Warning (Wollumbin) and the picturesque Tweed Valley. You're invited to experience four exceptional events that combine a fusion of art, food, nature, music and encapsulate the beauty of the Tweed region.

Understanding both the tourism development and marketing, DT business case and community imperatives were important variables in concept development. A brief overview of these is:

<i>Product Development and Marketing NSW Visitor Economy Action Plan</i>	<i>-Aligns with Action Points: 1b, 1d, 2b, 2c, 2d, 18a, 18d, 22b, 27d, 27e, 27f, 28c, 32b</i>
<i>NCDN Destination Management Plan</i>	<i>-Aligns with Product Development Goal 2: Product/Experience/Activities/Tourist Drive Development and Events and Festivals -Aligns with both key assets and gap analysis re: Nature, adventure and outdoor based/Arts, cultural & heritage based and Food & wine based</i>
<i>Australia's Green Cauldron – Experience Development Strategy</i>	<i>-Aligns with the two Hero Experiences; Touch Australia's creative and spiritual heartland and Immerse yourself within three ancient mysterious calderas... -Aligns with Guiding Principles: Visitor experiences, Sustainability, Community benefit, Quality -Aligns With Priority 1</i>
<i>Tweed Economic Development Strategy (Draft)</i>	<i>-Aligns with Action Points: D8, D12, D14, D20, D33, D34, D36, D37</i>
<i>Current DT Tourism Marketing Strategy</i>	<i>-Aligns with identified opportunity/growth sectors: Events, Linking Coast to Hinterland, Food Tourism,, Using the river, Village Tourism, Ecotourism</i>

Destination Tweed Business Case

- Destination product development
- Assists place marketing – image and destination branding
- Engagement with a wide range of the Shire’s creative community – required to move towards being able to implement strategic objectives
- Delivering on a number of repeatedly expressed community priorities and aspirations
- The event was funded using Regional Tourism organisation grant funds.

Itinerary and product packaging.

Through continued engagement with industry and by conducting research, DT is working on developing experiences to meet the gaps in service and product delivery of tourism and tourism related infrastructure, as well as demand building activities.

DT works one on one with a number of Tweed businesses in assisting them to further develop their product and visitor experiences. This is ongoing work and is essential for the long term success of the regions overall appeal.

The Caldera Institute in conjunction DT has completed and written a report on the development of an integrated trails network for the Tweed. By working with regional councils, operators and industry groups DT hopes to be able to bridge these gaps. A good example is the bike and walking trails that will traverse the region. Development work that has gone in to this planning will facilitate product or experience outcomes in the future.

Projects such as Australia’s Green Cauldron (AGC) provide the platforms for product development under the Experience Development Strategies (EDS). The EDS also assists in identifying a number of gaps in infrastructure which are issues in relation to cross border promotion and delivery. The Strategic Tourism Investment Grants (STIG) program will facilitate a set of working tools that will enable products to align themselves and develop in a more homogenous path for service delivery under the banner of the AGC National Landscapes Program.

Greater partnerships with NSW Parks & Wildlife and Parks Australia are required in order to deliver the required experiences in the natural environment. This is an ongoing process and will take a number of years to achieve.

Famils & Media

- DT in conjunction with Scoot Airlines, Peppers Salt Resort & Spa and GC tourism hosted a famil for high profile and influential freelance photojournalists specialising in travel, food and wine. The journalists write for a variety of publications across Asia as well as providing content for domestic media such as News Ltd. A number of articles have been published thus far (see below).
- A journalist from ABC radio and renowned food blogger has also filed a number of stories aimed at the South East QLD market.
- A famil was arranged with Holidays With Kids magazine and resulted in a three page editorial piece in the Spring edition (see below).
- DT in conjunction with The Legendary Pacific Coast (TLPC) hosted a luncheon at the Australian Travel Writers Society AGM on the Gold Coast. Over 120+ of Australia’s most influential travel writers were in attendance. Tweed product gift packs and destination media kits were provided to attendees. Famils and follow up has been arranged in conjunction with surrounding regional LTOs.

BUSINESS ATTRACTION

Economic Development Strategy

DT and TSC have continued to work cooperatively over the last two quarters with consultant Urban Enterprise to facilitate an Economic Development Strategy (EDS) for the Tweed Shire. The exhibition period

for public comment on the draft document is now closed and the Steering Committee will work with the consultant to prepare the final strategy for Council and the DT Board's approval.

There is still the perception that DT is the Shire's economic development body, again it must be clearly articulated that DT is contracted to provide the service of 'Marketing and Promoting the Tweed for Business Investment.' DT has become a touch point for business to contact in relation to DA's, whilst we are happy to assist where possible Destination Tweed is not a town planning business and businesses are referred back through to the TSC Business Gateway as a key resource.

Tourism Development

Given the recognised strength of the region as a tourist destination and specific experiences on offer, there is ongoing inquiry from proponents looking to develop a Tweed based business either as part of an existing operation or as a standalone business. Tourism is the Tweed's only long term sustainable industry, positioned to support its development in keeping with the Shire's environmental values and opportunities. A Destination Management Plan (DMP) is being developed through a consultative process with industry and stakeholders.

The first components of the DMP are underway and background research has commenced. The first component entails the following:

- A market analysis (segments, size, scope, penetration and matching distribution channels);
- Product audit of the region, capacity for growth and identification of constraints and barriers for growth;
- Competitor analysis;
- Data collection and query.

Engage with Local Business: Ongoing

DT meets with local business on a daily basis on a variety of topics. DT provides support and advice as well as meets with proponents looking to start or set up a business in the Tweed Shire.

Raise the Profile of Destination Tweed:

DT, through its work with Australia Green Cauldron Development (Strategic Investment Grant Program), Destination NSW, RDA's and state and Federal departments has been promoting the region as a place of business, growth and opportunity.

Manage Tweed Business Website:

The Tweed Business site is undergoing a content review in response to requests from industry seeking supportive and informational material on setting up business in the Shire. Examples requested range from example DAs for various industries, templates of various requests to TSC, examples of Statement of Environmental Effects etc. This information will provide assistance to business, community groups and event organisers who do not engage a planner to draft their DA application.

Develop and Maintain Marketing Material & Develop Customised Marketing Packages:

Collateral content has been updated with the recent release of data from ID solutions.

Trade Shows & Networking Events

- Collateral distribution at Country & Regional Living Expo
- National Landscapes Development Conference
- Australian Tourism Exchange

Meet with Media from Trade Publications:

This is an ongoing process to facilitate the promotion of the region as a place to do business.

Identify and Engage with Potential Investors:

DT assist businesses in their application process for grant funding, and where appropriate will review grant funding applications. DT also assists in referring business to the NSW Government for relocation assistance

packages and other business grants. However, since the closure of the NSW Trade & Investment office in Tweed Heads this partnership has slowed.

Provide Customised Information to Investors

DT continues to work with individuals and businesses interested in investing in the region or developing their existing business. Individuals are provided information based on their needs and requirements.

Hold regular meetings with State, RDA & Industry Reps:

Regular meeting have been held with various government departments and offices such as:

- ATEC
- Queensland State Development, Infrastructure and Planning
- RDA NR
- RDA GC
- EDA
- DNSW
- NSW Chamber

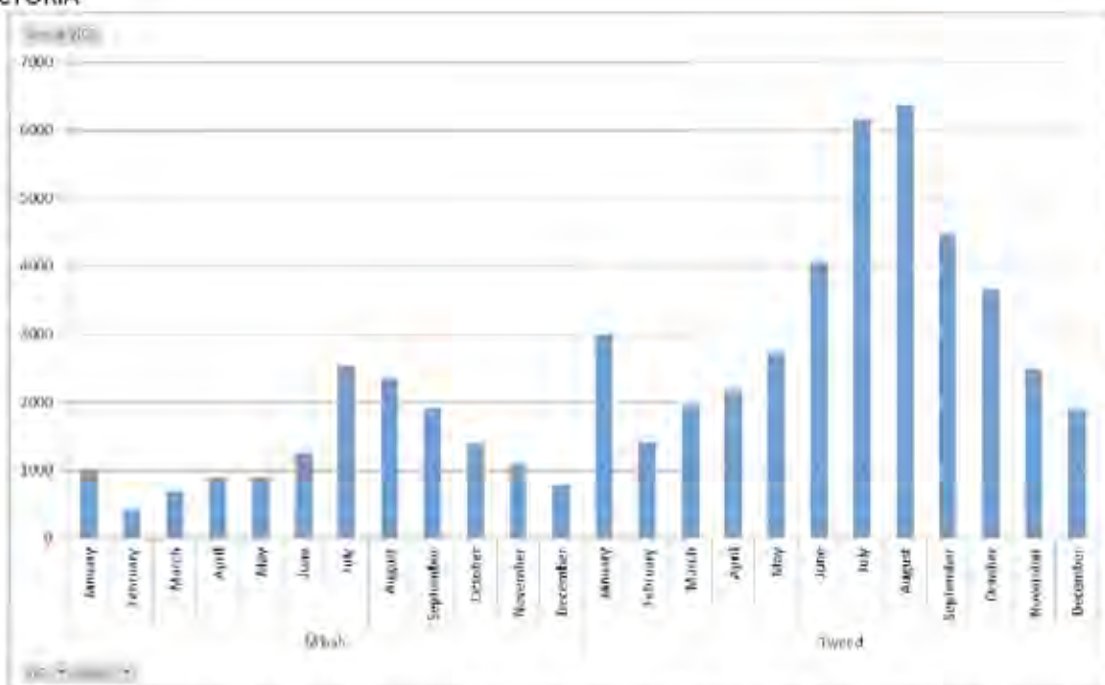
OPERATE VISITOR INFORMATION CENTRES

Provide visitor information services at Tweed Heads & Murwillumbah VICs:

It is important to note the visitor numbers listed below are taken from only two areas of the shire and register only those that come into the VIC. These figures should not be used to judge or compare effectiveness of marketing; they are a snap shot of a section of the market that travel to the region.

By combining all data collected since 2006 at both VIC's certain trends are starting to emerge, giving us a better understanding of the markets that are visiting the VIC's and therefore an understanding of the markets that we are potentially attracting from each state.

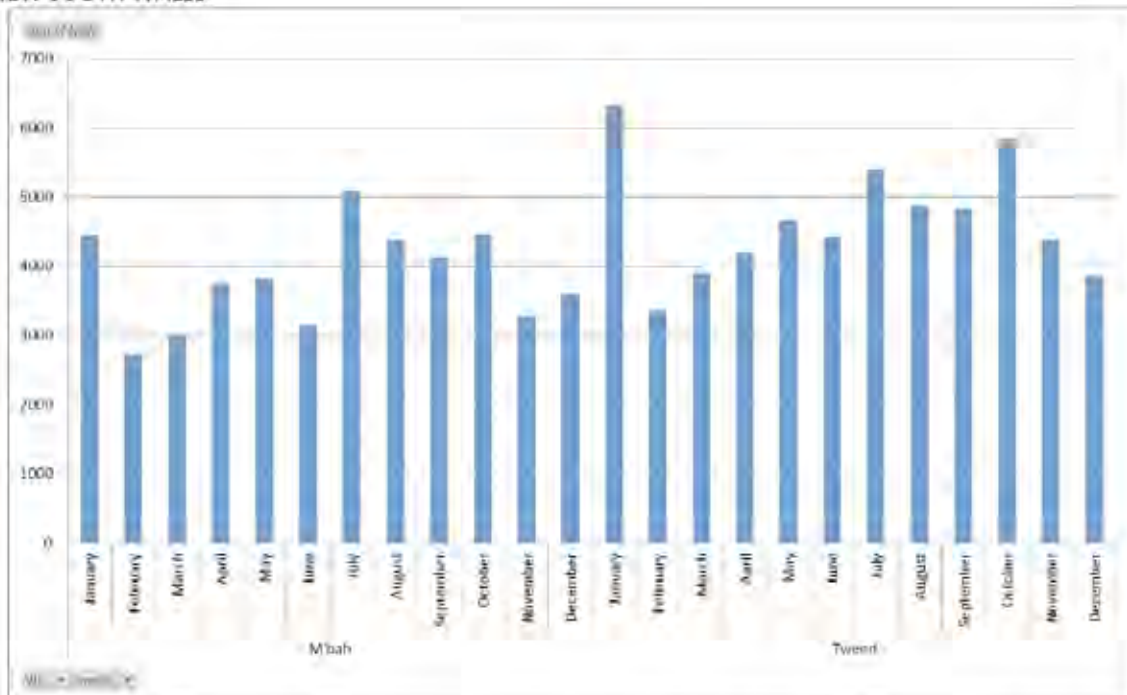
VICTORIA



- A strong peak of travellers in June/July/August shows that the market travelling are getting away from their winter months and are not travelling over school holidays – indicating that this is an older market that travels without children.
- Numbers of travellers drop off through the key holiday periods of October/ December and January, indicating that family travel is not a key market from Victoria.

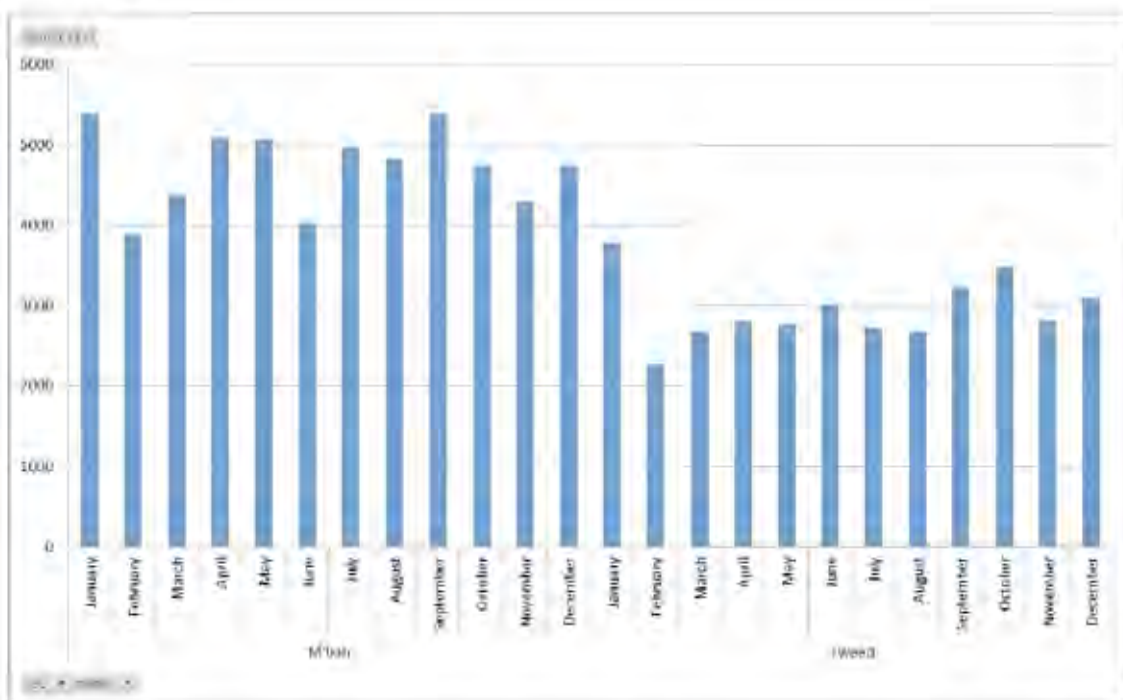
- Through July and August visitors from Victoria outnumber those from Queensland, and have the highest visitation to the Tweed Heads VIC of any market. There is a strong lean towards the Tweed Heads VIC for information by the Victorian Market, showing that they are predominantly travelling the coast and staying on the coast and may venture out for day trips to the valley, but less are staying here.

NEW SOUTH WALES



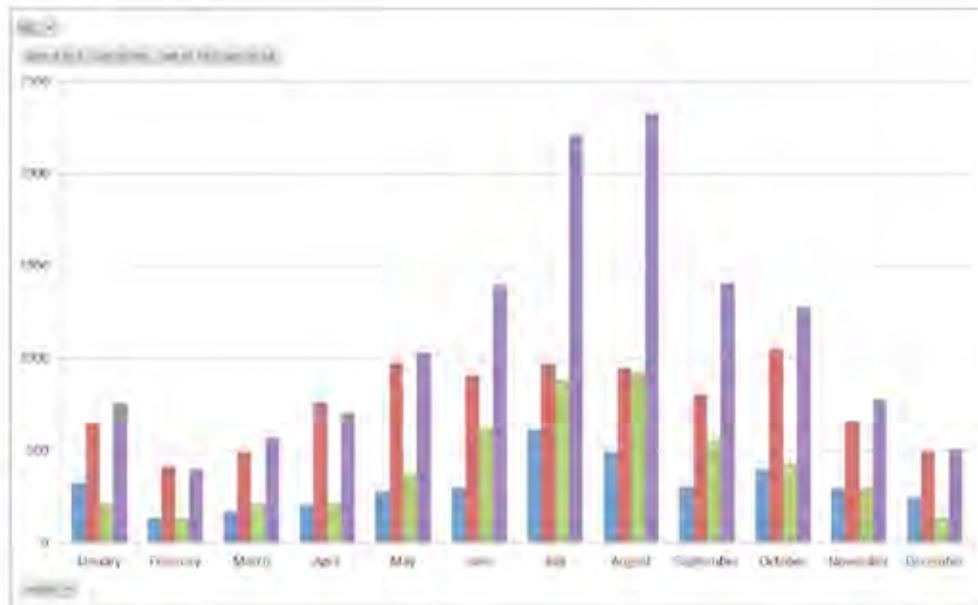
- Largest of all domestic markets and appears to have 2 distinct patterns, broken into 'grey nomad travel' and family holiday travel.
- Peak travel months are January, July and October, indicating that there is a large number of families travelling during school holidays.
- February, March and December are the lowest travel months for NSW Market, and QLD travellers have greater numbers over these months.
- Visitor numbers are higher throughout the year to the Tweed Heads VIC, however only marginally, except for the months of January and October where there are strong peaks towards Tweed Heads– which co-insides with the family holiday traveller, who traditionally is travelling for a beach holiday and experience.

QUEENSLAND



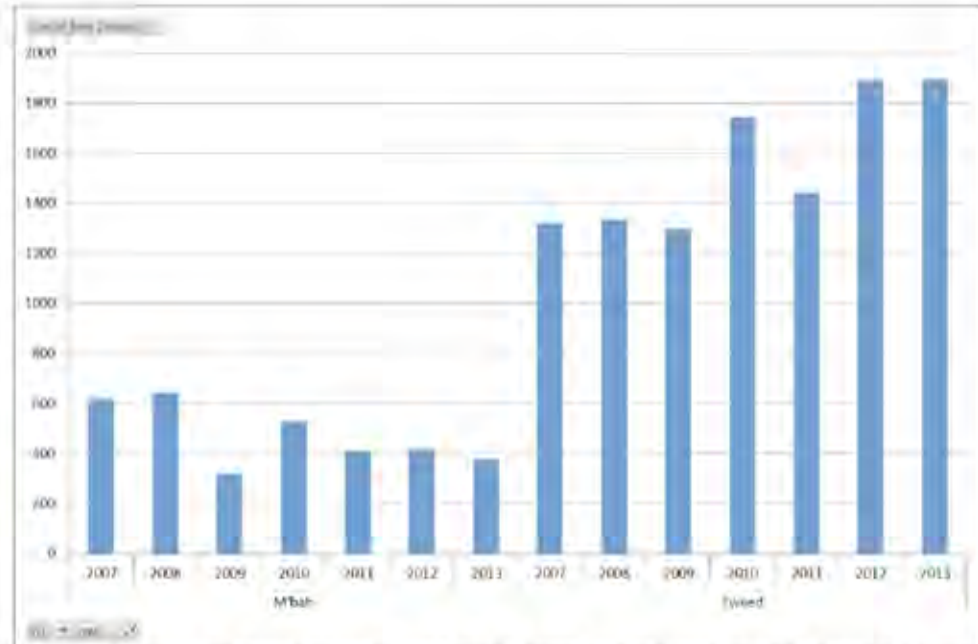
- Visitation history is similar to that of New South Wales, with peaks of travel during School holidays; however as QLD holidays occur over the last week of 1 month and the first week of the next, the spikes are not as distinct as the NSW figures are.
- Throughout the year there are a much larger number of QLD visitors to the WHRC than the Tweed Heads VIC, showing a propensity for the QLD market to venture more into the Valley region of the Tweed and seek assistance once there. Of the total 92,000 visitors, close to 57,000 of them visited WHRC. This in no way says that the visitor numbers to the coast by QLD travellers is any less than other markets, however it shows that they are travelling to areas without VIC's and/or do not need tourist information whilst on holidays.
- Numbers are quite static though the months for QLD visitors; however a noticeable dip in travel during February and May can be seen.

OTHER DOMESTIC MARKETS



- Although the numbers are statistically much smaller than the East Coast states, SA, WA, TAS and ACT show very similar travel trends with Victoria, highlighting again that the travellers are more predominantly adults and not families travelling to the region.

NEW ZEALAND



- May – October are the peak travel times for the New Zealand market with close to 75% of the visitors accessing information at the Tweed Heads VIC.
- There is a significant jump in visitors to the VIC in 2010, reflecting the increase in flights to the Gold Coast.
- Visitor Numbers to the VIC remain static for 2010, 2012 and 2013, showing that since flights from New Zealand increased into the Gold Coast, visitors to the VIC have remained static.

Destination Tweed Board selection Process

2013 saw two positions on the board become vacant as required in the constitution. To create transparency in the process to alleviate perceived political bias or favour, DT engaged the service of Board Matters to facilitate the board selection process.

The board selection criteria, documents and timelines were advertised and interested individuals contacted DT to request documents. Nominations and relevant documents were returned to a third party who ranked the nominations against the selection criteria.

Procedural fairness excluded applications that were received late or failed to complete the selection criteria from being considered.

A workshop was held with sitting board members and an Independent facilitator from Board Matters where applications were assessed and discussed based on matching the selection criteria and experience.

OPTIONS:

This report to Council presents the quarterly report from Destination Tweed which is required as part of their contract. The successful submission of this report in an appropriate format will endorse payment of their quarterly contract instalment for the next quarter in line with their contract.

1. **Endorse this Quarterly Report** - By endorsing Destination Tweed's Quarterly Report Council acknowledge and endorse the progress Destination Tweed have made to achieving the milestones outlined in their funding contract and the agreed Business Attraction Marketing Strategy and the Tourism Marketing Strategy; or
2. **Postpone Endorsement of this Quarterly Report** - If Council is not satisfied with the progress Destination Tweed has made in achieving the milestones identified in their funding contract and the agreed Business Attraction Marketing Strategy and the Tourism Marketing Strategy then it would be prudent to postpone the endorsement and commence discussions with the Board of Destination Tweed regarding the project.

CONCLUSION:

It is recommended that Council endorses this quarterly report from Destination Tweed.

COUNCIL IMPLICATIONS:

a. Policy:

This report fulfils Destination Tweed's reporting requirement under its current funding agreement.

b. Budget/Long Term Financial Plan:

This report is submitted by Destination Tweed along with their quarterly invoice for payment under the current funding agreement.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Tourism Monitor Year Ending September 2013
(ECM 3309169)

(Confidential) Attachment 2. Financial Report December Quarter 2013 (ECM 3309175)

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REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C 79C Evaluation

(1) Matters for consideration-general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

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 in 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.

Note: See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995 .

- (2) Compliance with non-discretionary development standards-development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:
- (a) is not entitled to take those standards into further consideration in determining the development application, and
 - (b) must not refuse the application on the ground that the development does not comply with those standards, and
 - (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 80 is limited accordingly.

- (3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and
 - (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note: The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).

- (4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.
- (5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).
- (6) Definitions In this section:
- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and
 - (b) "non-discretionary development standards" means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

7 [PR-CM] Reforming the Aboriginal Cultural Heritage System in NSW

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/LEP/2010/Heritage/ACH



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.4 Strengthen coordination among Commonwealth and State Governments, their agencies and other service providers and Statutory Authorities to avoid duplication, synchronise service delivery and seek economies of scale
 - 1.4.1 Council will perform its functions as required by law and form effective partnerships with State and Commonwealth governments and their agencies to advance the welfare of the Tweed community
-

SUMMARY OF REPORT:

Council considered a report at its meeting of 23 January 2014 regarding the NSW State Department of Office of Environment and Heritage's (OEH) proposed reforms of the Aboriginal cultural heritage legislation in NSW.

The report had two functions; it canvassed an overview of the structural reforms at the broad and very general level at which the OEH was publicly exhibiting and consulting with the public, as well as, presenting a draft response for Council's endorsement as a submission to the OEH, which details the concerns with the proposed reforms and the general absence of sufficiently detailed information about how many of the structural reforms would work and be funded.

Council resolved to refer the OEH draft submission to the Tweed Aboriginal Advisory Committee for their review and approval.

This report provides an update on the additional consultation with the Aboriginal Advisory Committee and having obtained the Committee's approval further seeks Council's endorsement of the draft submission. The submission, if endorsed, is to be forwarded to the OEH before the closing date of 28 March 2014.

RECOMMENDATION:

That Council:

1. **Notes the consultation undertaken with the Aboriginal community through the Tweed Aboriginal Advisory Committee; and**
 2. **Endorses and forwards the submission on "Reforming the Aboriginal Cultural Heritage System in NSW" to the NSW State Department: Office of Environment and Heritage.**
-

REPORT:

Background

A report outlining the proposed reform of the Aboriginal cultural heritage system in NSW and submission in response to the reforms was considered by Council at the meeting of 23 January 2014. This report is provided in attachment 1 and the submission in attachment 2.

At this meeting Council resolved:

“that this item be deferred to enable the Aboriginal Advisory Committee to provide further advice on Council’s submission.”

A number of staff and representatives from the Tweed Byron Aboriginal community attended the *Reform of the Aboriginal Cultural Heritage (ACH) System in NSW* Office of Environment and Heritage (OEH) workshop sessions in Ballina on 27 November 2013.

The draft Tweed Shire Council submission was forwarded to the AAC in late November 2013 for their review. The AAC members considered the submission at their meeting of 5 December 2013. The committee were supportive of Council making a submission and raised no concerns with the content of the submission. The members of the AAC noted they would be collating their own submission(s) raising similar and further concerns with the proposed legislative reforms.

Further consultation

Following the resolution of Council the submission was considered by the AAC members at their meeting of 7 February 2014.

Council staff advised that Council is seeking endorsement from the AAC to its submission regarding the reforming of the Aboriginal Cultural Heritage System in NSW. The AAC minuted *“that it has previously endorsed Council’s submission regarding Aboriginal Cultural Heritage.”*

The Aboriginal community, through representation of the AAC members, support Council’s submission. It is acknowledged that this submission is made in the best interests of the community and in response to Council’s role in the identification and management of ACH through the planning system within the Tweed.

The Aboriginal community share similar concerns with the process of identification and management of ACH and further concerns in relation to the potential impacts and management of their cultural heritage from a community perspective. As such, the Aboriginal community will also be making their own submission to the OEH in response to the proposed reforms.

In order to facilitate an understanding of their legislation and preparation of submission(s), the AAC have requested Council staff arrange a workshop on the legislation outside of the normal AAC meeting schedule. Community and Cultural Services will be arranging this workshop for early March 2014.

OPTIONS:

1. Council resolves to forward the attachment as a Tweed Shire Council submission to the Office of Environment and Heritage; or
2. Council resolves not to forward the attached submission to the Office of Environment and Heritage.

CONCLUSION:

The Aboriginal community, through the AAC, have considered the Council submission in Dec 2013 and February 2014 and support Council making a submission.

As noted in the previous report, whilst there are many positive aspects to the reforms there remain significant gaps in the information about the roles and functions of the key stakeholders. There is little discussion about the role of local government as it is today; managing and protecting cultural heritage through local environmental plans and development control plans and whether it will continue to have a strategic function or simply be the recipient of the ACH plans and mapping. Similarly the resourcing, including financial, time and planning/legislative skills required of the local Aboriginal communities and the Local Aboriginal Cultural Heritage Committees would appear to be extensive and is not addressed sufficiently to enable proper assessment of the critical elements of the performance of the reforms proposed.

It is in the interest of the Council and its communities to raise its concerns with the Government's proposed Aboriginal Cultural Heritage legislative reforms and the Submission attached to this report is therefore recommended for endorsement by Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1	Previous Council report of 23 January 2014 (ECM 3300703)
Attachment 2	Submission on Reforming the Aboriginal Cultural Heritage System in NSW (ECM 3300704)

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8 [PR-CM] Preferred Swimming Pool Barrier Inspection Program - New Draft Council Policy

SUBMITTED BY: Building and Environmental Health



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.4 Strengthen coordination among Commonwealth and State Governments, their agencies and other service providers and Statutory Authorities to avoid duplication, synchronise service delivery and seek economies of scale
 - 1.4.1 Council will perform its functions as required by law and form effective partnerships with State and Commonwealth governments and their agencies to advance the welfare of the Tweed community
-

SUMMARY OF REPORT:

Recent amendments to the NSW Swimming Pools Act require pool owners to register their swimming pools. The amendments also require Council to undertake community consultation and to develop and adopt a Swimming Pools Inspection Program for swimming pool barriers. To achieve this, Council officers previously assessed the legislation and developed three draft options to present to the community for their input.

The three options (self regulation with minimal inspections; random inspections (now identified as targeted inspections); and regular inspections) were presented to the community for consultation in the form of a survey with supplementary information in the Tweed Link and Council's website. Over 240 survey responses were received. Despite the majority of responses supporting Option 1 - self regulation with minimal inspections, the Council officers consider that Option 2 - targeted inspections represents the most reasonable balance of risk management and resourcing factors.

On that basis, the officers have developed more detailed procedures for administering the Option 2 Program in the form of a new draft Council policy, and now seek Council's support to further consult with the community through a 28 day public exhibition period.

RECOMMENDATION:

That Council, in respect of the proposed options for a new Swimming Pool Barrier Inspection Program, required under the NSW Swimming Pools Act, endorse the following:

- a) Option 2 - Targeted Inspections as the preferred Program;**
- b) A new Draft Council Policy incorporating Option 2 procedures be placed on public exhibition for a 28 day period and inviting public submissions for a period 42 days; and**
- c) Following the exhibition period, a further report be submitted to Council seeking formal adoption of the new Draft Council Policy.**

REPORT:

Background

In 1992 the Swimming Pools Act was introduced in NSW. This legislation required barriers to a prescribed standard to surround private pools in NSW. Various amendments occurred up to 2008.

A comprehensive review of the Act took place in 2008 and as a result the Act was amended in 2009. Despite these amendments, the NSW Office of Local Government has reported that the NSW Deputy State Coroner, the NSW Child Death Review Team and a range of pool safety advocacy organisations have consistently called for a further strengthening of the Act.

The 2012 National Drowning Report prepared by the Royal Life Saving Society has reported 21 drowning deaths of 0-4 year olds occurred in Australia in 2011/2012. 38% of those drowning deaths took place in swimming pools. A 2010 study showed that a person was 200 times more likely to drown, relative to exposure to water, than to be involved in a traffic fatality.

In addition to the deaths from drowning statistics there are many stories of young children that survive immersion in water, but are left with lasting physical and mental disabilities. The Children's Hospital Westmead have reported that there was an average of 24.91 near drowning incidents per year among children under the age of five that occurred in swimming pools from 2007/08 to 2009/10. Further, the Office of Local Government estimated approximately 10% of all non-fatal admissions result in permanent brain damage based on data from various sources. More recent data suggests that of all near drowning incidents, 22.3% will experience some form of permanent brain damage, leading to the need for long term care, resulting in persistent and ongoing disability. The Office of Local Government has estimated the total cost to NSW of child immersions in home swimming pools per year to be approximately 23 million, based on 5 drowning deaths and 3 near drowning incidents that result in severe brain damage. These statistics indicate the importance of water safety and the vulnerability of small children near pools.

Most recent Amendments to the Swimming Pools Act

In 2012 the NSW Government introduced amendments to the Swimming Pools Act aimed at increasing safety of very young children around swimming pools and reducing associated drowning and near drowning incidents.

In summary the amendments will:

- Require pool owners to self-register free-of-charge on a state wide, online register. The register commenced on 29 April 2013 and registration was to take place by 29 October 2013. (It is to be noted that this was extended to 19 November 2013 due to deficiencies with the Office of Local Governments on line pool registration program);
- As of 29 April 2014 require that any property with a swimming pool be registered and inspected and have a valid compliance certificate or Occupation Certificate before that property can be sold or leased;
- Establish a new offence for failing to register a swimming pool (maximum penalty \$2200);
- Require councils to develop and adopt a locally appropriate and affordable inspection program in consultation with communities by 29 October 2013. Council has been unable to comply with this requirement due to the delay from the Office of Local Government supplying the statistics relating to swimming pool registrations and other

information which were considered necessary for developing a program. The Department have been advised of this situation and have acknowledged Councils' action;

- Require council's to report each year on the number of pools inspected and the level of compliance of pool barriers;
- Require mandatory three yearly inspections of pools situated on premises on which there is tourist and visitor accommodation or more than two dwellings (this includes caravan parks and the like) commencing on 29 April 2014. The Office of Local Government have advised that this requirement includes caravan parks and the like as these contain moveable dwellings, the nature of the sites use and the element of high risk to loss of life (due to large numbers of unfamiliar and transient persons using the pool); and
- Restrict the amount charged by Councils to undertake inspections of pool fencing. This amount is restricted to \$150 for the first inspection and \$100 for the second inspection. No fee may be charged by a local authority for carrying out a third or subsequent inspection for the purpose of the issue of the same certificate of compliance.

Purpose of Swimming Pool Barrier Inspection Program

The purpose of the program is to:

- Ensure that Council complies with its legal obligations under the Swimming Pools Act.
- Ensure swimming pools within the Tweed Shire area are adequately surrounded by a child resistant barrier.
- Set guidelines for the inspection program to ensure pools and pool owners comply with relevant legislation.
- Promote awareness within the Tweed Shire area of the requirements of the Swimming Pools Act.

Discussion

There is no accurate record of the number of pools within the Tweed Shire. Although approximately 5,000 pools have been registered in the Tweed to date it is estimated that at least 10,000 properties have swimming pools. This compares to an estimated 340,000 pools located within NSW.

Tweed Shire Council currently does not have an ongoing monitoring/inspection system for ensuring existing swimming pool fences are properly maintained and operated. For new swimming pool child resistant barriers, once the pool has been certified for use there are no further statutory checks to ensure that the barrier is maintained or operated correctly. However if a pool fence or barrier is determined to be unsafe usually as a result of a complaint or a building certificate application a written direction can be given to the owner to bring the fence or barrier up to standard.

Detailed Description of the Proposed Inspection Options

In response to the most recent amendments to the NSW Swimming Pools Act, Council officers previously assessed the legislation and developed three draft options to present to the community for their input.

The three options were:

Option 1 - self regulation with minimal inspections.

Option 2 - random inspections (this option is now identified as targeted); and

Option3 - regular inspections

All options include the mandatory three yearly inspections of pools situated on premises on which there is tourist and visitor accommodation or more than two dwellings (this includes caravan parks and the like) commencing on 29 April 2014.

Whatever model is decided upon there will be a cost to the community. The cost associated with establishing a regular regime of checking the safety of each pool fence may be considerable and could be viewed by some as unnecessary red-tape. On this point other personal safety factors around the home such as the checking of smoke detectors, balustrades or stairways are the responsibility of the homeowner to maintain and don't have ongoing Council inspection.

When considering Councils ability to resource a swimming pool barrier inspection program it is important to note that it will also be necessary to have resources available which can undertake follow up inspections of non-compliant pools, issue required notices and directions, defend court appeals and implement legal proceedings where required. It is very difficult to estimate the resource commitment necessary to respond to the new legislation. However, in the next few months it is possible that 20 to 30 applications could be received per week. This is already necessitating a rebalance of priorities in the short term.

Option 2 has some flexibility to allow redeployment of existing staff to or from the program depending on the demands of other duties.

If Option 3 is adopted, additional resources will need to be allocated and budgeted for.

In detail the three options developed are:

Option 1 – Self Regulation with minimal inspections

This option would involve inspection in the following circumstances:

1. Where the pool barrier is the subject of a complaint (Council is required to commence investigation within 3 working days).
2. Where a request to inspect the pool barrier is made by the owner whether required for pool registration or prior to sale or lease of a premises (an inspection is required to be carried out within 10 working days of a written request).
3. Where an inspection by Council's officers reveals an inadequately fenced pool at the subject premises or at neighbouring premises.
4. Where the premises is subject to a Building Certificate application.
5. At three year intervals where a pool is situated on premises on which there is tourist and visitor accommodation or more than two dwellings, this includes caravan parks and the like.
6. Inspections referred to Council by private accredited certifiers who are unable to issue a compliance certificate for a pool they have inspected.
7. Council is informed that a swimming pool has been removed from state register.
8. Council receives information that a pool barrier is non compliant.

Option 2 Targeted Inspections

This option would involve inspection in the following circumstances:

1. Where the pool barrier is the subject of a complaint (Council is required to commence investigation within 3 working days).

2. Where a request to inspect the pool barrier is made by the owner whether required for pool registration or prior to sale or lease of a premises (an inspection is required to be carried out within 10 working days of a written request).
3. Where an inspection by Council's accredited certifiers (other than that required by this clause) reveals an inadequately fenced pool at the subject premises or at a neighbouring premise.
4. Where the premises is subject to a Building Certificate application.
5. At three year intervals where a pool is situated on premises on which there is tourist and visitor accommodation or more than two dwellings, this includes caravan parks and the like.
6. Inspections referred to Council by private accredited certifiers who are unable to issue a compliance certificate for a pool they have inspected.
7. Council is informed that a swimming pool has been removed from state register.
8. Council receives information that a pool barrier is non compliant.
9. Where a swimming pool exists on premises subject to a Development Application or a Complying Development Certificate application lodged with Council.
10. A property is targeted, based on available resources and level of risk. Council will compare its records with the public register held by the Office of Local Government to identify swimming pools which have not been registered. Council will then utilise its entry powers under the Swimming Pools Act and Local Government Act to randomly inspect these swimming pools and the surrounding child resistant barrier and take any necessary action to enforce compliance. Consequently with option 2 any property with a swimming pool may be inspected at any time. If a particular suburb/village/area is targeted then it is assumed that unregistered pools will be inspected firstly.

Option 3 Regular inspections

This option would involve inspection in the following circumstances:

1. Where the pool barrier is the subject of a complaint (Council is required to commence investigation within 3 working days).
2. Where a request to inspect the pool barrier is made by the owner whether required for pool registration or prior to sale or lease of a premises (an inspection is required to be carried out within 10 working days of a written request).
3. Where an inspection by Council's accredited certifiers (other than that required by this clause) reveals an inadequately fenced pool at the subject premises or at neighbouring premise.
4. Where the premises is subject to a Building Certificate application.
5. At three year intervals where a pool is situated on premises on which there is tourist and visitor accommodation or more than two dwellings, this includes caravan parks and the like.
6. Inspections referred to Council by private accredited certifiers who are unable to issue a compliance certificate for a pool they have inspected.
7. Council is informed that a swimming pool has been removed from state register.
8. Council receives information that a pool barrier is non compliant.

9. Where a swimming pool exists on premises subject to a Development Application or a Complying Development Certificate application lodged with Council.
10. All identified swimming pools and spas associated on premises with a single dwelling would be inspected every five years.

The following table summarises the advantages and disadvantages of each of the options:

Option	Advantages	Disadvantages
Option 1- Self Regulation with minimal inspections	<ul style="list-style-type: none"> • Can be undertaken with available resources within Council • Low level of administration 	<ul style="list-style-type: none"> • Possible lower level of compliance with pool safety requirements and therefore greater risk to young children
Option 2 – Targeted inspections	<ul style="list-style-type: none"> • Can be undertaken with available resources within Council with some temporary relieve staff needed in the early stages of the program. • Targeted inspections are likely to encourage greater levels of compliance. • Higher risk pools can be targeted first. • Program will have broader public educational value. 	<ul style="list-style-type: none"> • Possible increases in liability to Council
Option 3 – Regular inspections	<ul style="list-style-type: none"> • High level of compliance with pool safety requirements. • Higher risk pools can be targeted first. • Program will have broader public educational value. 	<ul style="list-style-type: none"> • Will require additional resources to undertake inspections. • High levels of administration. • Possible increases in liability to Council. • Financial cost to community.

Results of Initial Community Consultation on new Draft Inspection Program Options

Community consultation was undertaken in the form of a survey with supplementary information in the Tweed Link and Council's website. Over 240 survey responses were received.

A copy of the summary document of the survey is provided in Attachment 1 to this report.

The majority of respondents were Tweed property owners whose property had a swimming pool or spa with no children less than five years.

Comments received from the survey reinforced the need for public education, parents responsibility to ensure children learn to swim, adult supervision, CPR training, property/fence maintenance and regular public communication. Also the majority considered that swimming pool safety as extremely and very important.

From the survey respondents had the following preferences:

- i) Option 1 - Self regulation with minimal inspection - 77.9%,
- ii) Option 2 - Random inspections (this option is now referred to as targeted inspections) - 10.4%, and
- iii) Option 3 - Regular inspections - 11.7%.

Whilst the majority prefer option 1 it is considered that Option 2 is the preferred option due to the inbuilt flexibility to allow for targeted inspections when resources are available and the inclusion for public education.

It is worth noting that Option 3 may not be viable or in the best interests of the Council due to the necessary commitment of a considerable amount of resources required to meet targets. If Council adopts Option 1 it could be seen that it is not being proactive at endeavouring to achieve adequate swimming pool safety for those at risk - children under the age of five.

There are approximately 40,000 rateable properties (this includes residential, commercial, industrial and rural) of which it is assumed that there are at least 10, 000 swimming pools. Therefore it can be assumed that 25% of properties will have a swimming pool.

Council's Revenue section has advised that there are between 2,500 to 5,000 property sales annually. It is assumed that it will take approximately 8-10 years for all rateable properties to be sold. Also from the above assumption it can be deducted that there will be 625-1,250 properties sold annually which will have a swimming pool. It is to be acknowledged that some of these properties will have had an occupation certificate or swimming pool compliance certificate issued in the last three years. This together with rental properties requiring swimming pool certificates for leasing purposes could result in 1, 000-1,500 swimming pool certificate applications made this calendar year. This translates to 20-30 applications per week.

Consultation with local real estate agents has revealed that most residential properties are sold every eight years. Add the residential property leasing factor to this and it can be assumed that most properties with a swimming pool/spa will be inspected and registered as compliant within eight years. Therefore it can also be assumed that the sale and lease of residential properties will self regulate swimming pool compliance within eight years.

It is to be noted that Council has received 115 swimming pool compliance certificate applications in 2013. For the first seven weeks of 2014 Council has received 34 applications which represent an increase of 221% when compared to weekly 2013 figures.

The swimming pool register as of 21 January 2014 indicates that a total of 4,952 pools have been registered within the Tweed Shire and a total of 290,265 in NSW.

Priorities

The first priority is to identify all of the tourist and visitor accommodation and properties with more than two dwellings, this includes caravan parks and the like with swimming pools and to ensure that these are all inspected within three years. This is necessary as it is considered as these pools are often used by unfamiliar and transient persons present the higher risk in terms of loss of life.

Financial Implications

Having regard for Council's current financial position and demands for other services to the community, any inspection program will require more inspections per year than what currently exists which will result in resources being diverted from other functions.

Councils are able to recover a proportion of the costs of issuing compliance certificates and for undertaking the associated compliance enforcement programs by:

1. Charging a fee for a maximum of two inspections (up to a maximum of \$150 for the first inspection and \$100 for one re-inspection resulting from the first inspection). These fees are legislated by the State Government. No fee to be charged for any subsequent inspections.
2. Issuing continuing penalty infringement notices of \$550 to non-compliant pool owners after the second inspection.
3. Issuing a penalty infringement notice of \$220 for pool owners who do not register their pool.
4. Charging the prescribed fee of \$100 for each compliance certificate issued.
5. Charging a \$10 data entry fee for persons asking Council on their behalf to register their pool on the State-based register.

Whilst not explicit in the legislation, it does appear that Council is able to increase its fee return by creating a new swimming pool Compliance Certificate application fee. This fee, along with the other inspection fees has been included in the Draft 2014/14 Fees and Charges which is soon to be reported to Council for public exhibition.

Some local private certifiers have advised that they would need to charge approximately \$600 per application to provide the same inspection service. Therefore Council will be seen by the public as the most cost effective option. The provision of the legislation provides limited ability for Council to recover inspection and enforcement expenses therefore Council will need to absorb any additional costs. Also Council will need to ensure that there are adequate staff and resources (i.e. mobile electronic devices, training and the like) to meet demand.

It is considered that after 29 April 2014 the number of swimming pool certificate applications will rise dramatically. This is likely to require the allocation of additional resources for Building Surveyors and compliance officers to meet demand. Also training of some Council officers will be necessary to ensure adequate knowledge required in carrying out functions associated with the Swimming Pool Barrier Inspection Program.

Therefore, in conclusion, despite the majority of public responses supporting Option 1 - self regulation with minimal inspections, the Council officers consider that Option 2 - targeted inspections (previously identified in the community consultation survey as random) represents the most reasonable balance of risk management and resourcing factors.

New Draft Council Policy - Swimming Pool Barrier Inspection Program

On the basis of the above assessment, the officers have developed more detailed procedures for administering the Option 2 Program in the form of a new draft Council policy, and now seek Council's support to further consult with the community through a 28 day public exhibition period. A copy of the draft Policy is provided in Attachment 2 of this report.

OPTIONS:

That Council endorse the public exhibition of a new draft policy for swimming pool barrier inspection based on the following Options:

- i) Option 2 - Targeted Inspections as the preferred Swimming Pool Barrier Inspection Program, as the basis for a new Draft Council Policy; or
- ii) Option 1 - Self regulation with minimal inspection, or
- iii) Option 3 - Regular inspections.

The Council officers recommend Option 2 as the preferred option.

CONCLUSION:

The preferred Swimming Pool Barrier Inspection Program is considered to be Option 2 - Targeted Inspections. This is due to the inbuilt flexibility to allow for targeted inspections when resources are available and the inclusion for public education. Whichever option is supported there will be an increase demand upon resources of the Building and Environmental Health Unit; therefore forward planning will be vital in Council achieving its legislative responsibility. This will include new technologies (i.e. electronic mobility devices) and the training of council officers.

COUNCIL IMPLICATIONS:

a. Policy:

New Draft Council Policy proposed.

b. Budget/Long Term Financial Plan:

There is the potential for an annual increased budgeted income of \$30,000 to \$100,000 from Council carrying out its legislative responsibility in respect of the Swimming Pool Act and the Swimming Pool Barrier Inspection Program. To carry out this responsibility additional staff training and resources will be necessary. This includes electronic devices, possible overtime and need for additional staff or staff reallocation. Best estimate is that the income from the inspection charges will not cover the actual costs of providing the legislated service.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Copy of summary document of the results of a community survey for options for a Swimming Pool Barrier Inspection Program (ECM 3305045)
- Attachment 2. New Draft Council Policy Swimming Pool Barrier Inspection Program (ECM 3309167)
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9 [PR-CM] Animal Management Policy and Practices

SUBMITTED BY: Regulatory Services

Valid



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

4	Caring for the Environment
4.1	Protect the environment and natural beauty of the Tweed
4.1.3	Manage and regulate the natural and built environments

SUMMARY OF REPORT:

In response to a report on Council's animal management practices submitted to the meeting 12 December 2013, Council resolved the following:

- "1. Defers consideration of the report until the March 2014 meeting.*
- 2. Adopts the changes to fees listed in the 'The Companion Animals Amendment Act 2013', and amend Item 77 of the Fees and Charges 2013/2014 Revenue Policy document accordingly and notes that these fees are set by legislation and do not require the 28 day advertising period"*

This report followed up on matters presented to a Councillor Workshop held on 5 September 2013, which was organised in response to an earlier Notice of Motion for which Council resolved the following at its meeting of 16 May 2013:

"RESOLVED that a report be submitted to Council detailing Council's current Companion Animal Regulation functions, in order to determine the suitability of preparing a new Council Policy on animal management procedures, including a preferred process for handling barking dog complaints."

A copy of the report to the December 2013 Council meeting is provided as an attachment to this report.

Since the December Council meeting, a number of further animal management issues have arisen, and these are addressed in this supplementary report and include:

- Companion Animal Management - Changes to Legislation
- Operation of Council's Impounding Facility
- Dog off-leash Areas (including a request from Tyalgum Residents Association for a new off-leash area)
- Request for 'dog poo-bags'

This report seeks Council endorsement of a series of recommendations arising from investigations into each of the above matters.

RECOMMENDATION:

That Council:

1. **Receives and notes the information presented in this supplementary report in terms of Council's current animal management practices; and**
2. **Endorses the following recommendations for each of the companion animal issues discussed in the supplementary and original reports:**
 - a. **Companion Animal Management - Changes to Legislation**
 - **Receives and notes the information presented in this report in terms of changes to the NSW Legislation, and Companion Animals Task Force recommendations.**
 - b. **Operation of Council's Impounding Facility**
 - **Receives and notes the information presented in this report in terms of the current operation of the Impounding facility;**
 - **A further report in relation to the operational needs of the Impounding Facility be submitted to Council; and**
 - **Discussions are held with neighbouring Council's in relation to 'resource sharing' of their animal management functions.**
 - c. **Policy and/ or Guidelines for 'Dog off-leash' Areas**
 - **'in principle' support be granted to the creation of a new off-leash dog area at Tyalgum, as proposed by the Tyalgum Residents Group, subject to a further report being submitted to Council providing more details on the off-leash area design, location, cost and statutory process required; and**
 - **A new policy providing criteria for the future selection of off-leash areas in Tweed Shire be prepared and reported to Council.**
 - d. **Dog 'Poo Bags'**
 - **in-principle support be granted to a small scale trial for the provision of 'dog poo bags' (dispensers) and the provision of associated waste bins, and that a further report be brought back to Council providing further details of the costs and logistics for such a trial.**
 - e. **Barking Dog Complaints Procedures**
 - **No change to current practice**

REPORT

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Details on these further investigations are outlined below.

1. **Companion Animal Management - Changes to Legislation**

The NSW Companion Animals Taskforce (Report – October 2012) delivered 38 recommendations relating to the ongoing management and regulation of companion animals. Many key Taskforce recommendations have already been put in place through the *Companion Animals (Amendment) Act 2013*.

These include measures which strengthen the framework to control dangerous dogs, reduce dog attacks, and promote community safety.

- A new '**menacing dog**' **control category**, allowing councils to require owners to muzzle their dog in public, be on a leash, under the control of someone 18 years of age or older, and ensure that it is de-sexed.
- **Stronger penalties**, including maximum jail terms for owners whose dogs have been involved in an attack, increasing to a maximum five years for owners whose

dogs have attacked after the owner has failed to comply with a menacing, dangerous, or restricted dog control requirement by council.

- Enabling councils to **immediately seize an un-microchipped dog** for which a notice of intention has been issued to declare the dog as menacing, dangerous or restricted.
- Require courts to order **destruction of dogs that cause serious injury** or death unless there are exceptional circumstances and enable courts to order owners to undertake responsible pet ownership courses

Most of the remaining recommendations will be rolled out through 2014-2015, including a redesign of the Companion Animals Register to better ensure responsible cat and dog ownership whilst minimising the regulatory burden to Council.

Some of the Taskforce recommendations which State Government supported, and which are likely to have an operational impact on Council include:

- Develop a model **behavioural assessment** for the use of councils and other impounding agencies.
- Develop a **Memorandum of Understanding** template for use by councils and NSW Police regarding enforcement.
- A new **discounted registration category** 'Desexed animal – purchased from a pound or shelter' should be established to further encourage the purchase of desexed cats and dogs.
- Comprehensive education material about the **importance of confining cats** to their owner's property should be developed.
- **Funding** should be provided for research into key cat and dog issues.
- Better practice guidelines should be issued to councils with a view to **standardising impounding practices**.

The total number of customer requests (CRM) handled by Council Rangers, for the 2013 calendar year, was 3985. Of those CRMs, 2297 were in relation to animals, and the majority of these were dog complaints which included 78 'dog attacks', 502 'barking dogs' and 637 'roaming dogs'. **It is estimated that a significant amount of ranger hours are spent in dealing with complaints about dogs.**

Recommended Action:

- That Council receives and notes the information presented in this report in terms of changes to the NSW Legislation, and Companion Animals Task Force recommendations.

2. Operation of Council's Impounding Facility

As part of the NSW Companion Animals Taskforce Report (October 2012) a number of recommendations were made which are likely to have operational impacts on Council's Stott's Island Impounding Facility.

Recommendation 19 (adopted by State Government) stated that *'Better practice guidelines should be issued to Councils with a view to standardising impounding practices'*.

The recommendation goes on to say that the Division of Local Government should issue a better practice guideline to councils, in an effort to standardise council impounding practices. Such guidelines should highlight key practices including (but not limited to):

- **encouraging councils to enter into arrangements with animal welfare and rescue organisations** for the purposes of re-homing impounded cats and dogs.
- focussing on regional approaches to impounding through **partnerships with nearby councils** and animal welfare organisations.
- implementing **foster care programs**, where appropriate.
- the **humane euthanasia** of cats and dogs.
- assessing the suitability of cats and dogs for re-homing.
- advertising cats and dogs available for rehoming (including online advertising).
- utilising appropriately qualified volunteers.
- the importance of **regular training for staff and volunteers**.
- ensuring that **pounds are accessible to members of the public**, especially through appropriate opening hours.

To achieve some of the above, the Taskforce acknowledged that such guidelines be consistent with the requirements of the forthcoming *Animal Welfare Code of Practices for Pounds and Shelters*. The Taskforce made the following points:

- Under the Companion Animals Act, councils are obliged to seek alternatives to euthanasia for impounded cats and dogs. However, as councils are independent statutory bodies, it is a matter for each council to determine its approach to impounding in consultation with local communities. [**Note: The Taskforce did not support the idea of 'getting to zero' or 'no euthanasia'**].
- It is also recognised that council cat and dog impounding and re-homing services are funded from a limited pool of resources and **councils have varying abilities to fund their impounding facilities in light of other resourcing demands**.
- The Division's Promoting Better Practice program may be able to identify good practice examples of council impounding services, which should be passed on to councils in a consolidated format.

- The production of such material would be consistent with similar guidance to councils issued by the Division on other issues (e.g. council meeting practice).
- The **introduction of standardised impounding practices** may result in increased re-homing rates and better welfare outcomes for impounded cats and dogs, including a reduction in the number of cats and dogs euthanased in pounds.
- Practices such as **entering into partnership arrangements with animal welfare organisations** may free up council resources to be re-directed to services such as the collection of stray and injured cats and dogs, which can sometimes fall to veterinarians and animal welfare organisations.
- **Encouraging regional approaches** to impounding may also allow councils to take advantage of cost-efficiencies.

Current Impounding Operation

Council's impounding facility operates in accordance with much of what was proposed in Recommendation 19 of the Taskforce report. The impounding facility differs from nearby Councils, Byron, Ballina, Lismore, and Richmond Valley Council in that Tweed Council:

- Fully staff the Pound (each of the other nearby Councils use Rangers to attend on an 'as required' basis e.g. in response to a dog collection by a customer);
- Allow public access 10am – 4pm x 7 days (all other nearby Councils are public access 'by appointment' only); and
- Have a working partnership with an animal welfare organisation (none of the other regional Councils do this).

In addition to this, Council's Pound staff assess (with veterinary input) the suitability of cats and dogs for re-homing, and work with our partner animal welfare organisation (Friends of the Pound) to implement a **foster care program**. Council **advertises** (for sale) all cats and dogs which are available for re-homing (including online advertising), and arrange for the humane euthanasia of cats and dogs when no other alternative can be found. Staff at the Stott's Island Pound provide a high level of care to the animals at the facility, and also provide a high level of customer service.

Resourcing Issues

The resources required to support the impounding facility are continually being stretched in an attempt to balance the growing demands of a changing and challenging regulatory environment with the day to day provision of animal welfare, and varying community expectations for a wider range of services.

Currently the three Pound staff work a 'two on' roster seven days a week, with volunteer support provided by Friends of the Pound. Holidays, sick leave, long-service leave, and leave for other purposes (e.g. training) is accommodated within the current roster by

employing agency resources (>100 agency days in 2013), and administrative support from staff at the Murwillumbah Civic Centre.

Preliminary discussions have been held with Pound staff, Friends of the Pound, senior management, and Union representatives, to consider what operational changes might enable an improved and more flexible response to business needs. It was generally agreed that the hours 'open to the public' are too long, and that a reduction in hours would not negatively impact the community if adequate notice/ education was given. Friends of the Pound were also keen to ensure that any reduction in Council staff would not impact upon the level of care for the Pound animals, and have offered to provide additional volunteers to support the Pound operation.

Security

The Pound is remotely located to the Civic Centre, and despite the close proximity to Council's landfill facility, staff feel at risk. This is partly due to the location but also because staff often deal with angry/aggressive customers. A number of serious incidents, where staff have been physically and verbally threatened, have occurred during the past 12 months, resulting in calls for assistance from police or Civic Centre staff.

Discussions have commenced, between Regulatory Services and Waste Services, to explore the possibility of closing the existing access to the Pound, and instead establishing access via the landfill entrance and weighbridge.

Maintenance

The impounding facility is a mix of old and new buildings, which are in constant need of repair and improvement.

It is expected that there will be considerable expense associated with ongoing maintenance of the facility. Maintenance needs, over the next 12 - 24 months, include items such as partial re-roofing to exercise areas; concrete drain replacement (to the landfill leach pond); upgrade or major repair to the onsite sewage management system; and replacement of smaller items (screens, doors, security lighting, fencing, gates). The cost is likely to be in the range \$30,000 - \$40,000. It is worth noting that Friends of the Pound have regularly made financial contributions towards the maintenance costs relating to the Pound, and make regular requests for ongoing maintenance or upgrades to the facility.

Community Partnership

The operation of the Impounding Facility is a non-core function of Council. The NSW Companion Animals Taskforce Report recommended that Councils:

*"focus on regional approaches to impounding through **partnerships with nearby councils and animal welfare organisations**".*

Council has previously (2003) explored the option of engaging an animal welfare organisation, such as Friends of the Pound, to take over the non-regulatory functions of the impounding facility i.e. to provide a fee for service to Council for the day to care of impounded animals. This would have allowed Council to focus on core regulatory duties

rather than animal management, but no contract was awarded even though three animal welfare organisations submitted tenders.

Given that NSW State Government is encouraging local partnerships, it might be timely to reconsider whether the impounding facility could be better managed by a third party (such as Friend of the Pound or RSPCA). In considering future options it may be beneficial to commence a dialogue with neighbouring Councils.

Recommended Action:

- That Council receives and notes the information presented in this report in terms of the operation of the Impounding facility;
- That Council receive a further report in relation to the operational needs of the Impounding Facility; and
- That Council support discussion with neighbouring Council's in relation to 'resource sharing' of their animal management functions.

3. Policy and/ or Guidelines for 'Dog off-leash' Areas

Council receives frequent enquiries about dog off-leash areas, including requests for the provision of additional off-leash areas.

The *Companion Animals Act* 1998 requires Council to provide at least one off-leash area for the Tweed LGA. The form of an off-leash area is broad as indicated in section 13(6). Section 13(6) states

"A local authority can by order declare a public place to be an off-leash area. Such a declaration can be limited so as to apply during a particular period or periods of the day or to different periods of different days. However, there must at all times be at least one public place in the area of a local authority that is an off-leash area".

Council currently provides fourteen off-leash areas, including four beach access areas and ten parks/reserves. One off-leash areas was permanently removed at the beginning of March 2014 (Arkinstall Park) due to the construction of a children's playground adjacent the (previous) off-leash area.

Future Off-leash Requests

Council currently has no policy or guideline document that might better inform staff and Council when considering the need for, and the selection of, dog off-leash areas. Consideration would need to include such things as:

- Beaches/ parks that can withstand free-running by dogs;
- Beaches/ parks that have natural boundaries;
- Beaches/ parks that are not associated with established recreation interests;
- Community support.
- Potential for Conflict (problems often attributed to dogs and their owners whilst in public places include defecation, aggression to humans and other animals, non-compliance with leash laws and other nuisance behaviour).

- Prohibited areas under the *Companion Animals Act* 1998;
- Areas with high concentrations of visitors (e.g. popular beaches/ parks/ foreshores);
- Environmental protection areas (e.g. Koala Beach);
- Establishment costs (internal and external consultation, fencing, signage, regulation).

In the absence of such a guiding document, it is difficult for staff to explain how existing off-leash areas were selected as suitable, or what future consideration might be given to the selection of proposed off-leash areas.

Tyalgum Off-leash Request

Council is currently in receipt of a request, from Tyalgum Residents Group, for a new dog off-leash area to be established behind the tennis courts at Coolman Street – on land currently owned by the NSW Department of Primary Industries.

Councillors explored this issue during the workshop 29 August 2013. At that time it was decided that there were “adequate off leash” areas in the Shire generally and that granting permission for a similar area at Tyalgum would not be considered. Since then a further Councillor workshop was held on 13 February 2014 with the Tyalgum Residents Group, providing an opportunity to explain their proposal to the Councillors. On the basis of this presentation, there was generally positive feedback for this proposal to be advanced. A copy of an aerial map indicating the proposed location of the new off-leash areas provided as an attachment to this report.

This concept will need to further investigation and details presented back to Council.

Recommended Action:

- Council give ‘in principle’ support to the creation of a new off-leash area at Tyalgum, subject to a further report being submitted to Council providing more details on the off-leash area design, location, cost and statutory process required; and
- A new policy providing criteria for the future selection of off-leash areas in Tweed Shire be prepared and reported to Council.

4. Dog ‘Poo Bags’

A previous trial by Council for the provision of, and disposal facilities for, ‘dog poo bags’ was conducted along certain coastal locations over a decade ago, and was generally considered unsuccessful at the time given the extent of associated littering in and around the facilities, it was decided to abandon the service. In recent years, Council has received various requests for this service to be re-instated. Given the growing popularity for dog walking in our coastal parks, reserves and beaches, it consider timely to undertake another small scale trial of the disposal facilities along more popular coastal locations.

Recommended Action:

- Council give in-principle support to a small scale trial for the provision of ‘dog poo bags’ (dispensers) and the provision of associated waste bins, and that a further report be brought back to Council providing further details of the costs and logistics for such a trial.

5. Barking Dog Complaints Procedures

The issue relating to Council's current procedures in dealing with barking dog complaints was addressed in the report submitted to the Council meeting of 12 December 2013.

Recommended Action:

- No change to current practice

OPTIONS:

That Council:

1. supports the officers' recommendations; or
2. does not support the officers' recommendations.

Option 1 is recommended.

CONCLUSION:

Increasing levels of interest and community expectations in respect of animal management issues are placing great pressure on Council's resources. This report is considered to be a good opportunity to raise the awareness and seek Council direction on a number of the more prominent emerging issues.

COUNCIL IMPLICATIONS:

a. Policy:

- Propose new policy for dog 'off-leash' areas.
- Review Council's existing companion animal policy.

b. Budget/Long Term Financial Plan:

- Potential costs arising from any new Pound facilities or the development of any new 'off-leash' facilities.

c. Legal:

- N/A

d. Communication/Engagement:

- Community consultation will be required for each proposed 'off-leash' area; and

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1: Copy of report to Council's Meeting of 12 December 2013 (ECM 3306488)
- Attachment 2: Copy of aerial concept plan of proposed new off leash dog area at Tyalgum (ECM 3306490)

- 10 [PR-CM] Development Application DA10/0801.02 for an Amendment to Development Consent DA10/0801 for the Cobaki Estate Subdivision of Precinct 6 Comprised of 442 Residential Lots (Including 1 Residual Lot) and Lots for Drainage, Open Space and Urban Infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Part Lot 199 & Lot 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lots 46, 55, Part 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes

SUBMITTED BY: Development Assessment

FILE REFERENCE: DA10/0801 Pt17



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
 - 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
-

SUMMARY OF REPORT:

Updated Information

Council at its Planning Committee meeting of 6 March 2014 recommended as follows:

"that Development Application DA10/0801.02 for an amendment to Development Consent DA10/0801 for the Cobaki Estate subdivision of Precinct 6 comprised of 442 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Part Lot 199 & Lot 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lots 46, 55, Part 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes be deferred to 20 March 2014 ordinary Council meeting to enable the consideration of information with regards to the ecological, engineering and integrity of the various underpass designs."

Advice in accordance with the above recommendation is currently being sought from external bodies and this advice will be provided to Councillors prior to the Council Meeting.

Original Report

Council is in receipt of a Section 96 application for proposed modifications to the approved Cobaki Estate subdivision of Precinct 6.

There is no proposed change to the approved subdivision layout of the development or overall number of allotments.

The applicant is seeking to modify the proposed development by way of amending or deleting various conditions of consent.

The application was submitted to Council in October 2011. Request for information was provided to the proponent in May 2012. A response was received by Council in September 2013 enabling further assessment of the application.

Of the 29 proposed modifications, a total of only seven have been supported in the same format as proposed by the applicant. A further 12 of the proposed modifications are supported, subject to further amendments with the majority of the proposed changes having been accepted by the applicant. 10 of the proposed modifications by the applicant are not supported and one new condition is recommended as a result of one of the applicant's proposed modifications.

One of the major issues with the application is in relation to the requirement for a funding mechanism for the ongoing maintenance of the environmental protection land.

There has been considerable discussion on this issue with the applicant, with no clear agreement being achieved to date. There have also been two Councillor workshops to discuss the matter, with the most recent workshop being held on 30 January 2014.

The original conditions of consent were applied as a result of the applicant deciding to not dedicate environmental lands to Council. Concern for the ongoing maintenance of the environmental land (beyond the vegetation/remediation works required by the Site Regeneration and Revegetation Plan) resulted in Condition 55 requiring (amongst other things) a *'mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council'* prior to the issue of any Construction Certificate.

Initially the applicant requested the deletion of this component (Clause (d)) of Condition 55. The proposed deletion of Clause (d) has consistently been opposed in discussions with the proponent, as it is considered that the applicant is responsible for the ongoing management of the environmental land until such time that an agreement can be made with Council.

The actual mechanism of the funding (i.e. how the funding can be fairly and equitably achieved) is considered to be a separate matter to the issue of whether the funding requirement should be applied at all.

Since the most recent Councillor workshop, the applicant has proposed a new condition of consent deferring the issue of funding mechanism to prior to the issue of Civil Works Construction Certificate, to allow the issue of Construction Certificate for Bulk Earth Works to proceed.

Whilst the proposed new condition appears to be a reasonable request so that the Bulk Earthworks of Precinct 6 are not unduly held up, it is not supported as the mechanism for ensuring that management continues in perpetuity, needs to be determined prior to the time when the major impact occurs, which is at the Bulk Earthworks stage.

There are several options available to consider as a funding mechanism which have been discussed at previous Councillor workshops. These options are:

- Capital contribution from land sales;
- Planning agreement (for example as applied in Altitude Aspire, Area E);
- Special Levy (for example as applied in Koala Beach);
- Existing rate base (not supported as it defers the cost of new development to existing residents when Council is already facing an asset management shortfall on existing infrastructure, natural assets and open space);

- Ordinary Rate income from the increased assessments derived from the estate (the ability to fund the management of the lands through the Ordinary Rates generated through the additional assessments of the estate can only be determined once clear costings for the management of the land have been accurately estimated and it is modelled along with Council's other asset management and service delivery obligations of the estate);
- A combination of the above; or
- By the lands being retained, managed and funded by the residents of the estate via a community title scheme.

It is considered appropriate that the applicable option be determined at a separate Council meeting, once the costings of the funding has been accurately estimated and a separate report on the matter put to Council for consideration.

RECOMMENDATION:

That Development Application DA10/0801.02 for an amendment to Development Consent DA10/0801 for the Cobaki Estate subdivision of Precinct 6 comprised of 442 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Part Lot 199 & Lot 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lots 46, 55, Part 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes be approved and the consent be amended as follows:

- 1. Delete Condition No. 10 and replace it with Condition No. 10A which reads as follows:**

10A In accordance with Condition 38 of Project Application MP08_0200, no works shall be undertaken within the Precinct 6 area that may impact upon (or contribute to an impact upon) the freshwater wetlands and Wallum Froglet habitat area until an appropriate agreement is entered into between the Proponent and the Office of Environment and Heritage that offsets the project's impact on biodiversity. This agreement shall include provision for alternative offsets to be delivered should monitoring indicate that an appropriate wetland environment is not achieved after an appropriate time. Evidence of such an agreement shall be forwarded to the Director General no later than 5 working days prior to works commencing in those areas.

Notwithstanding the above, the proponent shall prepare a detailed Wallum Froglet Compensatory Habitat Plan as per Section 4.3 of the Revised Freshwater Wetland Rehabilitation Plan prepared by James Warren and Associates, dated October 2010. In addition to these requirements, the Wallum Froglet Compensatory Habitat Plan must include the following information on the core breeding habitat areas:

- (i) Detail on how Wallum Froglet core breeding areas will be constructed and maintained;**
- (ii) Detail on the design of fauna crossings where the fauna corridor is bisected by a road to ensure Wallum Froglet movement between core breeding habitat ponds is available;**

- (iii) How threats to the survival of Wallum Froglet Habitat will be managed;
- (iv) Monitoring and reporting requirements including monitoring of Wallum Froglet usage of the core breeding habitat area, usage of fauna corridors, Wallum Froglet population size and breeding success, water quality, habitat suitability and presence of exotic species (particularly Cane Toad and Gambusia); and
- (v) A contingency planning option in the case of system failure

2. Insert new Condition 10.1 as follows:

10.1 The Proponent is responsible for the management of all Offset Areas for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans, until such time that an agreement is reached with Council regarding the dedication of that land.

3. Delete Condition No. 11 and replace it with Condition No. 11A which reads as follows:

11A. The proponent must design, construct, operate and maintain the project to ensure that it does not adversely affect any remaining Wallum Froglet populations on, or adjacent the site.

4. Delete Condition No. 19 and replace it with Condition No. 19A which reads as follows:

**19A. Evidence must be submitted to Council prior to the registration of any Plan of Residential Subdivision, demonstrating that works have been commenced in accordance with the Revised Saltmarsh Rehabilitation Plan by James Warren and Associates dated October 2010 and as specified within Condition 65 of MP08_0200.
The works are to be undertaken in accordance with the timing and responsibilities contained within the approved, Final Saltmarsh Rehabilitation Plan.**

5. Delete Condition No. 34 and replace it with Condition No. 34A which reads as follows:

34A. 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**
 - Clearly showing pre and post development levels (spot levels and contours) at a legible scale.
 - Comply with the provisions of Council's Design Specification D6 – Site Regrading.
 - Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council.
 - The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed 5ha, unless otherwise approved by the General Manager or his delegate
- **Roadworks/furnishings**
 - Providing road profiles complying with Council's Design Specification D1 – Road Design, unless approved otherwise by Council.
 - **Stormwater drainage**
- **Water supply works**
 - In general accordance with Yeats Consulting Engineers - Water Network Analyses, April 2011, Revision 03, unless modified otherwise by the conditions of this Consent.
- **Sewerage works**
 - In general accordance with Yeats Consulting Engineers - Master Sewer Reticulation Plan Revision C, unless modified otherwise by the conditions of this Consent.
- **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.

6. Delete Condition No. 47 and replace it with Condition No. 47A which reads as follows:

- 47A. Any playgrounds provided must comply with the guidelines established in the Playground Audit for Tweed Shire Council (July 2009). Appendix 3 establishes the procedure for assessing nearby hazards and mitigation measures. The proposed open space areas for this stage as identified in Planit Consulting Drawing Set Dated March 2011 shall be designed to minimise the hazards to designated playground areas consistent with those mitigating features identified in Appendix 3A7 of the Playground Audit for Tweed Shire Council (July 2009). Detailed drawings and reporting outlining mitigation measures to be employed to mitigate risk are to be submitted for approval by the General Manager or his delegate. In proposing mitigation measures consideration of long term maintenance costs shall be considered and evaluated in any reporting.

7. Delete Condition No. 55 and replace it with Condition No. 55A which reads as follows:

55A One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated April 2013 and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:

- (a) a schedule and timing of works to be undertaken.**
- (b) a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Revegetation Plan are achieved and until such time as an agreement is reached with Council regarding the dedication of that land.**
- (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.**
- (d) a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.**

8. Insert new Condition 55.1 as follows:

55.1 Following the successful rehabilitation of Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2013, the landowner shall offer to dedicate that land to Council.

9. Delete Condition No. 62 and replace it with Condition No. 62A which reads as follows:

62A. Should, following the proponent's best endeavours, National Rental Affordability Scheme (NRAS) (or equivalent) funding be available to provide affordable housing within the development in accordance with the approved Cobaki Estate Affordable Housing Study, a staging plan detailing the location, mix and type of dwellings to be provided as affordable rental

accommodation is to be submitted to Council in accordance with the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd. by Hill PDA and dated November 2010.

10. Delete Condition No. 63 and replace it with Condition No. 63A which reads as follows:

63A. Detailed design drawings for all road crossings over the nominated fauna corridor are to be submitted to the General Manager or his delegate for approval. Each crossing design shall incorporate three 2.4 x 1.8m culverts (or two 2.4 x 1.8m culverts connected with a slab) in the centre of the corridor and an additional culvert (minimum 2.4 x 1.2m) on either side of the central culverts to enable a range of fauna to cross through the corridor and facilitate east-west connectivity for fauna across the site.

11. Delete Condition No. 73 and replace it with Condition No. 73A which reads as follows:

73A. Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08_0200 and be submitted to and approved by the PCA prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.

12. Delete Condition No. 105 and replace it with Condition No. 105A which reads as follows:

105A. All waters that are to be discharged from the site during dry weather periods and wet weather periods up to the Q3 month rain event (as defined in Council's Design Specification D7 – Stormwater Quality) shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. Where water is to be discharged from the site the contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

13. Delete Condition No. 117 and replace it with Condition No. 117A which reads as follows:

117A. The proposed passive parks are to be progressively dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan. Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate.

14. Delete Condition No. 119 and replace it with Condition No. 119A which reads as follows:

119A. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

15. Delete Condition No. 120 and replace it with Condition No. 120A which reads as follows:

120A. A bond shall be lodged to ensure suitable care and maintenance is provided to plantings and turf over a 12 month establishment period. This care is required to achieve optimal plant establishment and performance. The bond shall be held by Council to ensure that the associated landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate.

The amount of the bond shall be 20% of the estimated cost of the landscaping.

16. Delete Condition No. 121 and replace it with Condition No. 121A which reads as follows:

121A. Cash Bond/Bank Guarantee

- (a) A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is implemented and completed, must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works remaining to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the bond will be equivalent to 100% of the estimated cost of works.
- (b) One third of the Cash Bond or Bank Guarantee will be refunded one year after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works are being satisfactorily undertaken in accordance with the approved SRRP. A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-

way stage of the SRRP. The final one third of the Bond or Bank Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.

- (c) Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified.

17. Delete Condition No. 133 and replace it with Condition No. 133A which reads as follows:

133A. The Plan of Proposed Subdivision shall dedicate the proposed drainage reserve adjacent to that stage of the development at no cost to Council. The proponent shall submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

18. Delete Condition No. 148 and replace it with Condition No. 148A which reads as follows:

148A. The staged embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate.

The Developer will be responsible for maintaining the installed playground equipment and softfall for a period of 6 months after 20% of the relevant stage's allotments have been occupied. A maintenance compliance bond of 5% of the total cost of the installed playground equipment and softfall must be paid to Council prior to the release of the relevant Subdivision Certificate for each stage. The bond will be return upon request at the completion of the maintenance period, if not expended during the maintenance period.

19. Delete Condition No. 155 and replace it with Condition No. 155A which reads as follows:

155A. Prior to the release of a Subdivision Certificate the land owner of the site of the future Cobaki Community Centre under Concept Plan Approval MP06_0316 is to enter into a Deed of Agreement with Council such that the identified land is to be provided with a constructed road frontage and all

normal urban services and dedicated to Council at no cost prior to the release of a Subdivision Certificate that would allow the creation of more than 2000 residential lots within the Cobaki development.

20. Delete Condition No. 158 and replace it with Condition No. 158A which reads as follows:

158A. Lots 602, 603 and 605 adjoining the central drain are to be dedicated as drainage reserve, not environmental open space as indicated on the 'Plan of Proposed Subdivision, Precinct 6 Drainage Reserves & Parks', reference Michel Group Services 6400-218, Issue A, dated 24/11/2010.

REPORT:**Applicant:** Leda Manorstead Pty Ltd**Owner:** Leda Manorstead Pty Ltd**Location:** Lot 1 DP 570076, Lots 54, Part Lot 199 & Lot 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529, Lots 46, 55, Part 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes**Zoning:** 2(c) Urban Expansion, 7(d) Environmental Protection (Scenic/Escarpment), 7(l) Environmental Protection (Habitat), 6(b) Recreation, 7(a) Environmental Protection (Wetlands & Littoral Rainforests)**Cost:** Not Applicable**BACKGROUND**

Cobaki Estate has multiple layers of approvals which allow for subdivision of the site, including a town centre, community facilities, sports fields, parks and other infrastructure.

The following table summarises the key and more contemporary approvals issued over the site:

Determining Authority	Approval	Date
Tweed Shire Council	S94/194 approximately 763 lots and Cobaki Parkway	1995
Tweed Shire Council	S97/54 approximately 430 lots (Parcel 7-10)	1997
Tweed Shire Council	K99/1124 approximately 560 lots	2000
Tweed Shire Council	Part 12 – Bulk Earthworks across the whole site	
Tweed Shire Council	1162/2001DA – Bulk Earthworks and Masterplan for Town Centre	2002
Department of Planning	Concept Plan approval for approximately 5000 dwellings	December 2010
Department of Planning	Project Application central open space and drainage corridor	February 2011
Northern Joint Regional Planning Panel	DA10/0800 – 475 Residential Lots (Precinct 1 and 2)	May 2011
Northern Joint Regional Planning Panel	DA10/0801 – 441 Residential Lots (Precinct 6)	May 2011
Department of Planning & Infrastructure	Concept Plan approval for approximately 5000 dwellings – Mod 1	May 2013
Department of Planning & Infrastructure	Project Application central open space and drainage corridor – Mod 1	May 2013

Determining Authority	Approval	Date
Planning & Infrastructure	Project Application central open space and drainage corridor – Mod 2	Not Yet Determined

Precinct 6 comprises of 441 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure was determined by the Joint Regional Planning Panel, being granted on 30 May 2011.

PROPOSED DEVELOPMENT:

There is no proposed change to the approved layout of the development.

The proposed modifications to Development Consent DA10/0801 as submitted by the applicant are noted below, along with a summary of whether or not the proposed modification has been supported by Council officers:

- The deletion of **Condition 9** in relation to the modification of old consents in order to achieve consistency with this consent (DA10/0801). The proposed deletion of Condition 9 is not supported;
- The modification of **Condition 10** which relates to Freshwater Wetlands and Wallum Froglet area. The proposed modification of Condition 16 is supported, subject to the inclusion of new Condition 10.1;
- New **Condition 10.1** relates to the management of all offset areas. The proposed new condition is recommended as a result of the proposed modification of Condition 10;
- The modification of **Condition 11** which relates to Wallum Froglet protection. The proposed modification of Condition 11 is supported, subject to further amendments;
- The modification of **Condition 19** which relates to commencement of works required by the Revised Saltmarsh Rehabilitation Plan. The proposed modification of Condition 19 is supported, subject to further amendments;
- The modification of **Condition 23** in relation to the Cobaki Estate Affordable Housing Study. The proposed modification of Condition 23 is not supported;
- The modification of **Condition 34** in relation to the maximum disturbed area. The proposed modification of Condition 34 is supported, subject to further amendments;
- The modification of **Condition 47** with regard to the design requirements for playgrounds. The proposed modification of Condition 47 is supported;
- The modification of **Condition 48** in relation to the maintenance period for grassing/revegetating the Central Open Space. The proposed modification of Condition 48 is not supported;
- The modification of **Condition 51** in terms of the low flow drain realignment. The proposed modification of Condition 51 is not supported;
- The deletion of **Condition 52** with regard to the low flow drain location. The proposed deletion of Condition 52 is not supported;
- The deletion of **Condition 54** which relates to the existing consent conditions across the site. The proposed deletion of Condition 54 is not supported;
- The modification of **Condition 55** in terms of the requirements of the Habitat Restoration Plans, including mechanism for funding. Components of the proposed modification of Condition 55 are supported, subject to further amendments;

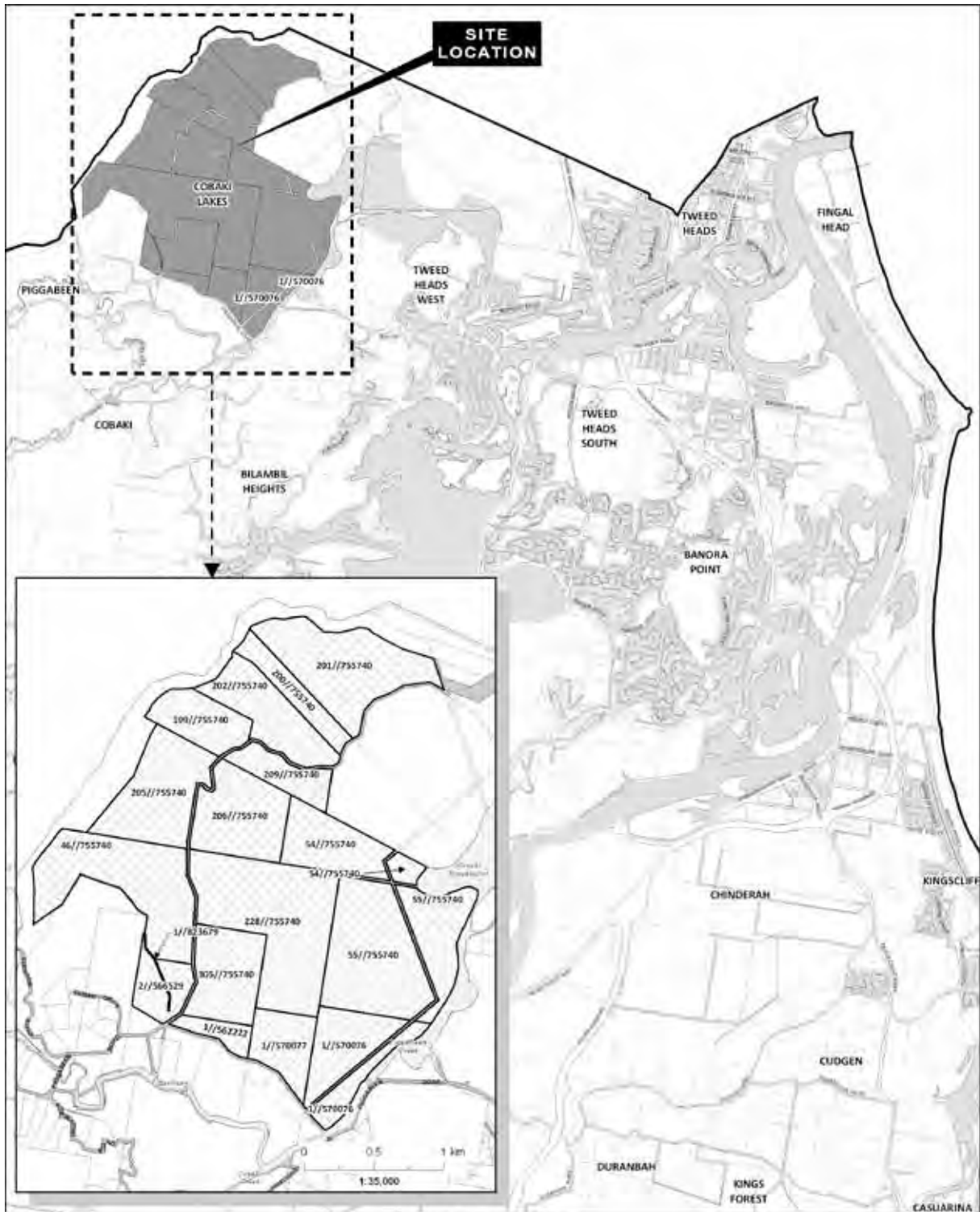
- Proposed new **Condition 55.1** relating to dedication of environmental protection land to Council. The proposed new Condition 55.1 is supported, subject to further amendments;
- The modification of **Condition 62** with regard to affordable housing requirements. The proposed modification of Condition 62 is supported;
- The modification of **Condition 63** which relates to the fauna road crossing requirements. The proposed modification of Condition 63 is supported, subject to further amendments;
- Proposed new **Condition 64.1** with regard to the timing of an agreement with Council in terms of a mechanism to fund in perpetuity land not being dedicated to Council. The proposed new Condition 64.1 is not supported;
- The modification of **Condition 65** which relates to primary revegetation and regeneration works. The proposed modification of Condition 65 is not supported;
- The modification of **Condition 73** in terms of the timing of the Construction Environmental Management Plan (CEMP). The proposed modification of Condition 73 is supported, subject to further amendments;
- The modification of **Condition 105** in relation to requirements for discharged water from the site. The proposed modification of Condition 105 is supported, subject to further amendments;
- The modification of **Condition 117** with regard to the timing of dedication of passive parks. The proposed modification of Condition 117 is supported;
- The modification of **Condition 119** in terms of details regarding the maintenance bond for footpaths and cycleways. The proposed modification of Condition 119 is supported, subject to further amendments;
- The modification of **Condition 120** in relation to details regarding the landscaping bond. The proposed modification of Condition 120 is supported, subject to further amendments;
- The modification of **Condition 121** with regard to the cash bond/bank guarantee for the Site Regeneration and Revegetation Plan. The proposed modification of Condition 121 is supported, subject to further amendments;
- The modification of **Condition 133** in terms of the staging of the dedication of the drainage reserve. The proposed modification of Condition 133 is supported;
- The modification of **Condition 136** in relation to standard requirements for underground telephone supply. The proposed modification of Condition 136 is not supported;
- The modification of **Condition 148** with regard to the embellishment of casual open space. The proposed modification of Condition 148 is supported, subject to further amendments;
- The modification of **Condition 149** in terms of the length of the maintenance period for the public open space. The proposed modification of Condition 149 is not supported;
- The modification of **Condition 156** in relation to the Community Centre site. The proposed modification of Condition 156 is supported.

- The modification of **Condition 158** with regard to the dedication of the drainage reserve. The proposed modification of Condition 158 is supported.

As noted previously, the applicant has accepted Council's position on a number of the proposed modifications not being supported and they have also accepted a number of the proposed amendments recommended.

A detailed assessment of each of the proposed modifications/deletions has been undertaken as noted later in this report.

SITE DIAGRAM:



Locality Plan

Lot 1 DP 562222; Lot 2 DP 566529; Lot 1 DP 570077; Lot 1 DP 823679;
 Lots 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228, 305 DP 755740, No. 73 Sandy Lane; Lot 1 DP 570076
 Piggabeen Road, Cobaki Lakes

<p><small>Disclaimer: This site plan is based on the records of the Shire. Tweed Shire Council and/or representatives do not warrant or accept liability for any errors or omissions in this plan, including but not limited to, the accuracy of the information, the inclusion or exclusion of any particular property or interest, or the inclusion or exclusion of any particular property or interest, or the inclusion or exclusion of any particular property or interest, or the inclusion or exclusion of any particular property or interest.</small></p>	<p>Created: 27 November 2013 © Land and Property Management Authority (LPSMA) & Tweed Shire Council Boundaries shown should be checked on site only</p>	<p>Scale: 1:35,000 GDA North Arrow</p>	<p>Ethnic and Cultural Centre 3 Tweed Heads Road Murrumbidgee NSW 2484 PO Box 816 Murrumbidgee NSW 2484 T (02) 6478 2400 / (02) 6478 2421 F (02) 6479 2421 W www.tweedshire.nsw.gov.au E planning@tweedshire.nsw.gov.au</p>
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PRECINCT 6 PLAN



Cobaki Development Application for Precinct 6

Leda Manorstead Pty Ltd

Plan of Development

BEDROOM DISTRIBUTION ON MIXED DWELLING LOTS

Lot No.	1 Bed	2 Bed	3 Bed	4 Bed	Total
101	0	0	0	1	1
102	0	0	0	1	1
103	0	0	0	1	1
104	0	0	0	1	1
105	0	0	0	1	1
106	0	0	0	1	1
107	0	0	0	1	1
108	0	0	0	1	1
109	0	0	0	1	1
110	0	0	0	1	1
111	0	0	0	1	1
112	0	0	0	1	1
113	0	0	0	1	1
114	0	0	0	1	1
115	0	0	0	1	1
116	0	0	0	1	1
117	0	0	0	1	1
118	0	0	0	1	1
119	0	0	0	1	1
120	0	0	0	1	1
121	0	0	0	1	1
122	0	0	0	1	1
123	0	0	0	1	1
124	0	0	0	1	1
125	0	0	0	1	1
126	0	0	0	1	1
127	0	0	0	1	1
128	0	0	0	1	1
129	0	0	0	1	1
130	0	0	0	1	1
131	0	0	0	1	1
132	0	0	0	1	1
133	0	0	0	1	1
134	0	0	0	1	1
135	0	0	0	1	1
136	0	0	0	1	1
137	0	0	0	1	1
138	0	0	0	1	1
139	0	0	0	1	1
140	0	0	0	1	1
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151	0	0	0	1	1
152	0	0	0	1	1
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174	0	0	0	1	1
175	0	0	0	1	1
176	0	0	0	1	1
177	0	0	0	1	1
178	0	0	0	1	1
179	0	0	0	1	1
180	0	0	0	1	1
181	0	0	0	1	1
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194	0	0	0	1	1
195	0	0	0	1	1
196	0	0	0	1	1
197	0	0	0	1	1
198	0	0	0	1	1
199	0	0	0	1	1
200	0	0	0	1	1

Considerations under Section 79c of the Environmental Planning and Assessment Act 1979:

Proposed Modifications

The proposed modifications are outlined below, together with the applicant's justification and officer assessment.

Condition 9 (Consent conditions)

The applicant proposes to delete Condition 9 which currently reads as follows:

9. *Prior to the issuing of a Construction Certificate under DA10/0801, all existing consents over the Cobaki Estate applicable to Precinct 6, must be modified where relevant, pursuant to Section 80A(1) of the EP&A Act 1979 (as amended) and Regulation, to be consistent with this consent.*

Originally in October 2011, the applicant requested that Condition 9 be deleted and replaced with two specific conditions relating to relevant existing consents. The applicant was advised in May 2012 that because the site has a long history of approvals, the issue of compliance with old consents requires clarification to move forward with the proposed development. As such the proposed deletion of Condition 9 and inclusion of the two new conditions was opposed.

The applicant confirmed in September 2013 that they accept Council's position and that the original deletion is no longer being requested. As such Condition 9 remains in its current form and no further assessment is required.

Condition 10 (Freshwater wetlands and Wallum Froglet area)

The applicant proposes to modify Condition 10 which currently reads as follows:

10. *In accordance with Condition 38 of Project Application MP08_0200, no works shall be undertaken within the Precinct 6 area that may impact upon (or contribute to an impact upon) the freshwater wetlands and Wallum Froglet habitat area until an appropriate agreement is entered into between the Proponent and the Office of Environment and Heritage that offsets the project's impact on biodiversity. This agreement shall include provision for alternative offsets to be delivered should monitoring indicate that an appropriate wetland environment is not achieved after an appropriate time. Evidence of such an agreement shall be forwarded to the Director General no later than 5 working days prior to works commencing in those areas.*

Notwithstanding the above, the proponent shall prepare a detailed Wallum Froglet Compensatory Habitat Plan as per Section 4.3 of the Revised Freshwater Wetland Rehabilitation Plan prepared by James Warren and Associates, dated October 2010. In addition to these requirements, the Wallum Froglet Compensatory Habitat Plan must include the following information on the core breeding habitat areas:

- (i) *Detail on how Wallum Froglet core breeding areas will be constructed and maintained;*
- (ii) *Detail on the design of fauna crossings where the fauna corridor is bisected by a road to ensure Wallum Froglet movement between core breeding habitat ponds is available;*
- (iii) *How threats to the survival of Wallum Froglet Habitat will be managed;*

- (iv) *Monitoring and reporting requirements including monitoring of Wallum Froglet usage of the core breeding habitat area, usage of fauna corridors, Wallum Froglet population size and breeding success, water quality, habitat suitability and presence of exotic species (particularly Cane Toad and Gambusia);*
- (v) *A mechanism for the on-going funding of this Wallum Froglet Habitat areas to ensure the long-term viability of the population; and*
- (vi) *A contingency planning option in the case of system failure.*

In September 2013 the applicant proposed a modification of Condition 10, in terms of the deletion of the mechanism for on-going funding of the Wallum Froglet area, following the recent deletion of the same wording from Condition 38 of the Project Approval for the Central Open Space.

As such, the applicant has proposed the following modification to Condition 10 (amendments shown in bold):

“10A *In accordance with Condition 38 of Project Application MP08_0200, no works shall be undertaken within the Precinct 6 area that may impact upon (or contribute to an impact upon) the freshwater wetlands and Wallum Froglet habitat area until an appropriate agreement is entered into between the Proponent and the Office of Environment and Heritage that offsets the project's impact on biodiversity. This agreement shall include provision for alternative offsets to be delivered should monitoring indicate that an appropriate wetland environment is not achieved after an appropriate time. Evidence of such an agreement shall be forwarded to the Director General no later than 5 working days prior to works commencing in those areas.*

Notwithstanding the above, the proponent shall prepare a detailed Wallum Froglet Compensatory Habitat Plan as per Section 4.3 of the Revised Freshwater Wetland Rehabilitation Plan prepared by James Warren and Associates, dated October 2010. In addition to these requirements, the Wallum Froglet Compensatory Habitat Plan must include the following information on the core breeding habitat areas:

- (i) *Detail on how Wallum Froglet core breeding areas will be constructed and maintained;*
- (ii) *Detail on the design of fauna crossings where the fauna corridor is bisected by a road to ensure Wallum Froglet movement between core breeding habitat ponds is available;*
- (iii) *How threats to the survival of Wallum Froglet Habitat will be managed;*
- (iv) *Monitoring and reporting requirements including monitoring of Wallum Froglet usage of the core breeding habitat area, usage of fauna corridors, Wallum Froglet population size and breeding success, water quality, habitat suitability and presence of exotic species (particularly Cane Toad and Gambusia);*
- (v) **~~A mechanism for the on-going funding of this Wallum Froglet Habitat areas to ensure the long-term viability of the population; and~~**
- (vi) *A contingency planning option in the case of system failure.*

The applicant proposes to delete clause (v) of Condition 10, removing the requirement for the management plan to provide detail on a mechanism for on-going funding for

management of the Wallum Froglet Habitat Area. At this stage, the Wallum Froglet Habitat Management Plan applies only to approximately 2ha of freshwater wetland which is being retained onsite, however negotiations are ongoing with regard to provision of additional offsite offsets for Freshwater Wetland/Wallum Froglet habitat.

The intent of the condition was to ensure that the Wallum Froglet Habitat Area was restored in a timely manner in accordance with approved plans and that these lands are managed for this purpose in perpetuity. It is understood that the applicant proposes to dedicate this area to Council, however no agreement has yet been reached regarding the mechanism for funding of its ongoing management.

In December 2013 the applicant was advised that the proposed modification of Condition 10 was under consideration.

Correspondence from the applicant in January 2014 noted...*“in order to maintain consistency with the Department of Planning, Council is requested to modify Condition 10 as requested.”*

Whilst it is acknowledged that the Department of Planning did agree to remove the requirement for on-going funding from Condition 38, it should be noted that the requirement for funding was not removed from the consent. Rather, the Department of Planning incorporated a new Condition 11B(a) as follows:

11B Management and Maintenance of Environmental Lands

- a. *The Proponent is responsible for the management of all Offset Areas for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans from the date of the project approval modification (08_0194 Mod 1), until such time that an agreement is reached with Council regarding the dedication of that land.*

Accordingly, to be consistent with the Department of Planning the proposed modification of Condition 10 is supported, subject to the inclusion of a new Condition 10.1 as follows, requiring the landholder to be responsible for the ongoing management and maintenance of the land until an agreement with Council is reached regarding its dedication:

10.1 The Proponent is responsible for the management of all Offset Areas for conservation purposes and the implementation of ongoing management and maintenance activities specified in all Environmental Management Plans, until such time that an agreement is reached with Council regarding the dedication of that land.

Condition 11 (Wallum Froglet)

The applicant is seeking to delete Condition 11 which currently reads as follows:

11. *The proponent must design, construct, operate and maintain the project to ensure that it does not adversely affect Wallum Froglet populations on, or adjacent the site.*

The Applicant proposes to delete Condition 11 stating that it cannot be complied with and is...*“appropriately addressed by Condition 10 and 64”*. Condition 10 pertains to the provision of offsets for impacts on Wallum Froglet and the preparation of a management plan for compensatory habitat areas. Condition 11 is a general condition requiring the development to avoid unnecessary impact on Wallum Froglet populations and remains relevant.

The applicant was advised in May 2013 that Condition 11 requires the project to be managed to avoid impact on Wallum Froglets. The location of the Wallum Froglet Habitat area needs to be finalised and endorsed by Council and rehabilitation works commenced, prior to any works that will damage existing habitat areas commencing. At the moment that is still not clear or agreed. Therefore, the proposed modification of Condition 11 was not supported.

Correspondence submitted by the applicant in September 2013 acknowledged that an area of approximately 2ha of compensatory freshwater wetland habitat is to be provided on the eastern side of the Cobaki Parkway. The applicant reiterated their original comments that the intent of Condition 11 is more effectively covered by Conditions 10 and 64 and request that Condition 11 be deleted.

It is noted that the Department of Planning's recent approval of the Project Approval modification incorporates amended Condition 39 which reads as follows (amendment shown in bold):

39. *The proponent must design, construct, operate and maintain the project to ensure that it does not adversely affect any **remaining** Wallum Froglet populations on, or adjacent the site.*

Accordingly, to be consistent with the Department of Planning it is recommended that Condition 11 of DA10/0801 be amended in a similar fashion, as opposed to the applicants request for deletion altogether. The proposed modification of Condition 11 (amendments shown in bold) is as follows:

- 11A. *The proponent must design, construct, operate and maintain the project to ensure that it does not adversely affect **any remaining** Wallum Froglet populations on, or adjacent the site.*

Condition 19 (Saltmarsh Rehabilitation Plan)

The applicant proposes to modify Condition 19 which currently reads as follows:

19. *Evidence must be submitted to Council prior to the registration of any plan of residential subdivision, demonstrating that works have been undertaken in accordance with the Revised Saltmarsh Rehabilitation Plan by James Warren and Associates dated October 2010 and as specified with Condition 65 of MP08_0200.*

It appears that the applicant may have misinterpreted the timing of this condition as being prior to the issue of a Construction Certificate, rather than the registration of any plan of residential subdivision. The applicant was advised in May 2012 that the proposed modification of Condition 19 was opposed. However, an alternative modification of Condition 19 was proposed by Council officers (amendments shown in bold):

- 19A. *Evidence must be submitted to Council prior to the registration of any Plan of Residential Subdivision, demonstrating that works have been **undertaken commenced** in accordance with the Revised Saltmarsh Rehabilitation Plan by James Warren and Associates dated October 2010 and as specified within Condition 65 of MP08_0200.*

The works are to be undertaken in accordance with the timing and responsibilities contained within the approved, Final Saltmarsh Rehabilitation Plan.

The applicant confirmed in September 2013 that they accept the abovementioned modification of Condition 19, as proposed.

Condition 23 (Affordable Housing Study)

The applicant is seeking to modify Condition 23 which currently reads as follows:

23. *The recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd. by Hill PDA and dated November 2010 is to be undertaken.*

The Affordable Housing Strategy was required through Concept Plan approval requirement C11. The applicant states: "...the strategy to provide affordable rental housing within the Cobaki Estate is not mandatory under the Concept Plan conditions, but it is conditional upon the approval of NRAS funding or equivalent, in order to make the concept financially viable. Council will note that the Affordable Housing Strategy includes the following statement. 'In this regard it is important to note that should Leda Manorstead not be successful in achieving NRAS funding for the provision of affordable housing dwellings, it may not be reasonable to assist upon their provision at sub market rent or value for reasons of financial viability. At this preliminary stage of the project there is insufficient detail available for Hill PDA to test this position using a development feasibility model.' "

The applicant goes on to assert that Condition 23 does not recognise this important element of the Strategy, which has substantial impact upon the viability of the proposal and requests the following modification to Condition 23 (amendments shown in bold):

- "23A. Subject to the successful application for NRAS funding**, the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Ply Ltd by Hill PDA and dated November 2010 is to be undertaken."

The Hill PDA Affordable Housing Study has been reviewed by Council officers with the following advice provided to the applicant in May 2012:

"Council is of the opinion that the requested amendment to the two related conditions (23 and 62 regarding affordable housing) would appear to weaken the commitment recommended in the Hill PDA Nov 2010 Cobaki Estate Affordable Housing Study. Among other things the Hill PDA Study commits to "NRAS funding or the equivalent" and Leda Manorstead using their "best endeavours". As such, Council objects to the proposed modification of Condition 23."

Correspondence submitted by the applicant in September 2013 accepts Council's position in terms of Condition 23. As such Condition 23 remains in its current form and no further assessment is required.

Condition 34 (Maximum disturbed area)

The applicant is seeking to modify Condition 34 which currently reads as follows:

34. *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*
 - *Clearly showing pre and post development levels (spot levels and contours) at a legible scale.*

- *Comply with the provisions of Council's Design Specification D6 – Site Regrading.*
- *Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council.*
- *The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed 5ha.*
- *Roadworks/furnishings*
 - *Providing road profiles complying with Council's Design Specification D1 – Road Design, unless approved otherwise by Council.*
- *Stormwater drainage*
- *Water supply works*
 - *In general accordance with Yeats Consulting Engineers - Water Network Analyses, April 2011, Revision 03, unless modified otherwise by the conditions of this Consent.*
- *Sewerage works*
 - *In general accordance with Yeats Consulting Engineers - Master Sewer Reticulation Plan Revision C, unless modified otherwise by the conditions of this Consent.*
- *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.

The applicant is seeking to modify the limitation on disturbing only 5 hectares at a time as it is considered, “unreasonable” and proposes the deletion of the five hectare requirement.

Initially Council provided to the applicant in May 2012 acceptance of the proposed modification, as ultimately the development needs to comply with the requirements of D7 and Council's Engineers would be on site for the majority of the development period to ensure compliance. These initial comments were made when Council was the certifying authority for the development.

Following the withdrawal of the Construction Certificate from Council and the use of a Private Certifier who is responsible for inspecting the site, and only visiting the site once every two weeks, the applicant was advised in December 2013 that the proposed deletion of Condition 34 was no longer supported.

The applicant responded in January 2014, noting the following:

“Further to Council's intention to limit the extent of any disposed area in an earthworks operations exercise to 5Ha in area Leda make the following points:

- *A 5Ha limit makes a cut to fill earthworks operation in these precincts inefficient and impractical when the volumes of material and length of leads (haulage distances) are considered;*
- *A detailed sediment and erosion control management regime has been successfully implemented for the Central Open Space Corridor and it is proposed that a similar system is established for these precincts; and*
- *Even though a Private Certifier only inspects the site on a fortnightly basis, Leda's engineering consultants, Sedgman Yeats, are working directly under his instruction and carry out additional inspections at a greater frequency. Sedgman Yeats are effectively the certifier's eyes and ears on the ground and are able to attend site and respond to both the certifier's and Council Officers' requests as and when needed. As such there is no lesser control of the construction activities due to the involvement of the Private Certifier than is the case for developments where Council is the certifying authority.*

For the above reasons and since Council's comments discriminate against the use of Private Certification Leda maintains the original request to delete Condition 34."

The proposal to delete the requirement of Condition 34 to limit exposed areas to 5ha is not supported. The success of the applicant's "Sediment and Erosion Control Management" is not valid as the site has not yet been subjected to significant rain events to test the proposed regime. Given that dust management on the subject site in relation to current earthworks associated with the Central Open Space approval has been a continuing problem (resulting in Council receiving several dust complaints from nearby residents), it is not considered to be acceptable to allow additional land to be "opened up" with no maximum limit in place.

It is noted that Planning & Infrastructure's (former NSW Department of Planning & Infrastructure) Project Approval for the Central Open Space corridor limits the maximum exposed areas with the following condition of consent:

21A(b) Bulk earthworks for the site are to be limited to a maximum exposed disturbed area (that has not been permanently vegetated) not exceeding a maximum of 5Ha at any time to reduce exposed areas, unless otherwise approved by the Director-General.

As such, it is considered reasonable to modify Condition 34 in a similar fashion, as recommended below (amendment shown in bold). This will effectively allow a certain degree of flexibility for the applicant if they can provide a plan to Council showing the proposed extent of maximum exposed areas for Precinct 6.

34A. *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*
 - *Clearly showing pre and post development levels (spot levels and contours) at a legible scale.*

- *Comply with the provisions of Council's Design Specification D6 – Site Regrading.*
- *Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council.*
- *The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed 5ha, **unless otherwise approved by the General Manager or his delegate***
- *Roadworks/furnishings*
 - *Providing road profiles complying with Council's Design Specification D1 – Road Design, unless approved otherwise by Council.*
- *Stormwater drainage*
- *Water supply works*
 - *In general accordance with Yeats Consulting Engineers - Water Network Analyses, April 2011, Revision 03, unless modified otherwise by the conditions of this Consent.*
- *Sewerage works*
 - *In general accordance with Yeats Consulting Engineers - Master Sewer Reticulation Plan Revision C, unless modified otherwise by the conditions of this Consent.*
- *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.

Condition 47 (Playgrounds)

The applicant is seeking to modify Condition 47 which currently reads as follows:

47. *Any playgrounds provided must comply with the guidelines established in the 'Playground Audit for Tweed Shire Council' (July 2009). Appendix 3 of this establishes a procedure for assessing nearby hazards and mitigation measures. New subdivisions approved after development of these guidelines must ensure no playground facility has a Facility Risk Rating exceeding 13 as defined in Table 3A7 of that document, unless otherwise approved by the General Manager or delegate.*

The applicant states that this condition cannot be achieved without modifying the approved lot layout and request that the following condition is imposed instead:

- 47A.** *Any playgrounds provided must comply with the guidelines established in the Playground Audit for Tweed Shire Council (July 2009). Appendix 3 of this establishes the procedure for assessing nearby hazards and mitigation measures. ~~New subdivisions approved after development of these~~*

~~guidelines must ensure no playground facility has a Facility Risk Rating exceeding 13 as defined in Table 3A7 of that document, unless otherwise approved by the General Manager or delegate. The proposed open space areas for this stage as identified in Planit Consulting Drawing Set Dated March 2011 shall be designed to minimise the hazards to designated playground areas consistent with those mitigating features identified in Appendix 3A7 of the Playground Audit for Tweed Shire Council (July 2009). Detailed drawings and reporting outlining mitigation measures to be employed to mitigate risk are to be submitted for approval by the General Manager or his delegate. In proposing mitigation measures consideration of long term maintenance costs shall be considered and evaluated in any reporting.~~

In this instance, it is considered that the proposed modification of Condition 47 is acceptable.

Note - this is a cooperative approach by Council to assist the developer in overcoming initial design problems. The developer has been advised that playgrounds and park design in future stages must meet the minimum requirements rather than depend on mitigation measures.

Condition 48 (Grassing/Revegetation of the Central Open Space)

The applicant is seeking to modify Condition 48 which currently reads as follows:

48. *Further consideration is required regarding the grassing or revegetation of the central drain, and the two northern branches of this drain. A consultant skilled in natural area as well as landscape design is to assess the options available and, with particular reference to minimising maintenance requirements and weed incursion, recommend an appropriate planting plan. The plan is to be prepared to the satisfaction of the General Manager or his delegate and incorporated into the amended landscape plans for the public open space. Areas identified for planting or regeneration will require a 3 year maintenance period, and areas to be grassed will require 12 months maintenance after the Subdivision is registered with the Land Titles Office.*

The applicant proposes again references clause 80A(6)(c) of the EP&A Act and states that they are willing to accept a three year maintenance period for environmental areas (pursuant to approved ecological reports and management plans accompanying the concept plan) but considers the maintenance period for the grassed areas should be...*“subject to the normal statutory limits applying to maintenance bonds for the work”*.

Accordingly, the applicant proposed the following modification to Condition 48:

- 48A.** *Further consideration is required regarding the grassing or revegetation of the central drain, and the two northern branches of this drain. A consultant skilled in natural area as well as landscape design is to assess the options available and, with particular reference to minimising maintenance requirements and weed incursion, recommend an appropriate planting plan. The plan is to be prepared to the satisfaction of the General Manager or his delegate and incorporated into the amended landscape plans for the public open space. Areas identified for planting or regeneration will require a 3 year maintenance period, and areas to be grassed will require ~~12~~ **6** months maintenance after the Subdivision is registered with the Land Titles Office.*

The applicant was advised in May 2012 that it was not agreed that clause 80A(6)(c) relates to maintenance bonds, but relates only to defects to public work and that the proposed modification to six months is not supported.

Correspondence submitted by the applicant in September 2013 accepts Council's position in terms of Condition 48. As such Condition 48 remains in its current form and no further assessment is required.

Condition 51 (Low Flow Drain Realignment)

The applicant is seeking to modify Condition 51 which currently reads as follows:

51. *The low flow drain adjacent to park 6 in the central drainage area, and the drain adjacent to park 5 (fauna corridor) must be realigned to be a minimum of 30m from playground equipment and softfall.*

The applicant notes that the location of the swale in the fauna corridor was altered at the request of Council during the assessment of the development application. The applicant also notes that the drain is only 'wet' during a rainfall event and as such presents minimal hazard to the park. As such, the applicant proposes to modify Condition 51, as referenced below:

- "51A. ~~The low flow drain adjacent to park 6 in the central drainage area, and the drain adjacent to park 5 (fauna corridor) must be realigned to be a minimum of 30m from playground equipment and softfall. The proposed open space area identified as Park 5 and Park 6 in Planit Consulting Drawing Set Dated March 2011 shall be designed to minimise the hazards to designated playground areas consistent with those mitigating features identified in Appendix 3A7 of the Playground Audit for Tweed Shire Council (July 2009). Detailed drawings and reporting outlining mitigation measures to be employed to mitigate risk are to be submitted for approval by the General Manager or his delegate.~~"***

The applicant was advised in May 2012 that the low flow drain within the central drainage reserve should be so located so as to allow the play equipment in the park to be at least 30m distance. It was also noted that Park 6 is proposed as a larger district park and is likely to have more play equipment and higher usage than other parks. Therefore, Council objects to the proposed modification of Condition 51.

The applicant confirmed in September 2013 that they accept Council's position. As such Condition 51 remains in its current form and no further assessment is required.

Condition 52 (Low Flow Drain Location)

The applicant is seeking to delete Condition 52 which currently reads as follows:

52. *The low flow drain within the central drain is to be located a minimum of 30 metres from the top of the eastern batter in areas adjacent to the sportsfields.*

The applicant advises that the swale presents minimal hazard to the park users and has been located in the current position to share the cycleway as an access path for Council maintenance access. The applicant states that the specified 30m setback would make it unable to deliver the multiple sports fields and would remove proposed all weather access for Council maintenance. Hence the applicant proposed to delete Condition 52.

The applicant was advised in May 2012 that "...Council staff have continuously stated that, following the developers insistence on the small sportsfield being located adjacent to the central drain, design must ensure there is no issue with sportsfield use and the central drain. The latest design of the central drainage area has the low flow drain within approximately 14

metres of the likely edge of the sportsfield despite requests to address the matter. Council considers that compliance with this condition is achievable. The intent of the rock lined drain is to create a minimal maintenance situation and 'easy' all weather maintenance access is not sufficient justification for the location of the drain." As such, the proposed deletion of Condition 52 is not supported.

The applicant confirmed in September 2013 that they accept Council's position. As such Condition 52 remains in its current form and no further assessment is required.

Condition 54 (Consent Conditions)

The applicant is seeking to delete Condition 54 which currently reads as follows:

54. In accordance with Condition C18 of Concept Plan MP06_0316, a detailed description is to be provided to the satisfaction of the General Manager or delegate demonstrating compliance with previous Tweed Shire Council consent conditions intended to preserve wildlife corridors and protect and offset threatened species, populations and ecological communities and their habitats outside of the Concept Plan habitat requirements, or relevant reasons (such as subsequent amendments) as to why compliance was not required or may be transferred to current DAs. Such description is to include extracts of all relevant plans referred to in the conditions listed below sufficient to understand the land areas of relevance to the conditions and any overlap with current applications. Additional offset must be proposed if clearing of native vegetation has been undertaken not in accordance with the below development consents. Conditions to be addressed are as follows:

(a) D94/0438.04 Conditions 23, 24, 34a, 35, 36a, 37 and 38.

(b) K99/1124.06 Conditions 10, 15A, 30, 31, 41, 81, 83A, 90, 91, 92A, 93, 94A, 95A, 96, 97, 98, 99, 100, 101, 102A, 103, 104, 105, 106, 107, 108, 109 and Schedule B (National Parks imposed conditions via concurrence for Species Impact Statement.

(c) 1262/2001DA.02 Condition 9, 16, 17, 18.

Where required the development consents are to be modified in accordance with Section 80A(1) of the Environmental Planning and Assessment Act and Regulations to be consistent with this consent.

The applicant is seeking to delete Condition 54 and argues that this condition is...*"seeking to enforce unrelated development consents for subdivisions that will not be implemented to completion, does not relate to the area affected by the proposed development and which is inconsistent with the Concept Plan Approval".*

The applicant goes on to assert that no further work is to be undertaken in accordance with the old bulk earthworks consent D94/438 and asserts that the item A4(2) of the Minister's Concept Plan Approval will prevail to the extent of any inconsistency.

As discussed above in relation to Condition 9, the applicant was advised in May 2012 that that because the site has a long history of approvals, the issue of compliance with old consents requires clarification to move forward with the proposed development. As such the proposed deletion of Condition 54 was opposed.

The applicant confirmed in September 2013 that they accept Council's position. As such Condition 54 remains in its current form and no further assessment is required.

It should also be noted that the applicant has submitted a compliance report in relation to the provisions of Condition 54 of DA10/0801. An assessment of the documentation has been completed and the applicant advised that Condition 54 is now considered satisfied.

Condition 55 (Habitat Restoration Plans)

The applicant is seeking to modify Condition 55 which currently reads as follows:

55. *One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2010 and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:*
- (a) a schedule and timing of works to be undertaken.*
 - (b) a statement of commitment by the consent holder to funding the proposed works for a minimum 5 year period.*
 - (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.*
 - (d) a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.*

The applicant has a concern with the maintenance period of five years, as well as funding in perpetuity of the environmental protection land not proposed to be dedicated to Council.

The applicant asserts that the regeneration areas are to be maintained for three years (as per the Ecological Reports and Management Plans accompanied the Concept Plan).

Furthermore, the applicant states that funding of works to comply with a condition of consent on private land is...*"not a matter for Council to be involved in and the requirement to fund the maintenance in perpetuity is onerous and unprecedented."* The applicant asserts that a more logical approach would be for Council to use its power under the EP&A Act to ensure compliance with consent conditions. Accordingly, the applicant proposed the following modification to Condition 55:

- 55A** *One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2010 and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such*
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as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:

- (a) a schedule and timing of works to be undertaken.
- (b) a statement of commitment by the consent holder to funding the proposed works for a minimum **5 3** year period.
- (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.
- ~~(d) a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.~~
- (d) a statement of commitment that any environmental protection land that is not proposed to be dedicated to Council is to be maintained to a reasonable standard by the landowner."**

The intent of the applied condition was to ensure that environmental protection lands were restored in a timely manner in accordance with approved plans and that these lands are managed for conservation outcomes in perpetuity.

The applicant was advised in May 2012 of the following:

"Condition 55 requires Habitat Restoration plans for Management Areas 1, 2, 3, 4 and 13, and that such plans must include funding for a minimum 5 year period and provide a mechanism to fund in perpetuity. Council reads the wording of the approved James Warren Plan as 2-3 years to achieve canopy closure, then an additional three years of maintenance after canopy closure. Also, Council guidelines have been accepted and specify minimum 5 years.

The intent of the applied condition was to ensure that the land parcels which were earmarked for protection or offset at the Concept Plan stage were restored in a timely manner and managed for conservation outcomes in perpetuity. The manner in which this outcome is achieved is open to negotiation, so long as a reasonable degree of certainty can be gained from such negotiation. No such certainty is yet available. As such, Council objects to the proposed modification of Condition 55."

Correspondence was submitted by the applicant in September 2013, noting that the habitat restoration areas are to be dedicated to Council and that there is no power under the EP&A Act to require, 'maintenance' other than defects liability, which is limited to 6 months. Notwithstanding this, the applicant has given an undertaking to revegetate/remediate the management areas until all agreed completion criteria are met in accordance with the Site Regeneration and Rehabilitation Plan (SRRP).

The applicant also noted that the proposed funding in perpetuity is "...not authorised under a Section 94 Plan and would be beyond the scope of Section 94 (as it would relate to maintenance rather than capital cost of establishment). It is also beyond the scope of Section 80A of the Environmental Planning and Assessment Act. Therefore there is no power in the Environmental Planning and Assessment Act, 1979 (as amended) for Council to lawfully impose such a condition."

Accordingly, the applicant proposed the following revised modification of Condition 55:

“55A *One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council’s draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated ~~October 2010~~ April 2013 and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:*

- (a) a schedule and timing of works to be undertaken.*
- ~~*(b) a statement of commitment by the consent holder to funding the proposed works for a minimum 5 year period*~~
- (b) a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Rehabilitation Plan are achieved.*
- (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.*
- ~~*(d) a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.*~~

The applicant also advised that they intend to offer to dedicate the environmental protection land to Council following rehabilitation in accordance with the endorsed Management Plans, proposing the following new Condition 55B:

“55B *Following the successful rehabilitation of Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2013, the landowner shall offer to dedicate that land to Council in accordance with Tweed Section 94 Plan No. 10.”*

The applicant was advised in December 2013 that the proposed modification of Condition 55 to delete the requirement for a funding mechanism is not supported. In addition the applicant was advised that the proposed new condition regarding the dedication of environmental land was under consideration, noting that a map delineating the proposed staging of management areas to be dedicated to Council (linked to each precinct) is required.

Correspondence submitted by the applicant in January 2014 noted that the ‘funding in perpetuity’ issue is not able to be agreed at this point. While the applicant reserved the right to further challenge the matter, as a “...*practical interim measure and so that the matter does not unduly prevent the issue of a Construction Certificate*” the applicant requested that the funding in perpetuity issue be deferred until the Subdivision Certificate stage, asserting that the “...*implementation and finalisation of the funding mechanism is not required until such time as the rehabilitation works have been undertaken, which is well after Subdivision certificate stage.*”

As a result, the applicant has proposed the following revised modification of Condition 55:

“55A *One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council’s draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated ~~October 2010~~ April 2013 and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:*

- (a) a schedule and timing of works to be undertaken.*
- ~~*(b) a statement of commitment by the consent holder to funding the proposed works for a minimum 5 year period.*~~
- (b) a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Rehabilitation Plan are achieved.*
- (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.*
- ~~*(d) a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.*~~

In response to Council comments in relation to the proposed new Condition 55B, the applicant noted that the proposed areas to be dedicated are the same areas to be rehabilitated as shown on the approved application plans and detailed in the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated April 2013. As such, the applicant suggests that no staging plan is required.

In terms of the proposed new Condition 55B (which is now being called new Condition 55.1) it should be noted that there is no objection to the offer of land dedication, although it is not considered necessary to condition such dedication. However, should a condition be required, the following wording of new Condition 55.1 is recommended:

55.1 *Following the successful rehabilitation of Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2013, the landowner shall offer to dedicate that land to Council.*

In addition to the above, the applicant proposed the following new Condition 159:

“159.*Prior to the issue of a Subdivision Certificate the proponent must reach an agreement with Council regarding a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.”*

Following the 30 January 2014 Council workshop attended by Council officers and Leda representatives to discuss the issue of funding for the environmental land, the applicant submitted further correspondence in February 2014. It was acknowledged that concept of deferring the funding in perpetuity issue was not preferred by Council officers on the basis of...*“potential delays to the issuing of a Subdivision Certificate could result if the matter was not resolved prior to that stage.”*

As an alternative, the applicant now proposes to a deferment of the funding in perpetuity issue to prior to the issue of a Construction Certificate for Civil Works, to *“...allow the matter to be separated from the immediate need to obtain a construction certificate for Bulk Earthworks so that works may progress on the site.”*

This results in a new Condition 64.1 being proposed by the applicant as noted below. There are no further changes to the modifications noted above to Condition 55 (as requested by the applicant in January 2014).

“64.1 Prior to the issue of a Construction Certificate for Civil Work the proponent must reach an agreement with Council regarding a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.”

For the purposes of clarity, the applicant has noted that if the proposed new Condition 64.1 is adopted then the previously requested new Condition 159 would no longer be required.

The applicant's proposed modification of clause (b) in Condition 55 is considered to align more closely with the current wording of the SRRP and is considered acceptable subject to the following recommended amendments (shown in bold):

- b) *a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and **Revegetation Plan** are achieved **and until such time as an agreement is reached with Council regarding the dedication of that land.***

With regard to the proposed deletion of the funding mechanism in Clause (d) of Condition 55, it should be noted that the Concept Approval to carry out the project was determined according to the requirement to:

- Ensure adequate mitigation of environmental impacts of future development, and
- Ensure protection and restoration of threatened species and their habitat.

This necessitates both immediate and ongoing management of the proposed environmental lands in the face of ongoing pressures from the development. Restoration and management of these lands is proposed by the applicant as the key mechanism for mitigating the impacts of removal of threatened species habitat and Endangered Ecological Communities from the site. It is appropriate that the mechanism for ensuring that management continues in perpetuity needs to be determined prior to the time that the major impact occurs, which is at the Bulk Earthworks stage.

At the time of writing of the original condition, it was understood that the applicant was to retain the environmental protection land. The applicant now proposes to offer dedication of the environmental protection areas to Council once the performance criteria in the SRRP are reached. The offer of dedication is not opposed, provided the cost burden of management of these lands does not fall on existing ratepayers whether or not these lands are dedicated to Council.

The proposed new Condition 64.1 is not supported in the form proposed by the applicant. The proposed deferment of the agreement to prior to Civil Earthworks Construction

Certificate is not considered to be appropriate and should be resolved prior to Bulk Earthwork Construction Certificate. This outcome is essentially the same as that required under the current provisions of clause (d) of Condition 55. As such, the new Condition 64.1 is not considered to be necessary and the deletion of clause (d) from Condition 55 is not considered to be acceptable.

If however, it should be determined that clause (d) is to be deleted, it is highly recommended that Condition 64.1 be approved with the following amendments shown in bold:

64.1 Prior to the issue of a Construction Certificate for **Bulk Earthworks** the proponent must reach an agreement with Council regarding a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.

The proposed amendment of the date of the Revised Site Regeneration and Revegetation Plan to the most recent version (April 2013) is not opposed.

For the purposes of clarity, the following wording of Condition 55 is recommended by Council officers:

55A *One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316. Such plan(s) must be prepared for Management Areas 10 and 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated ~~October 2010~~ **April 2013** and representing compensatory offset for loss of habitat and Endangered Ecological Communities on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the subdivision plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habitat offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:*

(a) *a schedule and timing of works to be undertaken.*

~~(b) *a statement of commitment by the consent holder to funding the proposed works for a minimum 5 year period.*~~

(b) *a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Revegetation Plan are achieved **and until such time as an agreement is reached with Council regarding the dedication of that land.***

(c) *a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.*

(d) *a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.*

Condition 62 (Affordable Housing Study)

The applicant is seeking to modify Condition 62 which currently reads as follows:

62. *A staging plan detailing the location, mix and type of dwellings to be provided as affordable rental accommodation is to be submitted to Council in accordance with*

the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd by Hill PDA and dated November 2010.

The applicant asserts that the strategy to provide affordable rental housing within the Cobaki Estate is not mandatory under the Concept Plan conditions, but is conditional upon the approval of NRAS funding. The applicant refers to the following statement from the affordable rental strategy as justification to modify this condition:

“In this regard it is important to note that should Leda Manorstead not be successful in achieving NRAS funding for the provision of affordable housing dwellings, it may not be reasonable to insist upon their provision at sub market rent or value for reasons of financial viability. At this preliminary stage of the project there is insufficient detail available for Hill PDA to test this position using a development feasibility model.”

The applicant proposes the following modification of Condition 62 (amendments shown in bold):

*“62A. Subject **to the successful application for NRAS funding**, a Staging Plan detailing the location, mix and type of dwellings to be provided as affordable rental accommodation is to be submitted to Council in accordance with the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd by Hill PDA and dated November 2010.”*

As noted for Condition 23, The Hill PDA Affordable Housing Study was reviewed by Council officers with applicant being advised in May 2012 that no change to the wording of Condition 62 is supported as the Hill PDA Study commits to “NRAS funding or the equivalent” and Leda Manorstead using their “best endeavours”. As such, the proposed modification of Condition 62 is not supported.

In September 2013 the applicant responded by way of suggesting additional clarification so that there is no misconception as to when an affordable housing plan is required. The following amendment to Condition 62 was proposed by the applicant (amendments shown in bold):

*“62A. Should, **following the proponent’s best endeavours, NRAS (or equivalent) funding be available to provide affordable housing within the development in accordance with the approved Cobaki Estate Affordable Housing Study**, a staging plan detailing the location, mix and type of dwellings to be provided as affordable rental accommodation is to be submitted to Council in accordance with the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd by Hill PDA and dated November 2010.”*

The proposed modification provides an acceptable outcome in terms of the applicant using their ‘best endeavours’ to deliver an NRAS program. As such, the applicant’s latest proposed modification of Condition 62, as shown above, is supported.

Condition 63 (Fauna Road Crossing)

The applicant is seeking to delete Condition 63 which currently reads as follows:

63. Detailed design drawings for all road crossings over the nominated fauna corridor are to be provided illustrating replacement of culverts with bridges to enable a range of fauna to range through the corridor and facilitate east-west connectivity for fauna across the site.

The applicant proposes to delete Condition 63 asserting that it is not acceptable to the developer and the proposed culverts in the flora and fauna assessment were found to be suitable. In addition, despite the additional cost associated with bridges, the applicant asserts "...construction of bridges within Precinct 6 would not remove the culverts that are to be constructed across the same fauna corridor at the Cobaki Parkway".

The applicant was advised in May 2012 that the reasoning for deletion of the condition based on cost is not supported by Council officers. The east/west corridor should remain as open as possible to provide the best fauna connection possible in the only east-west location provided on the site and to maximise the conveyance of stormwater. The inclusion of a box culvert crossing across this corridor will segment the corridor and take up dedicated open space. As such, Council objects to the proposed deletion of Condition 63.

Following an exchange of correspondence, the applicant was advised in August 2012 of an acceptable fauna crossing, incorporating three 2.4 x 1.8m culverts in addition to two smaller culverts at section H and three smaller culverts at section I as shown in Figure 1 below:

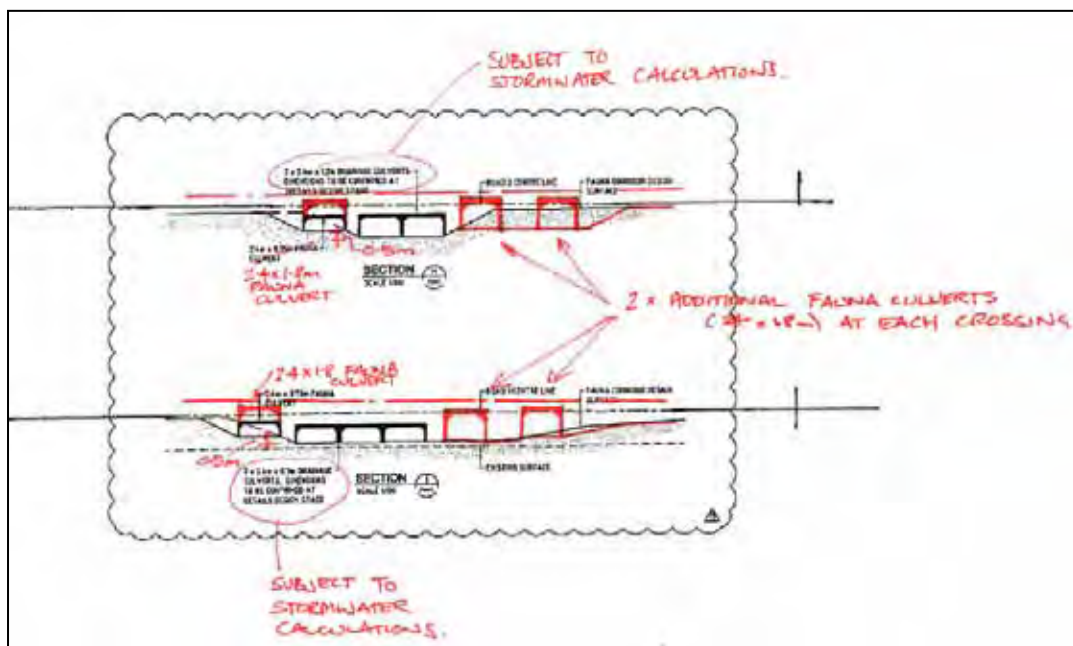


Figure 1: Applicant's fauna crossing plan with Council markup in red (August 2012).

Correspondence submitted by the applicant in September 2013 proposed a new culvert design incorporating the requested number of culverts, but reduced sizes.

The applicant was advised in December 2013 that their request to use culverts (instead of bridges), has been accepted on the basis of providing additional culverts with dimensions of 2.4m x 1.8m. The proposed reduction in height of the culverts (from 1.8m to 1.2m) is not supported.

Correspondence submitted by the applicant in January 2014 notes that the required size of culverts is excessive..."due to the fact that only one (1) 2.4m wide x 1.8m high culvert is required under the adjacent approved Cobaki Parkway South road crossing."

The applicant also notes that the higher fauna culverts will impact on the surrounding road network. As an alternative, the applicant now proposes two x 2.4m x 1.8m culverts with a link slab to create three x 2.4m wide and 1.8m high openings, with the culverts at either end having a fauna ledge to provide dry passage, as noted below in Figure 2:

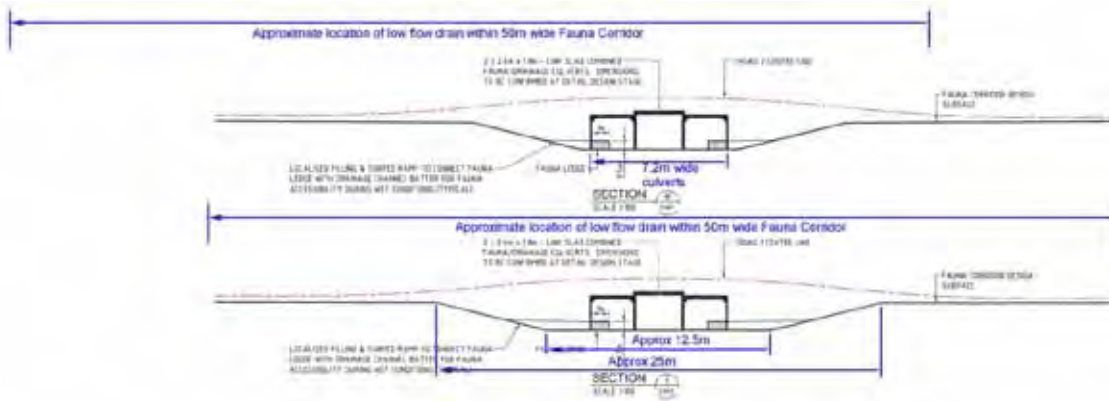


Figure 2: Applicant's fauna crossing plan submitted Jan 2014 (Part of Plan No YC0229-11E1-FC01 Revision E) with blue notation added for clarity by Council

Accordingly, the applicant now proposes to modify Condition 63 as follows:

“63A Detailed design drawings for all ~~The design of the road crossings over the nominated fauna corridor are to be provided illustrating replacement of culverts with bridges to enable a range of fauna to range through the corridor and facilitate east west connectivity for fauna across the site consistent with the concept sketches prepared by Yeats Consulting No YC0229-11E1-FC01 Revision E, dated 20 January 2014.”~~

It is not considered that any further compromise is available regarding the number of openings forming each road crossing. The use of two 2.4 x 1.8m culverts connected with a slab is acceptable, and it is suggested that this approach be used at the centre of each crossing with three 2.4 x 1.8m culverts connected with two slabs. The addition of one or two (minimum 2.4 x 1.2m) culverts at the edge of each crossing will be necessary to meet Council's requirements. The use of ledges in culverts is supported.

The justification for a reduction in available crossing opportunity based on cost, the size of fauna likely to use the crossing or the single culvert under Cobaki Parkway is not accepted. As such the proposed modification of Condition 63 is not supported. However the following amendment to Condition 63 is recommended (amendments shown in bold).

63A. Detailed design drawings for all road crossings over the nominated fauna corridor are to be ~~provided illustrating replacement of culverts with bridges~~ **provided illustrating replacement of culverts with bridges** submitted to the General Manager or his delegate for approval. Each crossing design shall incorporate three 2.4 x 1.8m culverts (or two 2.4 x 1.8m culverts connected with a slab) in the centre of the corridor and an **additional culvert (minimum 2.4 x 1.2m) on either side of the central culverts** to enable a range of fauna to cross through the corridor and facilitate east-west connectivity for fauna across the site.

Condition 65 (Primary Revegetation & Regeneration Works)

The applicant is proposing to modify Condition 65 which currently reads as follows:

65. *Primary revegetation and regeneration works for all areas indicated as representing offset for loss of Swamp Sclerophyll Forest EEC in Figure 4 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2010 must be undertaken to the satisfaction of Council prior to the loss of any Swamp Sclerophyll Forest on site. Such areas are to total at least 15.25ha as committed within MP06_0316.*

The applicant proposes to replace the word “undertaken” with the word “commenced”, to remove any ambiguity to Condition 65. As such, the applicant proposes to modify Condition 65 as referenced below:

“65A *Primary revegetation and regeneration works for all areas indicated as representing offset for loss of Swamp Sclerophyll Forest EEC in Figure 4 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates, dated October 2010 must be ~~undertaken~~ commenced to the satisfaction of Council prior to the loss of any Swamp Sclerophyll Forest on site. Such areas are to total at least 15.25ha as committed within MP06_0316.*

The applicant was advised in May 2012 that Condition 65 requires Primary revegetation and regeneration works for all areas indicated as representing offset for loss of Swamp Sclerophyll Forest EEC prior to the loss of any Swamp Sclerophyll Forest on site. The key word is “primary” revegetation or regeneration which means the first stage, i.e. for revegetation it means that planting has been completed and the area is under maintenance. For regeneration, it means the first thorough weed removal work has been completed throughout the nominated site. Such works are considered a reasonable stage to have been reached before clearing of additional habitat. Therefore, the proposed modification of Condition 65 is not supported.

The applicant confirmed in September 2013 that they accept Council’s position. As such Condition 65 remains in its current form and no further assessment is required.

Condition 73 (CEMP)

The applicant is seeking to modify Condition 73 which currently reads as follows:

73. *Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08_0200 and be submitted to and approved by the PCA no later than one month prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.*

The applicant asserts that the requirement for approval of the CEMP one month prior to commencement is an anomaly and may potentially delay commencement of works. The following modification is recommended by the applicant:

“73A *Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08_0200 and be submitted ~~to and approved~~ for approval by the PCA no later than one month prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.”*

The applicant was advised in May 2012 that the proposed modification of Condition 73 is not supported as CEMP’s generally have pre-construction recommendations. It was noted that the applicant’s request to remove the reference of “no later than one month” is supported, as

it is the responsibility of the developer to manage the project to ensure that all Prior to Commencement of Works (PCW) matters are addressed prior to the commencement of works. As such, the following modification is recommended (amendments shown in bold):

73A. *Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08_0200 and be submitted to and approved by the PCA ~~no later than one month~~ prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.*

The applicant confirmed in September 2013 that they accept the abovementioned modification of Condition 73, as proposed.

Condition 105 (Discharged Water)

The applicant is seeking to modify condition 105 which currently reads as follows:

105. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

The applicant does not consider this condition to be practical during wet weather events and proposes the following modification:

*"105A. All waters that are to be discharged from the site **during dry weather periods** shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. **Where water is to be discharged from the site** the contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request."*

As per Council's Design Specification D7 – Stormwater Quality, the control on stormwater discharge is imposed up to the Q3 month rain event.

The applicant was advised in May 2012 that the proposed modification of Condition 105 was not supported. However, the following modification (amendments shown in bold) was suggested:

*105A. All waters that are to be discharged from the site **during dry weather periods and wet weather periods up to the Q3 month rain event (as defined in Council's Design Specification D7 – Stormwater Quality)** shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. **Where water is to be discharged from the site** the contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.*

The applicant confirmed in September 2013 that they accept the abovementioned modification of Condition 100, as proposed.

Condition 117 (Dedication of Passive Parks)

The applicant is seeking to modify condition 117 which currently reads as follows:

117. The proposed passive parks are to be dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan.

*Where a developer pays Council to acquire and install play equipment, Council will **NOT** install the equipment until a minimum of 20% of the lots in that stage of the development are occupied. Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate.*

The applicant argues that for marketing purposes, it will be important that park embellishment relevant to each stage be provided up front. The applicant proposes the following replacement condition:

*"117A. The proposed passive parks are to be **progressively** dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan. ~~Where a developer pays Council to acquire and install play equipment, Council will NOT install the equipment until a minimum of 20% of the lots in that stage of the development are occupied.~~ Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate."*

The applicant's proposed modification of Condition 117 is supported.

Condition 119 (Maintenance Bond)

The applicant is seeking to amend Condition 119 which currently reads as follows:

119. Prior to the issue of a Subdivision Certificate, a maintenance bond equal to 25% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

The applicant is concerned with this condition as outlined below:

"The provision of the proposed cycleway network will be progressively constructed in accordance with the development program and will not be delayed until the construction of dwellings in that stage have been substantially completed.

The maintenance of the cycleways will be limited to material and workmanship and will not extend to damage caused by construction activities on private lots fronting the cycleway. Such damage should reasonably be the responsibility of the builder and/or owner of the adjoining lot.

Condition 80A(6)(c) of the Environmental Planning and Assessment Act 1979 (as amended) prescribes a time limit for conditions of development consent that relate to the holding of security to remedy any defects that may occur to public works, that period being 6 months. It is also considered that the amount of the bond should be equal to 5% of the value of the work. Accordingly the following modification is proposed."

The applicant proposes the following modification to Condition 119:

"119A. Prior to the issue of a Subdivision Certificate, a maintenance bond equal to 25% 5% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on 6 months.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates."

The imposition of a Defects Liability Bond in accordance with Section 80A(6)(c) is imposed under Condition 118, not 119 (or 120). Condition 118 imposes the appropriate 6 months timeframe, however it is noted that Section 80A(6)(c) doesn't reference a limit on the percentage that can be applied, however Council have already imposed the requested 5% amount.

Council's imposition of conditions equivalent to Condition 119 became a standard condition in order to resolve the damage that was occurring to concrete footpaths in new developments. Concrete footpaths were being damaged and it was extremely difficult to prove who caused the damage.

The applicant was advised in May 2012 that the condition was designed to encourage the construction of the paths after much of the house building was complete. It is not linked in any way to the standard 5% defect security bond to protect Council against faulty workmanship (i.e. Condition 118). The confusion may exist because Condition 119 contains the word "maintenance bond". To rectify this, it is suggested that as part of this s96 application, the words "maintenance bond" are replaced with "performance bond" in Condition 119A.

Under Section 80A(6)(b) Council may impose a condition (as per Condition 119) allowing the Consent Authority to enter into an agreement with the applicant, for the applicant to provide security for the payment of the cost to complete any public works. Section 80A(6)(b) does not limit to the amount or timeframe of this security, other than the security shall be of a reasonable amount, as determined by the Consent Authority.

As such, the applicant's proposed modification to Condition 119 is not supported. However, in order to remove any ambiguity between Condition 118 and Condition 119, it is recommended that Condition 119 is amended as follows:

*119A. Prior to the issue of a Subdivision Certificate, a **maintenance performance** bond equal to 25% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on.*

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

The applicant confirmed in September 2013 that they accept the abovementioned modification of Condition 119, as proposed.

Condition 120 (Landscaping Bond)

The applicant is seeking to modify Condition 120 which currently reads as follows:

120. A bond shall be lodged prior to the issue of the Subdivision Certificate to ensure that the associated landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

As per with Condition 119, the applicant indicates that Condition 80A(6)(c) of the Environmental Planning and Assessment Act 1979 (as amended) states that the holding of security to remedy any defects that may occur to public works, is limited to a period of 6 months and that the bond should be equal to 5% of the value of the work.

Accordingly the Applicant proposes to modify Condition 120 as follows:

"120A. A bond shall be lodged prior to the issue of the Subdivision Certificate to ensure that the associated landscaping is maintained by the developer for a period of ~~12~~ 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be ~~20%~~ 5% of the estimated cost of the landscaping or \$3000 whichever is the greater.

As noted in Condition 119 above, the imposition of a Defects Liability Bond in accordance with Section 80A(6)(c) is imposed under Condition 118, not 120 (or 119).

Under Section 80A(6)(b), Council may impose a condition (as per Condition 119), allowing the Consent Authority to enter into an agreement with the applicant, for the applicant to provide security for the payment of the cost to complete any public works.

Section 80A(6)(b) does not limit to the amount or timeframe of this security, other than the security shall be of a reasonable amount, as determined by the Consent Authority.

The amendment regarding maintenance period cannot be supported as Council's Development Design Specification D14 'Landscaping Public Open Space' specifies 12 months maintenance for any Landscape Works (Appendix H, Sect.7).

Note the 'maintenance period' refers to plant establishment and care, and is not related to defects as referenced in Section 80A(6)(c).

The amount of 20% is recorded in Council's 'standard condition PSC 0235'.

Similar to that with Condition 119, the confusion with Condition 120 lies within the condition's current reference of the word "maintained", possibly being interpreted by the applicant as "maintenance". To rectify this, it is suggested that as part of this s96 application, Condition 120 be amended to clarify that it does not refer to defects/maintenance (i.e. Section 80A(6)(c)) but "establishment and performance" (i.e. Section 80A(6)(b)).

The applicant was advised in May 2012 that the proposed modification to Condition 120 was not supported; however, in order to remove any ambiguity between Condition 118 and Condition 120, it is recommended that Condition 120 is amended as follows.

120A. A bond shall be lodged ~~prior to the issue of the Subdivision Certificate to ensure that the associated landscaping is maintained by the developer for a period of~~ to ensure suitable care and maintenance is provided to plantings and turf over a 12 month establishment period. This care is required to achieve optimal plant establishment and performance. The bond shall be held by Council to ensure that the associated landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate.

The amount of the bond shall be 20% of the estimated cost of the landscaping ~~or \$3000 whichever is the greater.~~

The applicant confirmed in September 2013 that they accept the abovementioned modification of Condition 120, as proposed.

Condition 121 (Cash bond / Bank Guarantee – SRRP)

The applicant is seeking to modify Condition 121 which currently reads as follows:

121. Cash Bond/Bank Guarantee

- (a) A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is implemented and completed, must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the bond will be equivalent to 100% of the estimated cost of works.*
- (b) One third of the Cash Bond or Bank Guarantee will be refunded one year after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works are being satisfactorily undertaken in accordance with the approved SRRP. A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-way stage of the SRRP. The final one third of the Bond or Bank Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.*
- (c) Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified.*

The applicant acknowledges that the regeneration areas will require a 3 year maintenance period, as per the Ecological Reports and Management Plans that accompanied the Concept Plan, however they believe that under Section 80A(3), the maintenance period should legally be limited to 6 months.

The applicant also states that the bond should relate to 'uncompleted works' only (if applicable) and 'maintenance'.

Accordingly, the applicant proposes to modify Condition 121 as follows:

"121A. Cash Bond/Bank Guarantee

- (a) A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is **implemented and completed and maintained for 3 years** must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of **environmental repair, enhancement uncompleted work (if any)** and maintenance work to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the **uncompleted work** bond will be equivalent to 100% of the estimated cost of **the uncompleted works and the maintenance work bond will be 5% of the value of the work.**
- (b) ~~One third of the Cash Bond or Bank Guarantee~~ **The uncompleted work bond will be refunded one year after the initiation of works** on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily completed in accordance with the approved SRRP. ~~A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-way stage of the SRRP. The final one third of the Bond or Bank Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.~~
- (c) ~~Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified. The maintenance bond will be refunded after 3 years and on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been maintained in accordance with the approved SRRP."~~

Condition 121 requires a cash bond or bank guarantee based on the value of restoration works, to be progressively refunded based upon success shown by monitoring reports.

The applicant states that the bond should relate to 'uncompleted works' only (if applicable) and 'maintenance' because the work is to be commenced prior to the issue of the Construction Certificate.

The condition actually reads "prior to the release of the Subdivision Certificate", i.e. after the construction is complete.

The applicant was advised in May 2012 that the proposed modification of Condition 121 was not supported. However, the following modification of Condition 121 (amendments shown in bold) was proposed:

121A. Cash Bond/Bank Guarantee

- (a) *A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is implemented and completed, must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works **remaining** to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the bond will be equivalent to 100% of the estimated cost of works.*
- (b) *One third of the Cash Bond or Bank Guarantee will be refunded one year after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works are being satisfactorily undertaken in accordance with the approved SRRP. A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-way stage of the SRRP. The final one third of the Bond or Bank Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.*
- (c) *Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified.*

The applicant confirmed in September 2013 that they accept the abovementioned modification of Condition 121, as proposed.

Condition 133 (Dedication of Drainage Reserve)

The applicant is seeking to modify Condition 133 which currently reads as follows:

133. Prior to the release of the Subdivision Certificate the proponent shall:

- (a) *Dedicate the proposed drainage reserve at no cost to Council.*
- (b) *Submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.*

The applicant proposes to modify Condition 133, to clarify staging dedication requirements, as follows:

~~*"133A. Prior to the release of the Subdivision Certificate the proponent*~~ **The Plan of Proposed Subdivision shall dedicate the proposed drainage reserve adjacent to that stage of the development at no cost to Council. The proponent shall submit an accurate plan of the proposed drainage reserve to Council 60 days**

prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.”

The applicant's proposed modification of Condition 133 is supported.

Condition 136 (Underground Telephone Supply)

The applicant is seeking to modify Condition 136 which currently reads as follows:

136. 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 associated with the Subdivision Certificate has been completed.

The applicant proposes to amend the reference for the “provision and commissioning of underground telephone supply” to be provided to the “satisfactory arrangements have been made”, believing that this is Council's standard.

As such, the applicant proposed to modify Condition 136 as follows:

“136A. The production of written evidence from the local telecommunications supply authority certifying that ~~the provision and commissioning satisfactory arrangements have been made for the provision~~ of underground telephone supply ~~at the front boundary of all allotments associated with the Subdivision Certificate has been completed for each Subdivision Certificate Application.~~”

The applicant was advised in May 2012 that the current wording of Condition 136 has been Council's standard wording since 19 August 2009 and as such, the proposed modification of Condition 136 is not supported.

Correspondence submitted by the applicant in September 2013 accepts Council's position in terms of Condition 136. As such Condition 136 remains in its current form and no further assessment is required.

Condition 148 (Embellishment of Casual Open Space)

The applicant is seeking to modify Condition 148 which currently reads as follows:

148. Embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate. Installation of playground equipment and softfall however will not occur until 20% of the relevant stage's allotments are occupied. The developer must contribute the appropriate financial contribution for these items as a bond prior to the release of the relevant Subdivision Certificate for each stage. Council will undertake the installation at the appropriate time.

For marketing purposes, the applicant intends to embellish the parks with each stage. The applicant does not propose to utilise Council to acquire and install the equipment.

As such, the following replacement condition is proposed by the applicant:

*“148A. **The staged** embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate. ~~Installation of playground equipment and softfall however will not occur until 20% of the relevant stage's allotments are occupied. The~~*

~~**developer must contribute the appropriate financial contribution for these items as a bond prior to the release of the relevant Subdivision Certificate for each stage. Council will undertake the installation at the appropriate time.**~~

The applicant was advised in May 2012 that the proposed modification of Condition 148 was not supported, with the exception of the inclusion of the word 'staged'. Council officers propose the following modification to Condition 148 (amendments shown in bold):

148A. The staged embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate.

The Developer will be responsible for maintaining the installed playground equipment and softfall for a period of 6 months after 20% of the relevant stage's allotments have been occupied. A maintenance compliance bond of 5% of the total cost of the installed playground equipment and softfall must be paid to Council prior to the release of the relevant Subdivision Certificate for each stage. The bond will be return upon request at the completion of the maintenance period, if not expended during the maintenance period.

The applicant confirmed in September 2013 that they accept the abovementioned modification of Condition 148, as proposed.

Condition 149 (Maintenance Period)

The applicant is seeking to modify Condition 149 which currently reads as follows:

149. The developer is to undertake maintenance operations on all casual and structured public open space for a minimum of 12 months after the Subdivision is registered with the Land Titles Office. Such maintenance will include all soft landscaping, particularly mowing and weed control. Any power and water consumption costs during this period must also be met by the developer.

Similar to that for Condition 48, the applicant proposes to amend this condition to replace the currently proposed 12 month maintenance period on all casual and structures public open space to "the standard" 6 months period. (The applicant references Section 80A(3) of the EP&A Act as justification).

The applicant proposed to modify Condition 149 as follows:

*"149A. The developer is to undertake maintenance operations on all casual and structured public open space for a minimum of **12 6** months after the Subdivision is registered with the Land Titles Office. Such maintenance will include all soft landscaping, particularly mowing and weed control. Any power and water consumption costs during this period must also be met by the developer."*

The applicant was advised in May 2012 that the proposed modification of Condition 149 was not supported. Council's Development Design Specification D14 'Landscaping Public Open Space' specifies 12 months maintenance for any Landscape Works (Appendix H, Sect.7). It is also noted the 'maintenance period' refers to plant establishment and care, and is not related to defects as referenced in Section 80A(6)(c).

Correspondence submitted by the applicant in September 2013 accepts Council's position in terms of Condition 149. As such Condition 149 remains in its current form and no further assessment is required.

Condition 156 (Community Centre Site)

The applicant is seeking to modify Condition 156 currently reads as follows:

156. The land designated as the community centre site is to be dedicated to Council at no cost in accordance with the Section 94 Plan No. 10 Cobaki Lakes Public Open space and Community Facilities.

The applicant notes that the community centre site is not proposed within Precincts 6. As it is located within Precinct 17 it is not subject to a lot layout or infrastructure planned for under the development consent.

As such, the applicant proposes to modify Condition 156 as follows:

"156A. The land designated as the community centre site is to be dedicated to Council at no cost in accordance with the Section 94 Plan No. 10 – Cobaki Lakes Public Open Space and Community Facilities. The land will be unserviced and will have frontage to Sandy Lane in its present state."

The applicant was advised in May 2012 that the proposed modification of Condition 156 was not supported. Although it is acknowledged that the Community Centre Site is not located within Precinct 6, it is noted that it is not located within Precinct 17 either. The approved Concept Plan indicates that the site is within the Central Open Space. Despite this, S94 No 10 – Cobaki Lakes Public Open Space and Community Facilities requires 150m² of floor area at the start of the development. This would require the site to be serviced. As a result of being inconsistent with the section 94 plan, as the proposed modification of Condition 156 is not supported.

In September 2013 the applicant responded, noting that the construction of services to the Community Centre is not economically viable unless it is associated with the creation of residential lots. The applicant proposed the following amendment to Condition 156 (amendments shown in bold):

"156A. ~~The land designated as the community centre site is to be dedicated to Council at no cost in accordance with the Section 94 Plan No. 10 – Cobaki Lakes Public Open Space and Community Facilities. Prior to the release of a Subdivision Certificate the land owner of the site of the future Cobaki Community Centre under Concept Plan Approval MP06_0316 is to enter into a Deed of Agreement with Council such that the identified land is to be provided with a constructed road frontage and all normal urban services and dedicated to Council at no cost prior to the release of a Subdivision Certificate that would allow the creation of more than 2000 residential lots within the Cobaki development.~~"

The applicant's proposed Condition 156A is not considered to be consistent with the intention of Contribution Plan 10 in that the land will not be dedicated and a 150m² Multipurpose Hall will not be constructed at the initial stages of the development.

However, as there are significant financial impediments to providing the land, the likely use of this hall will be limited, and the Hall may detract from the ultimate facility intended for this site, provision of the land at the 2000 lot stage and construction of a facility sometime after this stage is considered an appropriate strategy. As such, the applicant's proposed modification of Condition 156 is supported.

Condition 158 (Dedication of Drainage Reserve)

The applicant is seeking to modify condition 158 which currently reads as follow:

158. Lots 602, 603 and 605 adjoining the central drain are to be dedicated as drainage reserve, not environmental open space as indicated on the 'Plan of Proposed Subdivision, Precinct 6 Drainage Reserves & Parks' reference Michel Group Services 6400-218 Issue A dated 24/11/2010. In this regard additional offset for Swamp Sclerophyll Forest totalling 2936m² is to be included in the site specific Site Regeneration and Revegetation Plan.

The applicant considers that the requirement of additional off-set land is addressed in modified Condition 55A. As such, the Applicant proposes to modify Condition 158 as follows:

"158A. Lots 602, 603 and 605 adjoining the central drain are to be dedicated as drainage reserve, not environmental open space as indicated on the 'Plan of Proposed Subdivision, Precinct 6 Drainage Reserves & Parks', reference Michel Group Services 6400-218, Issue A, dated 24/11/2010. ~~In this regard additional offset for Swamp Sclerophyll Forest totalling 2936m² is to be included in the site specific Site Regeneration and Revegetation Plan.~~"

The applicant's proposed modification of Condition 158 is supported.

Considerations under Section 96 of the Environmental Planning and Assessment Act 1979:

Although the original application was determined by the Joint Regional Planning Panel (JRPP), this S96(1a) application can be determined by Council.

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

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

Likely Environmental Impact

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

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

Substantially the Same Development

The proposed modifications being recommended for approval are considered unlikely to result in any significant changes to the originally approved development, with no additional parcels of land being proposed. As such, the proposed modifications are considered to be substantially the same development as that originally approved.

Consideration of Submissions

The application did not require advertising or notification. As such, no submissions were received.

Public interest

The proposed modifications to Development Consent DA10/0801 which are being supported are considered to be acceptable in terms of public interest. The proposed modifications being supported are not considered to result in a significant negative impact upon the surrounding area, subject to the recommended conditions of consent.

OPTIONS:

1. Approve the proposed modifications, subject to the recommended conditions of consent; or
2. Refuse the proposed modifications; or
3. Approve the proposed modifications as proposed by the applicant; or
4. Approve/Refuse individual condition modifications.

Council officers recommend Option 1.

CONCLUSION:

This assessment has had regard for all of the issues raised by the applicant in terms of potential impact and acceptability of the proposal. As a result, the proposed modifications which are being supported are considered to be acceptable and it is considered that the proposal warrants approval, subject to the recommended amendments to Development Consent DA10/0801.

COUNCIL IMPLICATIONS:

a. Policy:

Policies/Controls as detailed in the body of the report.

Section 8 (Charter) of the Local Government Act 1993 states that "...to have regard to the long term and cumulative effects of it's decisions.

To bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for, and manage the assets for which it is responsible."

b. Budget/Long Term Financial Plan:

As detailed in the summary and body of the report.

c. Legal:

The applicant has identified that they reserve the right to challenge several of the conditions being proposed for modification.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

- 11 [PR-CM] Audit of Council Compliance Actions in respect of DA09/0186 (Filling of Land) and DA09/0836 (New Sports Field and Amenities), Lot 1 DP397082 No.58 Depot Road, Kings Forest (Now Known as Lot 100 DP 1192162)

SUBMITTED BY: Development Assessment

FILE REFERENCE: DA09/0186 Pt1 and DA09/0836 Pt2



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|--|
| 4 | Caring for the Environment |
| 4.1 | Protect the environment and natural beauty of the I weed |
| 4.1.3 | Manage and regulate the natural and built environments |
-

SUMMARY OF REPORT:

In mid to late 2013, Council received multiple complaints from an adjoining property owner of No. 11 Secret Lane, Kings Forest, with various claims that Council has either breached, or has not satisfactorily fulfilled the conditions of the two development consents shown below on its property, Lot 1 DP 397082, No. 58 Depot Road, Kings Forest (now known as Lot 100 DP 1192162):

- **DA09/0186 - filling of land - development consent issued by Council on 26 June 2009.**
- **DA09/0836 - sports fields and associated access road, car parking, lighting, amenities building/clubhouse and sewer rising main - development consent issued by Council on 9 September 2011.**

In an effort to ensure an impartial assessment of a Council owned facility, quotations were sought from external environmental audit firms with the following brief:

To provide an independent review of the efficacy and degree of compliance achieved by Council in respect to advancing works relating to the two above development consents, including a specific assessment of the adequacy of the response provided by Council to the complaints received to date from the owners of property No. 11 Secret Lane, Kings Forest.

In accordance with Council's Procurement Protocol, the suitably qualified firm Geolink was selected as the preferred consultant to undertake the required compliance investigation.

Geolink commenced their investigations in late 2013, including a review of all documentation relating to the two development applications for Council's new Depot Road sports field and the complaints received by Council, various site inspections, and interviews with both Council staff and the complainants.

Geolink's final audit report and commentary on Council's response to the issues of the complainants was submitted to Council on 7 February 2014, and a copy of these documents is provided as an attachment to this report.

In summary, Geolink identified that there were only a number of minor instances of "non compliance" in the Council's address of the conditions of development consent of the two DAs, and the related legislative and policy requirements.

Council staff have provided a response to these areas of "non compliance" within this report and a more detailed attachment, and identified areas of improvement for the management of the environmental performance and compliance for future works projects.

It should be also noted that the NSW Environment Protection Authority are currently investigating a complaint lodged by a member of the public in respect of the works undertaken on the Depot Road sports field site. The results of this investigation will be reported separately to Council once they become available.

RECOMMENDATION:

That in terms of the Audit of Council Compliance Actions and review of related complaints carried out on Council's behalf by Geolink in respect of DA09/0186 (filling of land) and DA09/0836 (new sports field and amenities), Lot 1 DP397082, No.58 Depot Road, Kings Forest (now known as Lot 100 DP 1192162), Council endorses the following:

- 1. The report be received and noted; and**
- 2. Council's General Manager writes to the owners of No. 11 Secret Lane Kings Forest, providing a copy of this Council report and related attachments.**

SITE DIAGRAM:



Locality Plan
 Lot 100 DP1192162
 No.58 Depot Road, Kings Forest

<p><small>Disclaimer: Shire Council is not liable for errors or omissions in this data. Council does not warrant the accuracy of boundaries or other information shown on this map. Council is not responsible for any loss or damage arising from the use of this map. Council is not responsible for any loss or damage arising from the use of this map. Council is not responsible for any loss or damage arising from the use of this map.</small></p>	<p>Created: 07/03/2014 © Land and Property Information (LPI) & Tweed Shire Council Boundaries shown should be considered approximate only.</p> <p>GDA 100,000 24 Footings 1:100,000 24 Footings 1:100,000</p>	<p>Civic and Cultural Centre 3 Tunbridge Road Murwillumbah NSW 2484 40 Box 918 Murwillumbah NSW 2484 T (02) 6675 2489 (02) 282 8722 F (02) 6675 2478 W www.tweedshire.gov.au E council@tweedshire.gov.au</p> 
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REPORT:

BACKGROUND

In mid to late 2013, Council has received multiple complaints from an adjoining property owner of No. 11 Secret Lane, Kings Forest, with various claims that Council has either breached, or has not satisfactorily fulfilled the conditions of the two development consents shown below on its property, Lot 1 DP 397082, No. 58 Depot Road, Kings Forest (now known as Lot 100 DP 1192162):

- **DA09/0186 - filling of land - development consent issued by Council on 26 June 2009.**
- **DA09/0836 - sports fields and associated access road, car parking, lighting, amenities building/clubhouse and sewer rising main - development consent issued by Council on 9 September 2011.**

In an effort to ensure an impartial assessment of a Council owned facility, quotations were sought from external environmental audit firms with the following brief:

To provide an independent review of the efficacy and degree of compliance achieved by Council in respect to advancing works relating to the two above development consents, including a specific assessment of the adequacy of the response provided by Council to the complaints received to date from the owners of property No. 11 Secret Lane, Kings Forest.

In accordance with Council's Procurement Protocol, the suitably qualified firm Geolink was selected as the preferred consultant to undertake the required compliance investigation.

Geolink commenced their investigations in late 2013, including a review of all documentation relating to the two development applications for Council's new Depot Road sports field and the complaints received by Council, various site inspections, and interviews with both Council staff and the complainants.

Geolink's final audit report and commentary on Council's response to the issues of the complainants was submitted to Council on 7 February 2014, and a copy of these documents is provided as an attachment to this report.

Council's Design Unit have also prepared a detailed response to the Geolink audit and review of Council's response to the concerns raised by the owners of No. 11 Secret Lane. A copy of this response is also provided as an attachment to this report.

A summary of this response is provided below:

"Overview of the Compliance Audit

Background to the Depot Road sports fields development

In 2009, Council sought development consent to commence filling of land at Lot 1 DP 397082 Depot Road. The site has been identified by Tweed Shire Council's Engineering and Operations Division as fulfilling the requirements for future active open space (sports fields) to satisfy the requirements of existing and emerging communities in the area. Section 94 contributions have been collected for this purpose. A preliminary amount of fill was proposed (50,000m³) which aimed to fill undulations in the existing clay cap (the site was a former landfill). At that time, it was decided that the proposed sports fields would be the subject of a separate application once further detailed design of supporting facilities had been completed and funding secured. Infrequent filling commenced over a period of about 2 years from 2009 until 2011 when the subsequent DA for sports fields and associated infrastructure was approved. The sports fields DA included design plans with final levels. A construction certificate was lodged and approved which allowed for earthworks to commence. A second

Construction Certificate is yet to be lodged for buildings and other infrastructure. In regards to filling, the site is at or approaching final levels. Vegetation has largely established across the site and will be maintained (slashed) regularly until construction of the finished playing surface is undertaken at which time it will be maintained as a sports field.

Scope of the compliance audit

During the latter part of 2013, Council received multiple complaints from an adjoining property owner of No. 11 Secret Lane, Kings Forest, claiming that Council had either breached, or not satisfactorily fulfilled the conditions of the two development consents relating to development of sports fields on its property, Lot 1 DP 397082, No. 58 Depot Road, Kings Forest. The Development Consents are listed as follows:

DA09/0186 - filling of land - development consent issued by Council on 26 June 2009.

DA09/0836 - sports fields and associated access road, car parking, lighting, amenities building/clubhouse and sewer rising main - development consent issued by Council on 9 September 2011.

As a consequence, Council sought a quotation of services to:

- § provide an independent audit and review of the efficacy and degree of compliance with consent conditions achieved by Council in respect to advancing works relating to the two above development consents, and
- § further to this, include a specific assessment of the adequacy of the response provided by Council to the complaints received to date from the owners of property No. 11 Secret Lane, Kings Forest.

Audit conclusions

The Auditors report includes initial general comments, observations relating to specific development consent conditions, and then a tabulated assessment of each consent condition in regards to compliance or non conformance. This approach has been taken for both DA09/0186 and DA09/0836.

In regards to DA09/0186, there were no non-conformances. Although the Audit highlights a lack of clarity relating to the specifics of the two approvals, particularly in relation to the amount of fill approved, the audit clearly states that “the sportsfield approval (DA09/0836) clearly authorises filling across the site up to the design levels shown on the approved plans. There is therefore no question or issue of non-conformance here”. The Audit raises a number of observations relating to documentation of fill sources and reporting associated with erosion and sediment control (ESC). As noted, however, no non-conformances were identified.

In regards to DA09/0836, there was one (1) non-conformance against Condition 18 relating to aspects of how an Erosion and Sediment Control Plan (ESCP) is developed and implemented. Specifically, the ESCP did not include procedures for:

- § responding to failures in controls,
- § reporting procedures,
- § procedures for attending to unfinished fill areas left unattended for more than 20 days, and
- § documentation of stormwater monitoring.

Despite the non-conformance, the Auditor notes that “there is no evidence that any significant erosion or sedimentation issues arose during the works”. Although the ESCP did not specifically explain ESC inspection reporting and remediation of controls, ESC audits were undertaken and documentation provided to the auditor for three of these inspections.

Assessment of responses to issues raised by adjoining landowners

The audit also provided comments on adjoining land owner issues. In some instances, further clarification has been provided by the Auditor and Council.

Actions arising from the Audit

The construction of the Depot Road sports fields is currently nearing completion of the earthworks stage. As noted, the Audit identified a minor non-compliance in relation to Condition 18 of DA09/0836 relating to aspects of the detailed ESCP and its implementation. To address this, the following actions are identified.

ESCP revision

The ESCP is being updated to include:

- 1. An event based water quality monitoring program to monitor background and site water discharging to the south west of the site, and*
- 2. Reporting procedures and a proposed response to failure of systems and non-compliance with discharge quality standards.*

A detailed response to general comments, observations and non-conformances contained within the Audit report is provided in Attachment A. Attachment B contains further responses to landowner issues and a full copy of the Audit report is provided in Attachment C."

Other Compliance Investigations being undertaken by the EPA

On the 19 July, 2013, the NSW Environment Protection Authority (EPA) undertook a site inspection at Lot 1 DP 397082, Depot Road Kings Forest in respect of works that were being conducted by Tweed Shire Council (i.e. earthworks for the Depot Road sports fields). The site inspection was in response to an Environment Line report logged on the 3 July 2013. The inspection noted filling and stockpiling activities, along with stockpiles of unsuitable materials (eg. building waste), mulch stockpiles, an area that had been used for treatment of acid sulfate soils, and sediment and erosion control structures at the site. Council were subsequently notified on the 8 August 2013 that the EPA are investigating the matter with regard to alleged breaches of the *Protection of the Environment Operations Act (POEO Act)* and issued a notice to provide information and records relating to materials that have been taken, stored, applied and possibly processed at the site.

Council subsequently provided information on the 9 September 2013 to the EPA including documentation relating to project applications and consents, information on fill sources and quantities, acid sulfate soil validation results, contaminated land assessments, and erosion and sediment control inspection reports. The EPA is currently reviewing this information.

The investigation by the EPA highlighted a number of complexities of the current POEO regulatory framework as it applies to normal local government operations in NSW. Consequently, Council's Engineering Division has been actively reviewing and updating procedures associated with a range of council operations to ensure compliance with the legislation. This also included a meeting with the EPA on the 4 February 2014 to discuss a range of issues relating to the reuse of excavated road material and low grade acid sulfate soils, and licence requirements for waste storage. Much of this material would otherwise be destined for landfill. A Council waste soil working group has been established and is working with the EPA to develop amongst other things; a proposed risk based assessment for classification of Excavated Natural Material, the subsequent reuse of this material outside of road reserve, and the reuse of excess low grade acid sulfate soils for council operations. Such approaches could in-turn provide sustainable outcomes for a host of other councils in NSW.

OPTIONS:

Option 1

That Council:

1. **The report be received and noted; and**
2. **Council's General Manager writes to the owners of No. 11 Secret Lane Kings Forest, providing a copy of this Council report and related attachments.**

Option 2

That Council considers alternative action arising from the actions taken by Council officers.

The Council officers recommend Option 1.

CONCLUSION:

Council has responded to a number of complaints raised by the owners of No. 11 Secret Lane Kings Forest through engaging the firm Geolink to conduct an audit of Council's compliance with relevant conditions of development consent associated with the advancement of works for a new sports field at Depot Road Kings Forest. The Geolink audit and response from Council officers has identified that there were only a number of instances of non-compliance for which Council will seek to update its procedures in the remaining stages of the sports field project.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Possible legal actions arising out of any Council compliance or enforcement action.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Copy of final report and commentary prepared by Geolink relating to the audit of compliance with conditions of consent for DA09/0186 (filling of land) and DA09/0836 (new sports field and amenities), Lot 1 DP397082, No.58 Depot Road, Kings Forest (ECM 3308226)
- Attachment 2. Copy of comment on issues raised by adjoining landowners prepared by Geolink (ECM 3308234)
- Attachment 3. Detailed Response to Geolink audit by Council's Design Unit (ECM 3309168)
-

REPORTS FROM THE ACTING DIRECTOR COMMUNITY AND NATURAL RESOURCES

12 [CNR-CM] Bruce Chick Conservation Park

SUBMITTED BY: Recreation Services

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.6	Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

SUMMARY OF REPORT:

At its meeting held 17 October 2013 Council resolved to invite submissions from the community on options for the future management of Bruce Chick Park.

A summary of submission received and discussion of opportunities and constraints of various options is presented in this report.

Through the submission period, the potential for Bruce Chick Conservation Park as an alternative location to provide for farmers market was raised and is also explored in this report.

RECOMMENDATION:

That Council further investigates the feasibility of developing Bruce Chick Conservation Park into a venue to house farmers markets.

REPORT:

At its meeting held 17 October 2013 Council considered a report on the history and management issues associated with the Bruce Chick Conservation Park (BCCP). The report included analysis of five options with Council resolving invite submissions on the report and options.

The four options presented were:

1. Retain all existing uses and activities at the Park.
2. Upgrade existing shelter and remove toilet facility
3. Remove all facilities and activities from the Park
4. Remove existing structure and toilets but retain casual and low key recreational use of the Park:
 - (a) Utilise the site of existing facilities:
 - (b) Relocate facilities to park entrance

At the close of comment 115 submissions were received and whilst many submissions were not clear in what their preferred option was, the submissions are summarised below:

- 100 submissions were in support of the retention of the park for overnight use. These submissions appear largely to be from caravaners as a consequence of some form of notification. These submissions may be summarised as follows:
 - Free sites are enjoyed by retirees with limited income and therefore they rely heavily on sites such as Bruce Chick Conservation Park. Councils generally are reducing the opportunities for camping at such sites
 - Not all travellers require toilet facilities.
 - The availability of free sites adds to road safety.
 - If there are problems of people staying longer than overnight or abusing the facilities then there should be surveillance by rangers.
 - There is a need for toilets by the general travelling public.
 - Council should go for grants to fund the maintenance/upgrades.
 - The availability of free camping provides valuable income to a community.
 - There is a need for public dump points.
 - Many are prepared to make a 'gold coin donation' for staying at the Park.
 - Caravaners would go elsewhere and 'tell their friends' about Tweed Shire Council.
- Four submissions supported options 4(a) and 4(b), on the grounds that
 - Maintains site as intended
 - Doesn't impinge on commercial sites – where users contribute to local economy
 - Discourage illegal camping; dumping
 - Current use is illegal and alienates general public from enjoying the park

- Need to enforce regulations
- One submission supported option 3 on the grounds that:
 - No approval for camping – Local Government Act (Caravan Parks and Moveable dwellings)
 - Council should support local caravan industry – employment, income
 - Heavy investment required by ratepayers
 - Camping never in original plans

A few submissions did not specifically comment on any of the nominated options. They nevertheless made very specific comments concerning:

- The run-down nature of the park and the need to upgrade the Park (4 submissions)
- The importance of the legacy of Bruce Chick
- Support for day use only (1 submission)

Farmers Market

Through the submission period, the option of utilising the park for a farmers market was also raised. In order for the site to be considered as a viable site for farmers markets a number of improvements and upgrades would be required:

- The toilet facility would need to be upgraded to address issues of hygiene and odour if food is to be displayed and sold at the site.
- Site access would need to be improved and potentially new hard stand surfaces constructed to cater for market stands in a location highly viable from the highway and easily accessed.
- The shelter will require works to improve the aesthetics and comply with current access standards.
- Development approval would be required.

The advantages of this location for a farmers market include:

- Safe access/egress and parking
- Water and toilets (require upgrade)
- Potential use of shelter for all weather markets
- High profile site
- Higher use level assist manage site
- Overnight stays may provide custom (if allowed)

The disadvantages of this location for a farmers market include:

- Need to manage conflict with overnight or extended campers
- Mosquitoes
- Require significant capital outlay to bring to address the issues highlighted above.

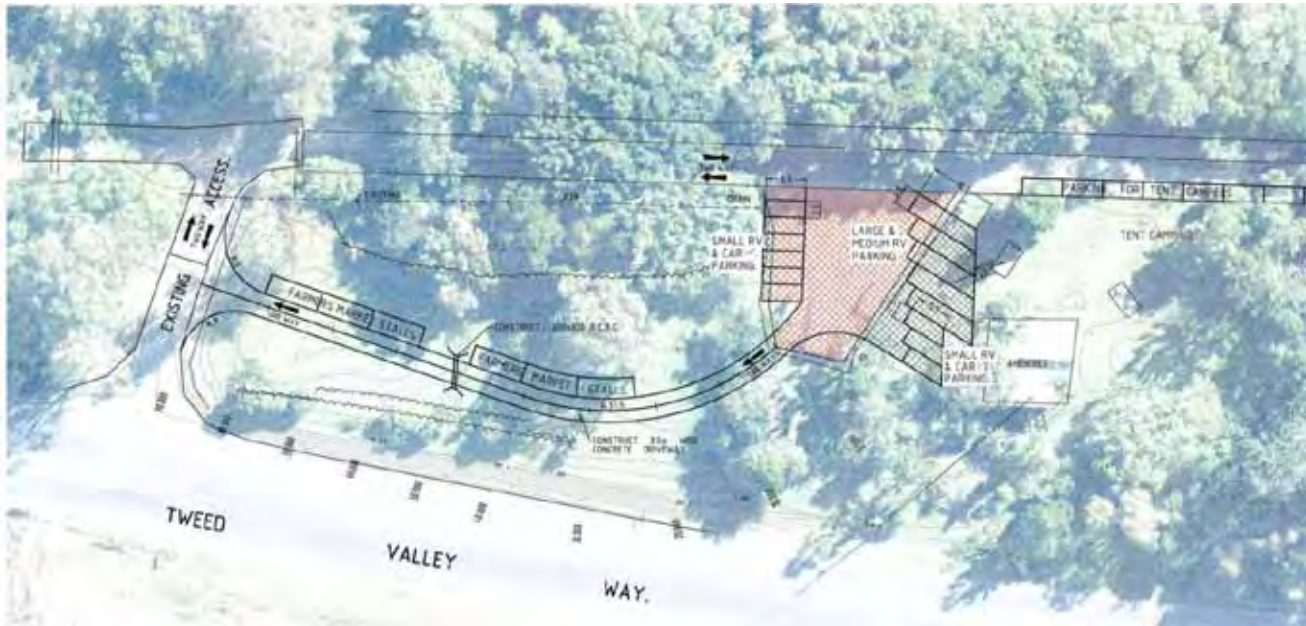


Figure 1. Potential option for provision of road infrastructure to accommodate farmers market and overnight camping

Infrastructure:

Toilets:

The park has a high ground water table, and low permeability Acid Sulfate Soils. As a consequence the existing toilets are grossly inadequate.

A wet compost toilet system was originally installed circa 2000 in the shelter shed at the park. The toilets have failed to function adequately due to contamination from foreign matter, general garbage waste and chemical additives (recreational vehicles (RV's)/ caravan chemical toilet waste). This system was subsequently decommissioned and the primary collection chamber utilised as a pump out system. The integrity of the collection well is unknown which may have become compromised resulting in leaching of sewage into ground waters. No evidence of leaching has been established, however anecdotal reports indicate the volume of liquid waste collected appears to be less than the expected volume generated by activity at the site.

Compost Toilet:

Compost Toilet systems at roadside rest stop facilities are generally problematic and fail due to the variable behaviour of persons who use the facilities. Evidence from other such facilities is that collection wells are used as dump points for all manner of foreign matter and chemical contaminants. Once the compost toilets malfunction, foul odour and unhygienic conditions result in travellers using surrounding bushland for ablution and urination rather than the toilet. There is evidence of campers using the bushland areas at Stott's rather than the existing toilet (toilet paper and faeces behind bushes and trees).

Pump-out Facilities:

Council has traditionally not accepted the use of pump out systems as a permanent effluent disposal method. Pump out systems have only been approved in exceptional circumstances and in locations where reticulated sewer is proposed in the near future. The decision to install such a system would place at risk the current position.

Pump out systems are not sustainable and are often the worst performing on-site systems due to misuse and poor practises (Sydney Catchment Authority "Designing and Installing

On-site Wastewater Systems 2012"). The issues associated with pump out systems include:

- High annual financial cost of pump outs. Currently Solo Waste charge \$410 per 10,000L tanker.
- Concerns of site accessibility for tanker during times of flood.
- Any system will need to be designed to be flood protected to prevent the infiltration of floodwaters including requirements for protection of electrical components.
- Desludging and waste removal of foreign objects has proven to be a difficult process. Large foreign waste objects cause blockages within the pumps and lines for both the waste trucks and at the Council sewage treatment facility. This has resulted in Council no longer able to accept septage as current screening mechanisms cannot adequately remove materials thereby placing the operation of the plant at risk (photos attached).
- Access by vermin to the tank.
- Generation of foul and offensive odours.

Advice from Council's Coordinator of Environmental Health is that in view of the nature of the ground, any up-graded toilets must be connected to a Treatment Plant, which would require:

- a rising main connection to Tumbulgum (the nearest Plant)
- pump station(s) because of the length of the line; and
- some form of preliminary treatment at the Park because of the limited amount of liquid material and the danger of septicity.

Preliminary estimates for a connection to the Tumbulgum Wastewater Treatment Plant (WWTP) have been prepared by Council's Strategic and Assets Engineer. The preliminary estimate for the capital cost is \$570,000 and a total annual operating and maintenance budget of \$8,000.

These estimates

- Assume that the abuse of the existing toilets would be likely to persist and therefore include extraordinary maintenance but it is difficult to know just what should be allowed to keep the system running. Chemical toilet waste from RVs could also destroy the pre-treatment process; and
- Are based on a desktop assessment with no survey, site investigation or detailed design work and therefore have a high degree of uncertainty.

Nevertheless, whatever detailed assessment is undertaken, the principal cost will always remain the lengthy distance from the site to the nearest connection point which is the Tumbulgum WWTP. There are a number of other services in the road reserve which could also increase the difficulty and cost.

In addition to these costs, S64 sewer charges and sewer rates are likely to be applied.



Nappies, metal lids, plastics, syringes, condoms



Cans, plastic and glass bottles, packaging



Pipes, footballs, plastics, cockroaches





Shoes, pipes, wood off cuts, bottles





Plastics causing blockages in pipe work

Shelter Shed

Although the shed is generally in sound structural condition, a number of elements of the building require attention:

1. Those concerning the toilets have already been detailed.
2. The shed does not comply with disability access requirements. The cost to rectify critical defects is approximately \$60,000 (includes refit of toilet to comply with current access standards).
3. The railings around the upper level facility require attention.
4. The shelters general appearance is poor and would require some restoration works to improve the appearance if it were to be considered for use as part of a farmers market.

Road Connection - Stalls Area

Being located alongside the Tweed River, the park experiences significant flooding. Consequently, the internal gravel access track and car park are regularly washed out leaving large pot holes which require regular maintenance. The increasing volume of campers, recreational vehicles and caravans exacerbates these problems.

Figure 1 illustrates an option to potentially formalise the existing access and car park area, plus provide a connecting access to the entry road forming a circuit. This would cater for market stalls to be located on the newly created circuit connection with good visibility and easy access.

The budget estimate for these works is \$210,000.

Camping

The NSW planning and local government legislation both have a role in the regulation of camping compliance.

Under *State Environmental Planning Policy No 21 – Caravan Parks* (SEPP 21), the use of land within a local government area for a caravan park or camping ground may, unless prohibited by another plan, be carried out only with the development consent of the council.

In addition, operating a caravan park or camping ground is an activity requiring council approval under Section 68 of the *Local Government Act 1993* (LG Act) unless excepted by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (LG Regulation 2005), other legislation or a local approvals policy.

If Council were to consider allowing camping at the BCCP, approval would be considered under Section 132 of the LG Regulation 2005 which refers to "Primitive camping grounds":

132 Primitive camping grounds

- (1) *If an approval to operate a primitive camping ground designates one or more camp sites within that ground, then the maximum number of designated camp sites is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground).*
- (2) *The following conditions apply to a primitive camping ground:*
 - (a) *if the approval to operate the primitive camping ground designates one or more camp sites within that ground—camping is not permitted within the primitive camping ground other than on those designated camp sites,*
 - (b) *if the approval to operate the primitive camping ground does not designate one or more camp sites within that ground—the maximum number of caravans, campervans and tents permitted to use the camping ground at any one time is not to exceed a mean average of 2 for each hectare of the camping ground (where that figure is the average calculated over the total area of the primitive camping ground),*
 - (c) *a caravan, annexe or campervan must not be allowed to be installed closer than 6 metres to any other caravan, annexe, campervan or tent,*
 - (d) *a tent must not be allowed to be installed closer than 6 metres to any caravan, annexe or campervan or closer than 3 metres to any other tent,*
 - (e) *the camping ground must be provided with a water supply, toilet and refuse disposal facilities as specified in the approval for the camping ground,*
 - (f) *unoccupied caravans, campervans and tents are not to be allowed to remain in the camping ground for more than 24 hours,*
 - (g) *if a fee is charged for camping, a register must be kept that contains entries concerning the same matters as are specified in clause 122 and, in addition, that specifies the size of the group (if any) with whom the person listed in the register camped,*
 - (h) *such fire fighting facilities as may be specified in the approval are to be provided at the primitive camping ground.*
- (3) *If the approval to operate a primitive camping site does not designate camp sites, a council may impose as a condition of the approval that the installation of tents,*

caravans, campervans and annexes is not permitted on a particular area or areas of land within the primitive camping ground, for reasons of health or safety or to ensure consistency with the principles of ecologically sustainable development or for any other purpose.

- (4) *The provisions of Subdivisions 1–8 do not apply to a primitive camping ground.*
- (5) *For the purposes of subclause (2) (b), in the calculation of the number of tents using a camping ground, 2 or more tents occupied by not more than 12 persons camping together as a group are to be counted as only one tent*

Overnight Stays:

BCCP is a part of the road reserve of the former Pacific Highway. The NSW Department of Planning circular "Illegal Camping" (2010) states with respect to *Roadside Rest Areas*;

Camping in a roadside rest area may be permitted, unless a 'no camping' or 'no overnight stays' sign has been placed there by a council or the Roads and Traffic Authority (RTA)(or other relevant authority).

Discussion

Should Council wish to allow the continued use of BCCP and limit this use to overnight stays, it is able to do so without the requirement for further approvals by confirming the status of the park as a roadside rest area and sign posting the restrictions accordingly.

Should Council wish to allow the use of BCCP for multiple nights stays it would be recommended that approval is sought to operate a primitive camping ground under the Section 132 of the LG Regulation 2005.

Allowing camping or overnight stays will require increased compliance if it to operate effectively and Council will also need to consider liabilities that may arise such as the ability to communicate disaster information. Should it be intended to allow the ongoing use of the area for overnight/short term stays Council will need to consider a communication plan provision of updates and evacuation information, particularly during flood events.

Should Council wish to prohibit any form of camping or overnight stays at the BCCP it can do so by installation of appropriate signage.

OPTIONS:

1. Note the feedback and take no action.
2. Determine a preferred option from those presented through the exhibition period and implement as funding allows.
3. Further investigate the opportunities for developing the site as a farmers market.

CONCLUSION:

The major decisions for Council for the future management of BCCP are:

- whether or not to allow overnight camping or extended stays;
- whether to further pursue the potential as the site for a farmers market.

Determining the two questions above will then provide some direction as to what infrastructure will remain in the park and how the park will be managed.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The cost for implementing any of the options has not been identified in Council's long term financial plan.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult-We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

13 [CNR-CM] Management of Illegal Camping

SUBMITTED BY: Design

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.3 Delivering the objectives of this plan
 - 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
-

SUMMARY OF REPORT:

Illegal camping, that is, camping in places without approval, or where signage prohibiting camping is displayed, is an activity that is increasing on the Tweed coast. Council Rangers have difficulty in enforcing the existing signage due to ambiguity in the wording on the existing signs.

Peak holidays, such as school holidays and public holidays attract the highest number of incidents of illegal camping and generate complaints in response.

Improved signage could be installed in identified "hot spots" to assist Rangers with enforcement of camping in non-designated areas within the Shire.

RECOMMENDATION:

That:

1. Council defines the activity of "camping" for the purposes of the regulation of the activity "Camping in public streets and reserves" as:
"Where any place is used as recreation, or an outing or vacation the use of that place by a person or persons lodged in a tent or any temporary structure or other means of shelter or accommodation."
 2. Signage be installed at the entrances of Cudgen Foreshore Park, Faulks Park and Jack Bayliss Park with the following information:
"No Camping at any time on Council Reserve, Park, Carpark or Foreshore. Fines Apply Maximum Penalty \$1,100, on the spot Penalty \$110."
 3. A report be brought back to Council in six months evaluating the effectiveness of the proposed signage in (2) above.
-

REPORT:

Camping in areas not designed for that purpose can lead to disturbance to adjoining land users, especially if adjacent to residential areas. This disturbance may be associated with noise, scattering of rubbish, inadequate toilet facilities, provision of grey water disposal or visual pollution caused by the display of washing. Camping in those areas also subjects commercial businesses running approved caravan parks and camping grounds to unfair competition and also places an increasing regulatory burden on Council's Rangers.

Illegal camping, that is, camping in places without approval, or where signage prohibiting camping is displayed, is an activity that is increasing on the Tweed coast and Council receives approximately 100 complaints each year. Peak holidays, such as school holidays and public holidays attract the most incidents of illegal camping and generates complaints in response.

Where signage has been placed under section 632 of the *Local Government Act 1993* and the offender can be identified, a penalty notice/fine can be issued. Generally the signage used in the Tweed Shire refers to "Camping and staying overnight" as shown in Figures 1 and 2.



Figure 1: Sign installed on Wooyung Road south of Pottsville.



Figure 2: Sign installed on Flagstaff Hill, on Crown Land managed by Council.

Section 632 of the *Local Government Act* provides Council with the authority to erect signs in public places prohibiting amongst other things "the doing of anything in the place", a failure to comply with a sign attracts an on the spot penalty of \$110. The maximum penalty that a court may impose is \$1,100.

Whilst Council can regulate camping in public places through this section, s632(2A)(b) also provides that Council cannot "prohibit or regulate the taking of a vehicle into, or the driving, parking or use of any vehicle in, any public place that is a road or road related area within the meaning of section 4 (1) of the *Road Transport Act 2013*. The *Roads Act 1993* enables Council to regulate traffic through parking and other regulatory signage; however this does not extend to camping activities.

In 2013, in *DPP v Priestley [2013] NSWSC 407*, the Supreme Court heard a case relating to a person being charged for staying overnight in Martin Place, where a sign was placed (pursuant to section 632 of the *Local Government Act 1993*) prohibiting a list of activities, including "*no camping or staying overnight*".

The definition "*staying overnight*" was a pivotal point in the case. The issue with these words is that the case related to a homeless person sleeping in Martin Place. The Supreme Court viewed the term "staying overnight" as too broad, where it discussed the construction of the term in its ordinary meaning and established that because it was shown by video surveillance cameras that the homeless man wandered in and out of Martin Place during the course of the evenings he was charged, it was successfully argued that the arrest was unlawful given the fact that the defendant did not stay in Martin Place continuously overnight. In light of the uncertainty of the application of the term "staying overnight" the summons against the defendant was released.

Therefore, signage should not include reference to the term "staying overnight" for enforcement purposes.

Although not discussed in the case, the term '*camping*' could also fall within the uncertainty identified by the Court, which could have the same potential outcome of dismissal if charges were laid arising from '*camping*' in areas where it was prohibited by signage, authorised under section 632.

Byron Shire Council, in dealing with issues arising from illegal street camping, adopted a definition of camping, to clarify the term. The resolution adopted by Byron Shire Council on 22 March 2012 stated:

- "1. That Council define '*camping*', for the purposes of the regulation of the activity "*Camping in public streets and reserves*", as "*Where any place is used as recreation, or an outing or vacation the use of that place by a person or persons lodged in a tent or any temporary structure or other means of shelter or accommodation*"."

Byron Shire Council also resolved to endorse the erection of "no camping" signage in identified locations.

Signage

In light of the approach taken by Byron Shire Council, it is recommended that Council consider adoption of the term "camping" as was done by Byron. In doing so, there is a

definition upon which the enforcement of the activity can be framed around, and appropriate signage can be erected in identified hot spots.

Such hot spots have been identified as:

- Cudgen Foreshore Park
- Faulks Park
- Jack Bayliss Park

Signage should be installed in the entrances to the identified "hot spots" with the words **"No Camping at any time on Council Reserve, Park, Carpark or Foreshore. Fines Apply Maximum Penalty \$1,100, On the spot Penalty \$110."**

To further implement the prohibition, it is recommended that targeted Ranger patrols are escalated during peak holiday seasons, to occur in the early morning and evenings, to generate deterrents to the activity.

It is also recommended that Council review the outcome of these actions in six months time to ascertain its success and whether consideration should be given to extending the limiting of camping as defined in the road reserve.

Collateral Issues

As referred to earlier in the report, illegal camping raises health issues where it occurs in areas without appropriate facilities. Other Councils are experiencing illegal camping by backpackers in areas without facilities. In Byron, as noted earlier, the issue of camping on streets where no facilities are provided resulted in waste (both human and material) in the residential streets. In recent media, similar issues are being reported at Coogee. See the link below:

<http://www.dailytelegraph.com.au/newslocal/city-east/residents-want-backpackers-to-pack-up-and-leave-coogees-coastal-parks/story-fngr8h22-1226844009821>

This raises the question of the responsibility of Council to manage and protect public land so that it is safe for its users and visitors, as well as to protect its amenity.

In 2013, the Federal Court, Katzmann J in *O'Flaherty v City of Sydney* [2013] FCA 344 at par 53 to 58 discusses section 632 of the *Local Government Act* in a case of the occupation of Martin Place for political purposes.

Although contextually the case focuses on the political purpose of the occupation, Katzmann J considers (at par 54) the statutory charter to "*provide 'adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively'*" and 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'*" comprise in section 8(1) of the *Local Government Act*.

At par 55 he states:

"The Act confers responsibilities on the City to protect the environment. See the Table is the note to s23A. It would be inappropriate to take a narrow view of what is meant by environmental protection, especially in the light of the statutory charter"

At pars 57 and 58 he discusses Pt 2 of Chapter 16 of the Act, where section 632 is located and states:

"..Chapter 16 creates offences. Pt 2 is concerned with offences in public places. Its evident purpose is to protect and preserve the public amenity in the interests of the whole community....."

The focus of these provisions is on activities that may cause damage to public places or inconvenience or injury to those who go there. So is the focus of the prohibition in question. Its end or purpose is to deter, if not prevent, activities which might cause damage to Martin Place, inconvenience or injury to those who go there, or which might otherwise detract from the use of the area as a public space accessible to and enjoyed by all. In this way, the prohibition aims to protect, enhance and conserve the public amenity in the interest and for the benefit of the entire community, Those ends are consistent with the City's statutory responsibilities to provide equitable and appropriate facilities and services for the community, to ensure that they are managed efficiently and effectively, and to protect, enhance and conserve the environment of public places within its purview."

These statements from Katzmann J sets out the responsibilities of Council to take action to deter and eventually eliminate illegal camping as part of its statutory charter set down in s8(1) of the *Local Government Act*.

OPTIONS:

- 1.1 That Council defines the activity of "camping" for the purposes of the regulation of the activity "Camping in public streets and reserves" as:
"Where any place is used as recreation, or an outing or vacation the use of that place by a person or persons lodged in a tent or any temporary structure or other means of shelter or accommodation."; and
 - 1.2 That signage be installed at the entrances of Cudgen Foreshore Park, Faulks Park and Jack Bayliss Park with the following information:
"No Camping at any time on Council Reserve, Park, Carpark or Foreshore. Fines Apply Maximum Penalty \$1,100, on the spot Penalty \$110."; and
 - 1.3 A report be brought back to Council in 6 months evaluating the effectiveness of the proposed signage in (2) above; or
2. That Council takes no action.

CONCLUSION:

In light of Council's statutory obligations set out in s8(1) of the *Local Government Act*, it is recommended that Council adopt option 1 to ensure that the public places in the Tweed are protected and managed efficiently and effectively in a sustainable manner. No action may result in the degradation of such public places and have the effect of generating more illegal camping due to the lack of action. If Council adopts a definition of camping and advertises it in social and printed media, this may act as a deterrent, which will be supported by directed signage and more Ranger patrols. A review of these actions at a future date will enable Council to revisit the issue and its success over the interim period.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Potential costs for the implementation of mitigation measures are not budgeted, but any income generated from potential imposition of fines could be directed to recover such cost.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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14 [CNR-CM] NSW Public Library Funding

SUBMITTED BY: Community and Cultural Services

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
 - 2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities
-

SUMMARY OF REPORT:

NSW Public Library Associations have funded a campaign for increased state funding to local government for public libraries. There is generally a recognition that the funding level has now reached a crisis point and there is uncertainty about future funding. The evidence-based submission *Reforming Public Library Funding* submitted to the State Government by the Library Council of NSW in October 2012 (which recommended a fairer, simplified and more transparent method for the distribution of funds) has not resulted in any change to ongoing funding, despite representation from the Associations last year. Each of the Associations have tried very hard in the past to influence decisions around state funding to public libraries. Successive state governments have been under pressure to reduce budgets and public libraries have been a part of the cost-shifting debate.

RECOMMENDATION:

That Council:

1. **Provides support to the campaign mounted by the NSW Public Library Associations for increased State funding to local government for public libraries by:**
 - (a) **making representation to the local State Members in relation to the need for additional funding from the NSW State Government for the provision of public library services; and**
 - (b) **writing to the Honourable George Souris, Minister for the Arts, calling upon the Government to implement the Reforming Public Library Funding submission of the Library Council of NSW in 2012 for the reform of the funding system for NSW public libraries.**

REPORT:

The NSW public library funding situation is an historic issue that has been ignored by successive NSW governments. The funding level has now reached a crisis point. The key issues are:

- NSW receives the lowest per-capita funding for public libraries from the State Government of all states in Australia;
- State Government expenditure on public libraries has decreased as a proportion of total public library expenditure from 23% in 1980 to 7% in 2013;
- NSW Local Government councils are currently paying 93% of the costs to operate public libraries in NSW (which are governed by state legislation);
- The current NSW Public Library Funding Strategy includes three components:
 - Per capita subsidy (legislated at \$1.85 per NSW resident) - \$13,503,243 in 2012-13,
 - Disability & Geographic Adjustment (DGA) - includes a component of population-based payments and a proportion of payments based on five disability factors developed by the NSW Local Government Grants Commission (pre-school children; people over 65; people from a NESB; population distribution; isolation) - \$6,551,966;
 - Library Development Grants - \$549,996 (this amount has reduced from \$3.3m in 2005-06)
- The NSW Public Library Funding Strategy is not indexed to population growth or the consumer price index (CPI). This means that:
 - Funds have been taken from the Library Development Grant pool over a number of years to meet the increased per capita subsidy costs (and the per-capita component of the Disability and Geographic Adjustment fund) as the NSW population increases each year. If the government had not provided an “additional” \$2m to maintain the Country Public Libraries fund contribution in 2013-14, there would be no funding left for Library Development Grants; and
 - If the current funding situation is not addressed urgently, NSW councils will suffer a reduction in their Disability and Geographic Adjustment payments to meet the increase in legislated per-capita subsidy costs for additional NSW population.

Action to date

During the 2011 election campaign, the current NSW State Government made a pre-election commitment to undertake a comprehensive review of the quantum and allocation of funding for NSW public libraries. To date there has been no significant action by the government to meet this commitment.

In the absence of any government action the Library Council of NSW used the government's pre-election commitment as a trigger to convene a committee of representatives from the Public Libraries NSW Association (representing regional and rural councils and libraries), the NSW Metropolitan Public Libraries Association (representing metropolitan councils and libraries), and the State Library of NSW, to develop an evidence-based submission about public library funding.

The Library Council of NSW then provided a submission to the State Government called *Reforming Public Library Funding* in October 2012. The evidence-based submission recommended a fairer, simplified and more transparent method for the distribution of funds.

The following principles for a new approach were recommended:

- Establish a base level of funding for councils with populations below 20,000 people (a safety net for small councils);
- Grant a modest increase in per capita allocations for all councils to recognise cost movements since 1994;
- Address disadvantage transparently through the application of appropriate disability factors;
- Phase out anomalies in current allocations due to former council amalgamations;
- Ensure sustainability by providing that no council receives less recurrent funding than 2012/13; and
- Build and maintain infrastructure via a substantial capital fund, entitled the Building Library Infrastructure Program.

The Library Council recommended that recurrent public library funding to councils be adjusted from the current \$26.5m to \$30m per annum from 2013/14 and indexed from the following year. This would be allocated as follows: 68% (\$20.4m in 2013/14) to councils by population with a base level of funding for councils with fewer than 20,000 residents, 17% (\$5.1m) to councils by NSW Local Government Grants Commission (LGGC) disability factors to explicitly address disadvantage and 15% (\$4.5m) applied to Statewide Programs.

In addition, a *Building Library Infrastructure Program* of \$30m per annum for building and maintaining infrastructure was recommended to replace the now defunct provision of grants from operating funds. This program would enable councils to renew library buildings, systems, collections and equipment in regional, urban and growth areas. It was proposed that this be phased in, rising to \$30m over the 4 years from 2013/14 and indexed thereafter.

Many NSW councils wrote to Honourable George Souris, Minister for the Arts during 2012, urging the State Government to adopt *the Reforming Public Library Funding* strategy. Despite a high level of expectation that the State Government would fulfil its pre-election undertaking to review and increase its funding allocation to NSW public libraries, this did not eventuate in the 2013 state budget.

Campaign

The NSW Public Library Associations (NSWPLA), representing country and metropolitan libraries, are now co-ordinating a targeted campaign to bring the situation to the attention of politicians and funding decision makers to address the problem.

Local Government NSW (LGNSW) and the Australian Library and Information Association (ALIA) are assisting NSWPLA in this campaign and information will be provided to councils and public libraries on an ongoing basis from these bodies throughout the campaign. In addition, local supporters of public libraries including Friends of the Library groups and library users will be engaged in the campaign to lobby State Members.

Given that 44% of the state's population are library users, it is anticipated that there will be strong support for the campaign in the community. Research also highlights the high value placed on public libraries by users and non-users alike. There will be high level media engagement and local and national champions of public libraries will be advocating for funding reform.

OPTIONS:

1. That Council provides support to the campaign mounted by the NSW Public Library Associations for increased State funding to local government for public libraries.
2. That Council does not provide support to the campaign mounted by the NSW Public Library Associations for increased State funding to local government for public libraries.

CONCLUSION:

There is currently a high degree of uncertainty as to the level of ongoing funding for public libraries in NSW from the State Government. The intent of the NSW Library Act in 1939 was for equal funding from state and local governments to provide library services. Since that time local government has increasingly carried the funding burden and the situation has deteriorated significantly over the past few decades. Without urgent action from local government and NSW Public Library Associations, this situation will continue and local councils will once again be forced to pick up the funding shortfall.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Nil.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

15 [CNR-CM] Murwillumbah Library Alterations

SUBMITTED BY: Community and Cultural Services

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
 - 2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities
-

SUMMARY OF REPORT:

This report identifies the need to address the public safety risk inherent in retaining the fish pond/water feature adjacent to Murwillumbah Library. A proposal to use landscaping to remove this risk and at the same time create a civic centre forecourt area and improved street presence for the library has been developed and estimated to cost approximately \$73,000.

RECOMMENDATION:

That:

- 1. Council endorses removing the pond fronting the Murwillumbah Library and the Civic and Cultural Centre and landscaping the area in accord with the design presented within the report.**
- 2. The pond on the western side of the access ramp to the Murwillumbah Civic and Cultural Centre be retained.**

REPORT:

The fish pond/water feature adjacent to Murwillumbah Library has been identified as a safety hazard as well as potentially causing damage to the building infrastructure due to rising damp.

To address these issues, there was an initial proposal in mid 2009 to replace the ponds with landscaping as well as increase the library floor space by about 290 square metres to include more flexible community space for talks, meetings and activities as well as accessible toilets and achieve an overall better layout for service delivery. While these works would partially redress the shortfall of library area and services (as per the NSW State Library standards and guidelines) as well as resolve the safety concerns, there was no funding within Council's budget for the project at that time.

Subsequently, a modified proposal (as per Figure 1) to remove the water hazard concomitant with creating a civic centre forecourt area was prepared by Council's Landscape Architect. Through consultation with library staff, the area between the library and the Autumns Club has been designed as an "outdoor classroom" for use by the library in delivery programs to children. This proposal was first presented to the Executive Management Team (EMT) in August 2012 and resulted in an EMT decision for "a risk assessment of the pond area . . . to validate the advice received from Lismore City Council's Health and Safety Committee" following a reported incident of a child falling into the pond.

The assessment identified two main risks associated with the pond area:

- Injury
- Damage to building infrastructure

Furthermore, the assessment report stated:

Injury or death (in an extreme case) may result due to a trip, slip or fall into the pond area. This type of incident could lead to the following types of impacts on the organisation:

- *Public Safety*
- *Workplace Health and Safety (WHS)*
- *Financial*
- *Reputational*

Given that the majority of the pond area is adjacent to a public pathway and that there have been incidents in the past where people have fallen into the pond it is very likely that there will be future incidents. Insurance (public liability and workers compensation) is an effective control for limiting the financial consequences associated with this risk. In regards to the public safety, WHS and reputational risk consequences, the area has lighting at night and a small section of the pond area has a barrier to prevent access to pond.[sic] These controls have limited effectiveness. Of the two groups at risk, members of the public are more likely to fall into the pond based on past history, the demographics of this group includes children and the elderly, and they are less likely to be familiar with the surroundings.

In regards to the building infrastructure risk, the report noted that the Assets and Essential Services Officer indicated that the pond required maintenance to prevent further

deterioration of the shell and possible damage to the library building. At that time, remediation was conservatively estimated at \$10,000. Neither the landscaping proposal (costed at \$64,000 at that time) nor the renovation of the pond proceeded. The risks as identified in this report are included in the Corporate Risk Register.

The proposed landscaping and forecourt design identifies the library as an important asset for the community; a public place where people can meet as well as provide the library with some street appeal. It is recognised that this is an area of high pedestrian traffic for children and the elderly. Most recent estimates (as per Figure 2) for the project are \$72,959.

OPTIONS:

1. Should the landscaping proposal be accepted, the project could commence within the current financial year, removing the public safety risk in addition to providing an improved public space/entry to the Civic and Cultural Centre and the Murwillumbah Library. This is the recommended option; although it should be anticipated that there will be community members who would prefer that the ponds remain as an aesthetic feature of the civic centre and cultural precinct
2. The provision of edge protection has been considered but has been identified as causing additional issues for maintenance of the ponds (due to restricted access to the library windows for cleaning, globe changing in light fittings and general gardening) and therefore impacting Council's ongoing budget. Fencing/edging is not recommended by Council's Building and Recreation Assets Coordinator due to the ongoing maintenance problems that would be created.
3. The pond/water feature remains "as is". Based on the risk assessment conducted in 2012, there is a high residual risk. While insurance (public liability and workers compensation) should ensure that the potential financial impact of this risk is minimised, this option could be perceived as Council neglecting its responsibility in regard to a recognised public safety risk.

CONCLUSION:

To address a recognised public safety risk inherent in the retention of the fish pond/water feature adjacent to Murwillumbah Library, a landscaping proposal has been developed by Council's Landscape Architect. This proposal incorporates garden beds, bike racks, informal and formal seating in such a way that it identifies the library as an important asset for the community; a public place where people can meet as well as provide the library with some street appeal.

Landscape Plan - Murwillumbah Library Alterations:



Figure 1.

Landscape Estimate - Murwillumbah Library Alterations:

MURWILLUMBAH LIBRARY LANDSCAPE UPGRADE

LANDSCAPE ESTIMATE 11/12/13				
DESCRIPTION	UNIT	QTY	RATE	AMOUNTS
Establishment and Erosion control	Item			\$ 1,500.00
Earthworks (remove pond and fill, concrete cutting etc)	Item			\$ 6,500.00
Drainage	Item			\$ 3,000.00
Concrete	M2	115	\$ 100.00	\$ 11,500.00
Walls (400high x 400 wide)	LM	17	\$ 600.00	\$ 10,200.00
Walls (400high x 200 wide)	LM	9	\$ 300.00	\$ 2,700.00
New Bollards	No.	7	\$ 300.00	\$ 2,100.00
Bike Racks	No.	5	\$ 400.00	\$ 2,000.00
Tree grates and guards	No.	5	\$ 1,000.00	\$ 5,000.00
Seats	No.	3	\$ 1,750.00	\$ 5,250.00
Bench Seating	No.	7	\$ 1,100.00	\$ 7,700.00
Tables	No.	2	\$ 1,200.00	\$ 2,400.00
Library signage	Item			\$ 1,400.00
Garden Beds	M2	73	\$ 35.00	\$ 2,555.00
Mounding	Item			\$ 300.00
Pool Fencing	LM	16	\$ 110.00	\$ 1,760.00
Painted paving	M2	25	\$ 60.00	\$ 1,500.00
Turfing	M2	93	\$ 8.00	\$ 744.00
Trees 200lt	Each	5	\$ 250.00	\$ 1,250.00
Trees 400lt	Each	7	\$ 400.00	\$ 2,800.00
Irrigation	Item			\$ 800.00
TOTAL				\$ 72,959.00

Figure 2.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Funds of \$73,000 for the landscaping project will be sourced from existing budgets.

c. Legal:

The Civil Liability Act 2002 sets out the general principles at Section 5B for determining negligence based on the risk of injury.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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16 [CNR-CM] Membership Equal Access Advisory Committee

SUBMITTED BY: Community and Cultural Services

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
-

SUMMARY OF REPORT:

This report contains a confidential briefing note about a recommendation from the Equal Access Advisory Committee (EAAC), from the meeting held on 19 February 2014. A recommendation of the EAAC is presented for Council's endorsement.

RECOMMENDATION:

That:

1. **ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:**
 - (a) personnel matters concerning particular individuals (other than councillors).
2. **Council endorses the Committee's recommendation that is the subject of the confidential briefing note.**

REPORT:

Confidential briefing note attached.

OPTIONS:

1. That Council endorses the recommendation included in the confidential briefing note.
2. That Council does not endorse the recommendation included in the confidential briefing note.

CONCLUSION:

The Equal Access Advisory Committee advises Council on matters regarding access and inclusion. The primary guiding document is the Access and Inclusion Action Plan which is in its final draft in preparation for submission to Council. Together with the changes to Federal and NSW State legislation on the provision of support for people with disabilities, the function of the Committee and the capacity of its membership are very important.

COUNCIL IMPLICATIONS:

a. Policy:

Access and Inclusion Policy, Version 1.1.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Confidential File Note (ECM 3305515)

17 [CNR-CM] Request to Become Signatory to Headspace Memorandum of Understanding

SUBMITTED BY: Community and Natural Resources

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
 - 2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities
-

SUMMARY OF REPORT:

Headspace is a not-for-profit company limited by guarantee, incorporated to promote the improved health and mental health outcomes of young people in Australia. Due to centre expansion, **headspace** is seeking to establish a venue in Tweed Heads. Following an Expression of Interest process, Medicare Local and On Track Community Programs are invited to submit applications for lead agency. Each organisation has expectations that Council will commit to being a consortium partner as indicated in the letter of support provided during the Expression of Interest process. Council is requested to affirm its commitment to **headspace** and resolve to become a signatory to the Memorandum of Understanding.

RECOMMENDATION:

That:

1. Council consents to become a member of the headspace consortium with either Medicare Local or On Track Community Programs as lead agency.
2. Council becomes a signatory to the headspace Memorandum of Understanding.

REPORT:

At the meeting on 17 October 2013, Council considered a report in relation to **headspace**, a not-for-profit company limited by guarantee, incorporated to promote the improved health and mental health outcomes of young people in Australia. At that time, **headspace** was seeking Expressions of Interest (EOIs) to undertake the lead agency role for fifteen future locations, including Tweed Valley (Tweed Heads). Medicare Local and On Track Community Programs, which are '*not for profit*' organisations and Artius, a '*for profit*' organisation, approached Council seeking 'letters of support' for the EOIs submission process for lead agency. Council resolved:

that Council provides a 'letter of support' to Medicare Local and On Track Community Programs, and Artius, for their submissions to the headspace project to be located in the Tweed Shire.

Letters of support were provided in accordance with Council's resolution and subsequently Medicare Local and On Track Community Programs were invited to submit a full application as the Tweed **headspace** lead agency. Each local **headspace** is managed by a lead agency on behalf of a local partnership (consortium) responsible for the delivery of mental health, drug and alcohol and primary care services as well as community-based providers of vocational assistance and training. Other locally relevant services such as supported accommodation for young people and local government youth services are also important consortia members.

headspace applications were submitted by Medicare Local and On Track Community Programs on 28 February 2014, including a signed Memorandum of Understanding (MOU) affirming consortia membership and outlining responsibilities of the parties. A copy of the sample MOU is provided at Attachment 1 for information. Clause 14.1 in the sample MOU states member organisations will be required to commit ".2FTE (one day per week) of a position, typically through co-location of staff or other in-kind activities". In the letter of support provided, it was indicated that Council would be a member of the consortium and provide in-kind contributions towards service promotion and community engagement activities.

OPTIONS:

1. Council becomes a member of the **headspace** consortium with either Medicare Local or On Track Community Programs as lead agency.
2. Council does not become a member of the **headspace** consortium, but continue to support the initiative through service promotion and community engagement activities.

CONCLUSION:

Council is demonstrating its commitment to youth initiatives by consenting to be a member of the **headspace** consortium in partnership with Medicare Local or On Track Community Programs as lead agency.

COUNCIL IMPLICATIONS:

a. Policy:

Youth Version 1.0.

b. Budget/Long Term Financial Plan:

Support will be provided to the **headspace** initiative by the Community Development Officer - Youth.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Example of Memorandum of Understanding (ECM 3306183)

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18 [CNR-CM] Further Vandalism of Dune Vegetation along Kingscliff Beach Foreshore

SUBMITTED BY: Natural Resource Management

Valid



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
 - 4.1 Protect the environment and natural beauty of the Tweed
 - 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
-

SUMMARY OF REPORT:

Vandalism of foreshore dune vegetation along Marine Parade Kingscliff has been an ongoing issue. Following extensive and deliberate vandalism of dune plants along the middle section of Kingscliff Beach foreshore in mid-2012, Council resolved to take a number of actions including consideration of erection of signs or shade structures should further vandalism occur.

On 4 March 2014, reports were made of further vandalism of the dune vegetation behind the fencing and signage that had been erected in response to the 2012 vandalism.

Due to the repeated and deliberate nature of the vandalism of the dune vegetation on this section of Tweed Shire coastline, which has been planted and maintained primarily by volunteers with assistance from Council staff, it is recommended that Council now takes strong action. Erection of large signs both discourage illegal activity in the dunes and encourage reporting of any illegal activity that may occur.

RECOMMENDATION:

That Council:

- 1. Erects signs (size 3m by 2.4m) immediately landward of the dunes at suitable intervals along the middle of Kingscliff Beach foreshore with appropriate text stating that dune vegetation had been vandalised and to encourage reporting of this or future vandalism.**
 - 2. Undertakes restoration works in the vandalised area including additional tree planting in conjunction with the local DuneCare group and monitors the area.**
-

REPORT:

Vandalism of foreshore dune vegetation along Marine Parade Kingscliff has been an ongoing issue. Recent erosion events have highlighted the vulnerability of this section of coastline to potentially catastrophic coastal erosion. Vegetation provides a number of services in coastal areas including reducing the extent of erosion, reducing impact of salt-laden winds on coastal infrastructure and properties and provides habitat.

In 2000, a large regulatory sign was erected along the foreshore at Kingscliff following vandalism of the foreshore vegetation. The sign was removed by resolution of Council in March 2004 following successful regrowth of the vegetation.

At the Council meeting of 6 July 2005, the following was resolved with regard to illegal vegetation clearing in Tweed Shire:

"RESOLVED that Council:-

1. *Condemns unauthorised destruction of coastal, riparian and native vegetation which is apparently motivated by the objective of providing better access to views or greater development potential of the subject land.*
2. *All illegal clearing works are to be notified to Council in a timely manner and that appropriate enforcement procedures be taken where such breaches occur.*
3. *Council erects appropriate screens to cover the cleared areas in foreshore dunes and riparian areas until the restoration works are fully established.*
4. *Council erects signage on dune and riparian areas where illegal destruction of the vegetation has occurred to advise the general public that Council has a zero tolerance with regard to this issue.*

FOR VOTE - Unanimous"

Recent examples of Council's response to illegal vegetation clearing on public land have included erection of shade screens structures along the SALT and Casuarina foreshores where the people responsible for the vegetation vandalism have not been identified; legal action against a person at Pottsville for foreshore clearing; requiring the adjacent landowner to restore a section of bushland that had been cleared at Fingal Head; permanent signage along the dune fence at SALT; and most recently, fencing and small signage along the dune foreshore at Kingscliff.

Following extensive and deliberate vandalism of newly-planted dune plants along the middle section of Kingscliff Beach foreshore in mid-2012, Council, at the 26 June 2012 meeting, resolved the following:

RESOLVED that Council:

1. *Writes to the property owners in Marine Parade, Kingscliff:*
 - (a) *advising of recent vegetation vandalism on Kingscliff foreshore.*
 - (b) *advising that this activity is illegal.*
 - (c) *requesting persons to come forward who have any information on the recent clearing.*
 - (d) *advising that any further vandalism may result in Council taking action such as the erection of large signage and screens.*

2. *Constructs a dune fence along the foreshore where the vandalism has occurred to delineate the beach access points and discourage access into coastal bushland.*
3. *Places signage along the fence to advise that the foreshore vegetation is protected and any unauthorised access into the dune vegetation should be reported to Council.*
4. *Increases awareness of the importance of protection of dune vegetation and the important role played by volunteers in maintaining public bushland through an article in the Tweed Link and media releases.*
5. *Supports and assists with replanting of the foreshore area by Kingscliff DuneCare Group.*

All of the actions above were undertaken by Council staff with additional volunteer hours being spent in this area to replace and maintain the previously vandalised trees.

On 4 March 2014 reports were made of further vandalism of the dune vegetation behind the fencing and signage that had been erected in response to the 2012 vandalism. An inspection was conducted that day and at least 15 well established plants had been broken off and numerous newly-planted trees had been pulled from the ground sufficiently to ensure they did not survive. See plates below.



Plate 1: Banksia stems snapped off.



Plate 2: A semi-mature Tuckeroo that had been cut down previously and had re-shot has now had the multiple regrowth stems snapped.



Plate 3: Fencing and signage erected after June 2012 with vandalised vegetation (2 metre high tree stem snapped) directly behind.

Signs that have previously been used along the Tweed coast have used the text as below:

*These trees have been wilfully destroyed
Council has a zero tolerance on such actions*

*If you have information regarding this matter
or other acts of vandalism
Please contact Tweed Shire Council
Ph. 02 6670 2400*

These signs are 3m by 2.4m and are erected above head height. Council currently has two of these signs available and these could be erected for about \$1,000 each. Additional signs would cost \$800 each plus installation.

The area of vegetation vandalism is 180m in length. Shade cloth erected in 2007 to a length of 25m cost \$12,000 plus maintenance and removal costs.

Signage is considered the more cost effective option in this instance and also provides for added awareness and additional active surveillance by the community.

OPTIONS:

1. Council erects very large signs with appropriate text about vandalism of dune vegetation and encouraging the reporting of any instances of dune vegetation vandalism.
2. Council erects a shade cloth structure adjacent to the dunes along the Kingscliff Beach foreshore for 180m between Zephyr and Beach Streets.
3. Council undertakes other options it considers appropriate for the scale and nature of this vandalism event.

CONCLUSION:

Due to the repeated and deliberate nature of the vandalism of the dune vegetation on this section of Tweed Shire coastline, which has been planted and maintained primarily by volunteers with assistance from Council staff, it is recommended that Council now take strong action.

Council greatly values the contribution of volunteer groups in assisting with the ongoing management of public bushland as there is insufficient budget to maintain these areas effectively. Council has also previously resolved to take a zero tolerance approach where deliberate destruction of vegetation has occurred.

The erection of signs has several benefits in that it raises awareness generally and encourages the community to take a greater surveillance role.

It is recommended that, in this instance, because of the extensive distance of the vegetation vandalism, the prohibitive cost of erecting and maintaining a shade cloth barrier and the additional benefit of raising awareness, that Option 1 be adopted for immediate implementation.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.
Tweed Shire Coastline Management Plan 2005

b. Budget/Long Term Financial Plan:

Erection of signage or shade cloth will come from the existing coastal management budget.

Erection of four signs would cost about \$6,000. Placement and maintenance of shade cloth along 180m of foreshore would cost in excess of \$100,000.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Involve/Collaborate-We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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19 [CNR-CM] Proposed Alteration to Public Waterfront Structures Licence 379377

SUBMITTED BY: Natural Resource Management

Valid



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

4	Caring for the Environment
4.4	Manage the Tweed coastline to ensure a balance between utilisation and conservation
4.4.1	Recognise and accommodate natural processes and climate change

SUMMARY OF REPORT:

Council has an umbrella licence with Trade and Investment Crown Lands for public waterway structures within Cudgen Creek, Kingscliff.

The public timber ramp and wharf structure at 'The Boatshed' near Point Break Circuit is to be included under this umbrella licence.

Through the inclusion of additional structures under the umbrella licence, Council is required to pay the minimum Crown Land licence fee annually for all existing structures rather than each structure individually.

RECOMMENDATION:

That:

- 1. Council accepts the proposed alteration to the Public Waterfront Structures Licence 379377 - Addition of Wharf and Timber Launching Ramp at South Kingscliff (Salt).**
- 2. All documentation be executed under the Common Seal of Council.**

REPORT:

Council has an umbrella licence with Trade and Investment Crown Lands for public waterway structures within Cudgen Creek, Kingscliff.

The public timber ramp and wharf structure at 'The Boatshed' near Point Break Circuit is to be included under this umbrella licence. This report serves to formalise the licence and enable the documentation to be executed under the Common Seal of Council.

SCHEDULE 3



OPTIONS:

1. That Council accepts the proposed alteration to the Public Waterfront Structures Licence 379377 - Addition of Wharf and Timber Launching Ramp at South Kingscliff (Salt).
2. That Council does not accept the proposed alteration to the Public Waterfront Structures Licence 379377 - Addition of Wharf and Timber Launching Ramp at South Kingscliff (Salt) and is issued with a separate licence for this structure which would require an additional licence fee to be paid annually.

CONCLUSION:

Through the inclusion of additional structures under the umbrella licence, Council is required to pay the minimum Crown Land licence fee annually for all existing structures rather than each structure individually.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Through the inclusion of additional structures under the umbrella licence, Council is required to pay the minimum Crown Land licence fee annually for all existing structures rather than each structure individually.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

20 [CNR-CM] River Health Grants

SUBMITTED BY: Natural Resource Management

Valid



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
 - 4.3 Maintain and enhance Tweed's waterways and its catchments
 - 4.3.1 Manage water resources sustainably and minimise impact on the environment by achieving more integration of water supply, wastewater and stormwater services
-

SUMMARY OF REPORT:

This report provides Council with details of proposed investments in river and riparian management, through implementation of the River Health Grants Program.

The goal of this project is to improve the quality of Tweed Waterways by subsidising works on private properties, for example by revegetation, weed control and provision of off stream water for cattle. The source of funding for this program is the Water Unit mandatory dividend for water and sewerage.

RECOMMENDATION:

That Council approves the proposed River Health Grants included within this report.

REPORT:

Since June 2006 Council has worked with riparian landowners to initiate projects which protect and improve water quality and stream bank condition. The goal of this program is to enhance the environmental condition of Tweed waterways, improve the water quality of raw water extracted for treatment at Bray Park. At the March 2013 meeting, Council approved to amend the Water Supply Catchment Stream Bank Protection Version 1.2 to include subsidisation of riparian rehabilitation works in all natural waterways of the Shire, and renamed the River Health Grants policy.

The River Health Grants Program has been successful in attracting a diverse range of landholders, from traditional farmers to rural lifestyle property owners and has made an immediate improvement in the riparian conditions of treated areas. In each case of funding, an agreement with land holders will be signed that details Council's contribution to the project and the commitments and responsibilities of the land holder.

There are five River Health Grant projects proposed within this report. A major project is to stabilise severely eroding creek banks on the Cropp property at Bilambil. A Soil Conservation report was commissioned by Council in 2012 to establish design guidelines for key properties in the Terranora Broadwater catchment, with the Cropp property having the highest priority for riparian restoration. On-ground works proposed include rock toe armouring of collapsing banks, formalising stock crossing points, battering banks to allow for revegetation and fencing to restrict cattle access to vulnerable banks. Other projects include: weed control and replanting riparian species on the lower Oxley which will build upon other River Health Grants in this sub-catchment; cats claw vine control and bush regeneration along Pumpenbil Creek; stage two riparian regeneration works at Kynnumboon; and primary weed control/bush regeneration works in the upper Tweed catchment at Blue Knob.

Property Owner	Locality	Stream frontage (m)	Objective of works	Council contribution
Cropp	Bilambil	1000	Stabilise severely eroding creek banks and revegetate according to Soil Conservation design plans.	\$12,500
Kershaw	Eungella	250	Restore native riparian vegetation along Oxley River and control environmental weeds.	\$6,400
McCreadie	Tyalgum	350	Control severe cats claw creeper infestation and promote native regeneration.	\$7,200
Hunter	Blue Knob	400	Undertake primary weed control and promote riparian rainforest regeneration in upper Tweed catchment.	\$8,000
Brooks	Kynnumboon	500	Stage two weed control to facilitate native species regeneration along Rous River tributary.	\$5,600

CONCLUSION:

The landowners included in this report have all committed significant in-kind contributions to these projects. The projects will achieve the aims of the River Health Grants Scheme, and are in accord with the Water Supply Catchment Stream Bank Protection Policy V1.2.

COUNCIL IMPLICATIONS:

a. Policy:

Water Supply Catchment Stream Bank Protection Version 1.2.

b. Budget/Long Term Financial Plan:

Funding for the River Health Grants is provided from the Catchment Water Quality Program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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REPORTS FROM THE DIRECTOR ENGINEERING

21 [E-CM] Road Closure Application - Tyalgum Creek and Pumpenbil

SUBMITTED BY: Design

FILE REFERENCE: Gr3/12/2

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|---|
| 1 | Civic Leadership |
| 1.3 | Delivering the objectives of this plan |
| 1.3.1 | Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan |
-

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve within and adjoining Lot 13 in DP1102118 and adjoining Lot 1 in DP 228691 at Tyalgum Creek/Pumpenbil from Crown Lands. Council has been requested to provide its concurrence or objection to the closure and private purchase by the adjacent land owners.

A desktop investigation of the Crown Road reserves has been conducted and it appears that it is not currently formed but does provide potential access to North Pumpenbil Creek, as well as a direct connection between Tyalgum Creek Road and Pumpenbil Road.

With regard to the abovementioned, Council's road closure policy provides under roads not eligible for closure notes:

- "1. Roads providing or capable of providing access to rivers, creeks and*
- 2. Roads capable of providing physical access to other roads, public and private properties."*

This section of Crown Road reserve can be viewed as a viable asset which could provide continued public access to North Pumpenbil Creek and, at a future date, a connection road between Tyalgum Creek Road and Pumpenbil Road. In this respect it would be recommended that Council objects to the closure and private purchase of the Crown road reserve and subsequently make application to the Crown for the transfer of the road reserve to Council.

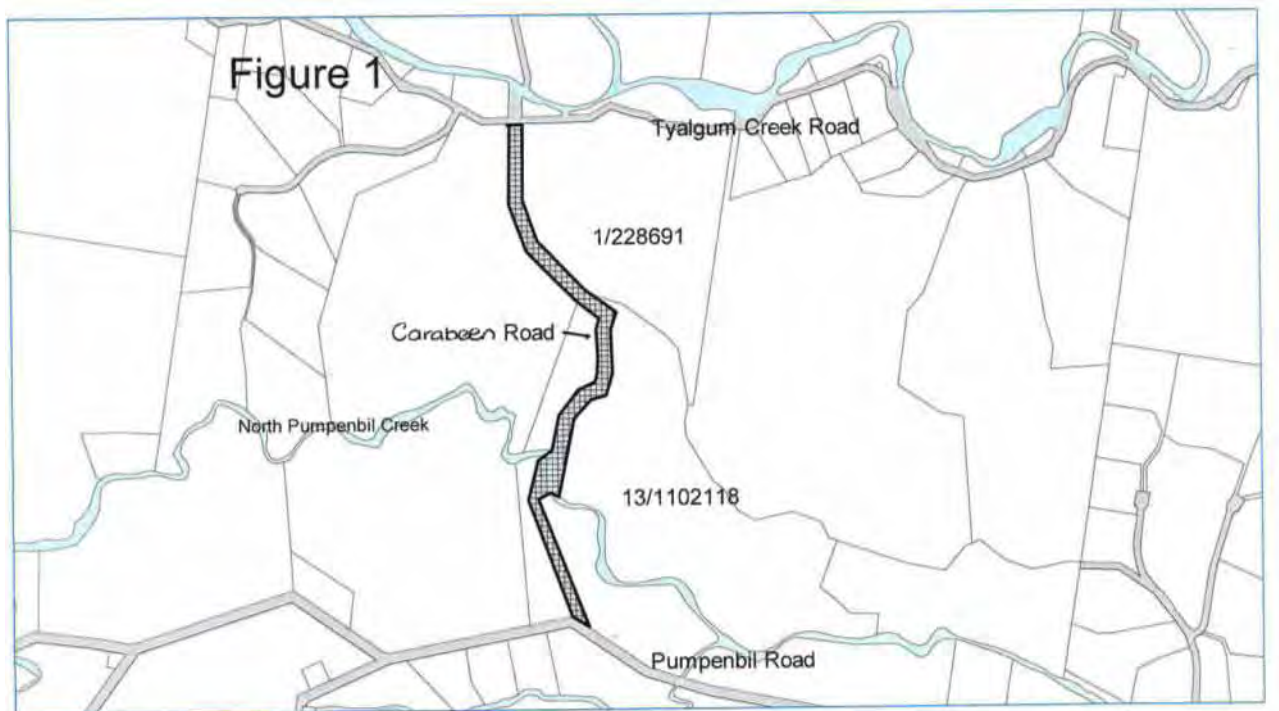
RECOMMENDATION:

That:

- 1. Council objects to the closure of the section of Crown Road reserve within and adjoining Lot 13 in DP1102118 and adjoining Lot 1 in DP 228691 at Tyalgum Creek/Pumpenbil; and**
- 2. An application be made to the Department of Lands to transfer to Council the section of Crown Road reserve within and adjoining Lot 13 in DP1102118 and adjoining Lot 1 in DP 228691 at Tyalgum Creek/Pumpenbil to allow continued public access to the North Pumpenbil Creek and provide the option for future connection between Tyalgum Creek Road and Pumpenbil Road.**

REPORT:

Council has received a notice of application to close a section of Crown Road reserve, known as Carabeen Road, within and adjoining Lot 13 in DP1102118 and adjoining Lot 1 in DP 228691 at Tyalgum Creek/Pumpenbil from Crown Lands. Council has been requested to provide its concurrence or objection to the closure and private purchase by the adjacent land owners. Please refer to Figure 1 below which shows the extent of the proposed closure.



A desktop investigation of the Crown Road reserve has been conducted and it appears that it is not currently formed but does provide potential access to North Pumpenbil Creek, as well as a direct connection between Tyalgum Creek Road and Pumpenbil Road.

With regard to the abovementioned, Council's road closure policy provides under "*roads not eligible for closure*" notes:

1. *Roads providing or capable of providing access to rivers, creeks and*
2. *Roads capable of providing physical access to other roads, public and private properties."*

The applicants currently hold Crown enclosure permits over the relevant sections of road adjoining their properties.

An investigation of Council's Geographical Information System shows that the area surrounding the creek has a dense coverage of cats claw weed and is in a key fish habitat area. Other than this, there appears to be minimal ecological and environmental impacts.

OPTIONS:

1. Council objects to the closure and private purchase of the section of Crown Road known as Carabeen Road, within and adjoining Lot 13 in DP1102118 and adjoining Lot 1 in DP 228691 at Tyalgum Creek/Pumpenbil, and makes application for the transfer of the road to Council; or
2. Council does not object to the closure and private purchase of the section of Crown Road known as Carabeen Road, within and adjoining Lot 13 in DP1102118 and adjoining Lot 1 in DP 228691 at Tyalgum Creek/Pumpenbil.

CONCLUSION:

This section of Crown Road reserve can be viewed as a viable asset which could provide continued public access to North Pumpenbil Creek and, at a future date, a connection road between Tyalgum Creek Road and Pumpenbil Road. In this respect it would be recommended that Council objects to the closure and private purchase of the Crown road reserve and subsequently make application to the Crown for the transfer of the road reserve to Council.

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.3.

b. Budget/Long Term Financial Plan:

No budgetary impact.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

**22 [E-CM] Road Closure Lot 2 DP719056, Lot 1 DP1111306, Lot 4 DP129088
Numinbah**

SUBMITTED BY: Design

FILE REFERENCE: GR3/12/2

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.3	Delivering the objectives of this plan
1.3.1	Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan

SUMMARY OF REPORT:

Council has received a notice of application to close a section of Crown Road reserve at Numinbah within Lot 2 DP719056, Lot 1 DP1111306 and Lot 4 DP129088 from Crown Lands. Council has been requested to provide its concurrence or objection to the closure of these sections of Crown Public Road.

A desktop investigation of the Crown Road reserves has been conducted. There is no formation within the roads other than an internal driveway within Lot 4 DP129088, or any services or infrastructure within them.

One section of road proposed to be closed is completely isolated from all other road networks and is inaccessible to the public.

The remaining road reserves are unformed and do not provide access to any surrounding properties nor do they restrict access or cause any surrounding parcels to be landlocked.

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions, which states that the road can be considered redundant in terms of access to all surrounding properties.

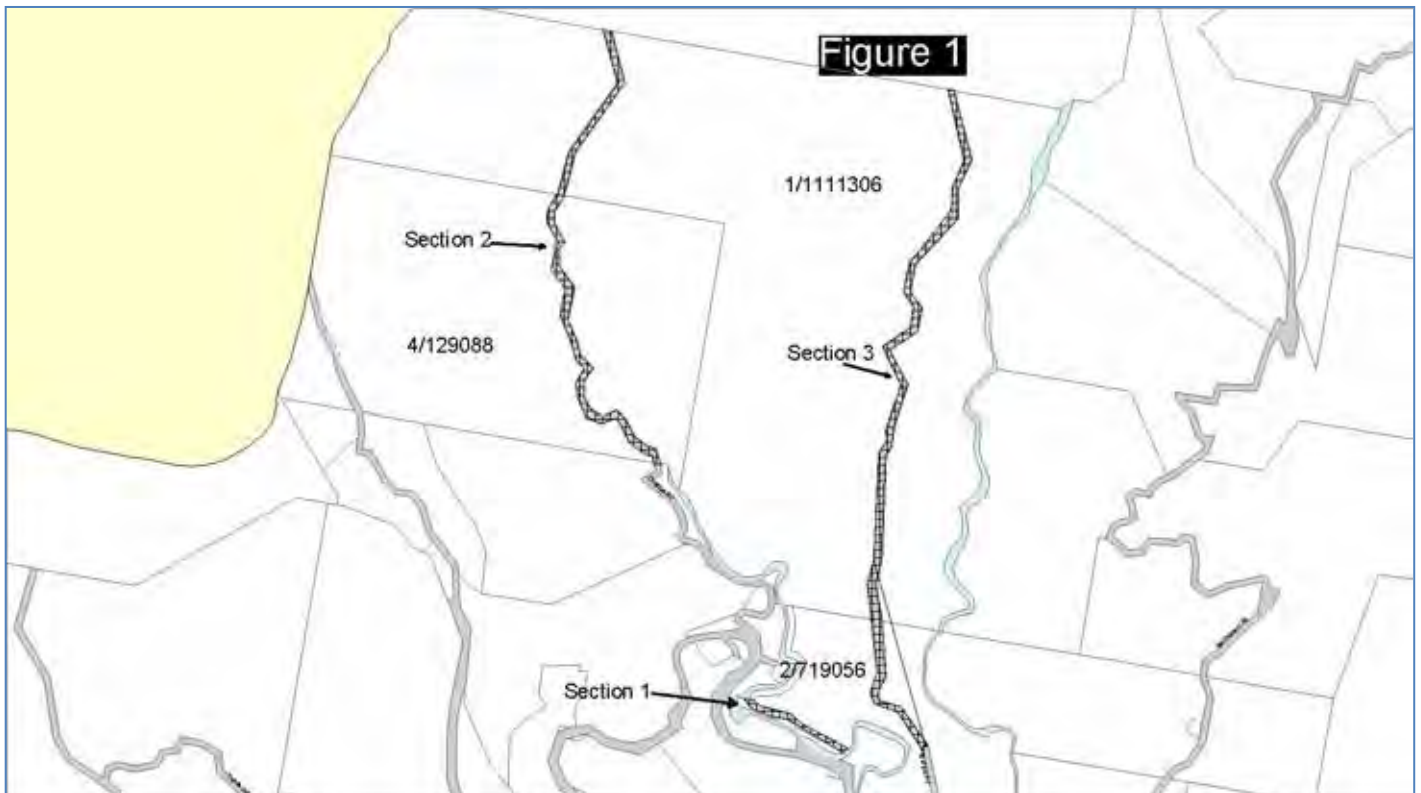
RECOMMENDATION:

That Council does not object to the closure and private purchase of the Crown Road Reserves within Lot 2 DP 719056, Lot 1 DP 1111306 and Lot 4 DP 129088 at Numinbah.

REPORT:

Council has received a notice of application to close a section of Crown Road reserve at Numinbah within Lot 2 DP719056, Lot 1 DP1111306 and Lot 4 DP129088 from Crown Lands. Council has been requested to provide its concurrence or objection to the closure of these sections of Crown Public Road. Please refer to Figure 1.

Figure 1. Plan showing proposed road closures in three sections:

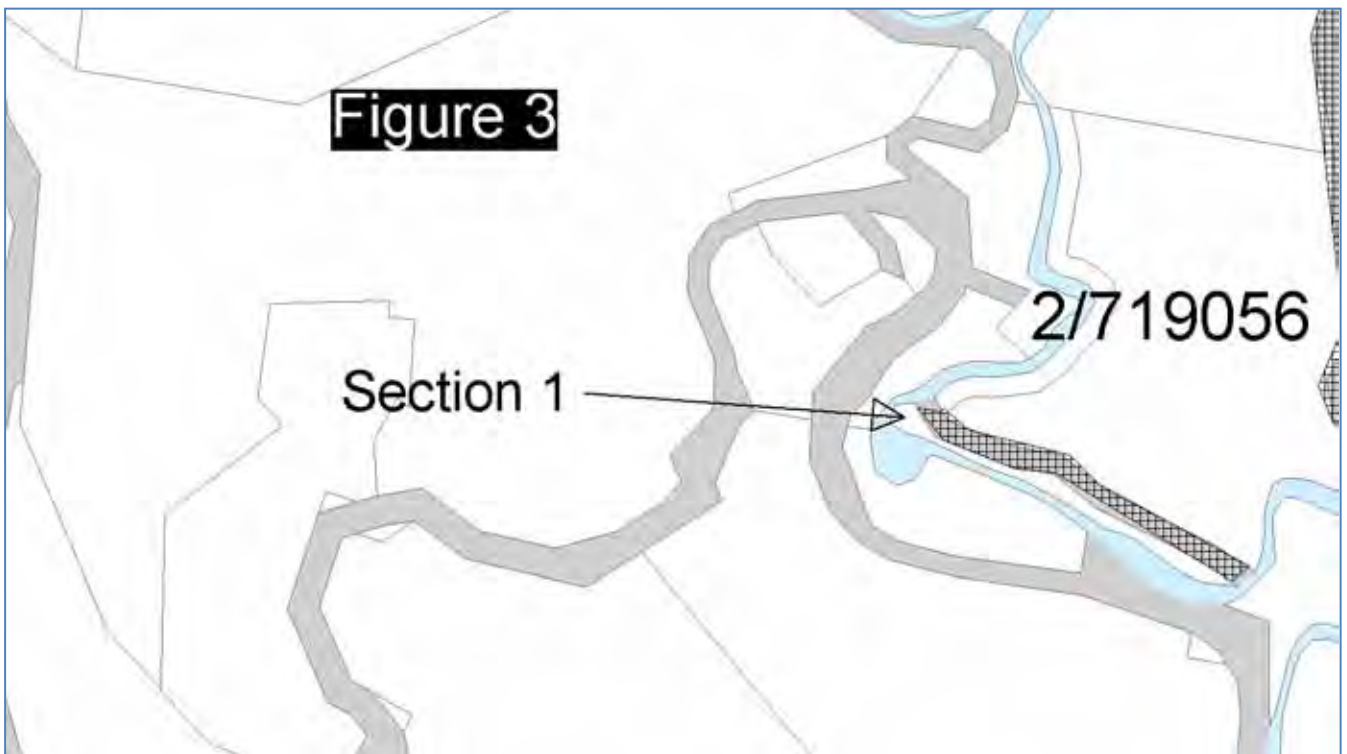


A desktop investigation of the Crown Road reserves has been conducted. There is no formation within the roads, other than an internal driveway within Lot 4 DP129088 (Section 2), or any services or infrastructure within them. Figure 2 shows the driveway in total.

Figure 2. Aerial photo showing driveway location in the south eastern corner of Lot 4:



Section 1 of roads proposed to be closed is completely isolated from all other road networks and inaccessible to the public. See Figure 3 below:



The remaining road reserves, being sections 2 and 3 as shown in Figure 1, are largely unformed and do not provide access to any surrounding properties nor do they restrict access or cause any surrounding parcels to be landlocked.

An investigation of the cadastral layers of Council's Geographical Information system indicates the following:

- The northern parts of sections 2 and 3 of the road reserve through Lot 4 and Lot 1, having an area of approximately 1100m, is protected land with a slope of greater than 18 degrees
- The northern part of section 3 of the road reserve through Lot 1 is classified as Key Habitat State Forest and the northern part of section 2 indicates a small area being a regional fauna corridor. The adjoining parcel of land to the North of Lot 1 being Lot 8279 DP755696 is National Park zoned 8 (a).
- There are no ecological restraints present in the proposed road closure area.

The land is zoned 1(a) Rural.

OPTIONS:

1. Council does not object to the closure and private purchase of the Crown Road Reserves within Lot 2 DP 719056, Lot 1 DP 1111306 and Lot 4 DP 129088 at Numinbah.
2. Council does object to the closure and private purchase of the Crown Road Reserves within Lot 2 DP 719056, Lot 1 DP 1111306 and Lot 4 DP 129088 at Numinbah.

In the case of Option 2 Council is required to provide valid reasons for objection to Crown Lands with the submission.

CONCLUSION:

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions, which states that the road can be considered redundant in terms of access to all surrounding properties.

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.3.

b. Budget/Long Term Financial Plan:

No budgetary implications.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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**23 [E-CM] Road Closure - Lots 1 and 4 DP263529 and Lot 74 DP755710
Midginbil**

SUBMITTED BY: Design

FILE REFERENCE: GR3/12/14

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.3	Delivering the objectives of this plan
1.3.1	Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan

SUMMARY OF REPORT:

Council has received a notice of application to close two (2) sections of Crown Road reserve off Midginbil Road at Midginbil from Crown Lands. Council has been requested to provide its concurrence or objection to the closure and private purchase by the adjacent land owners.

A desktop investigation of the Crown Road reserves has been conducted. There is no formation within the roads, no services or infrastructure within them and they do not provide alternate access options for surrounding properties nor do they restrict access or cause any surrounding parcels to be landlocked.

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for roads not eligible for closure. It does however fall within point 1 of the exceptions which states that the road can be considered redundant in terms of access to all surrounding properties.

RECOMMENDATION:

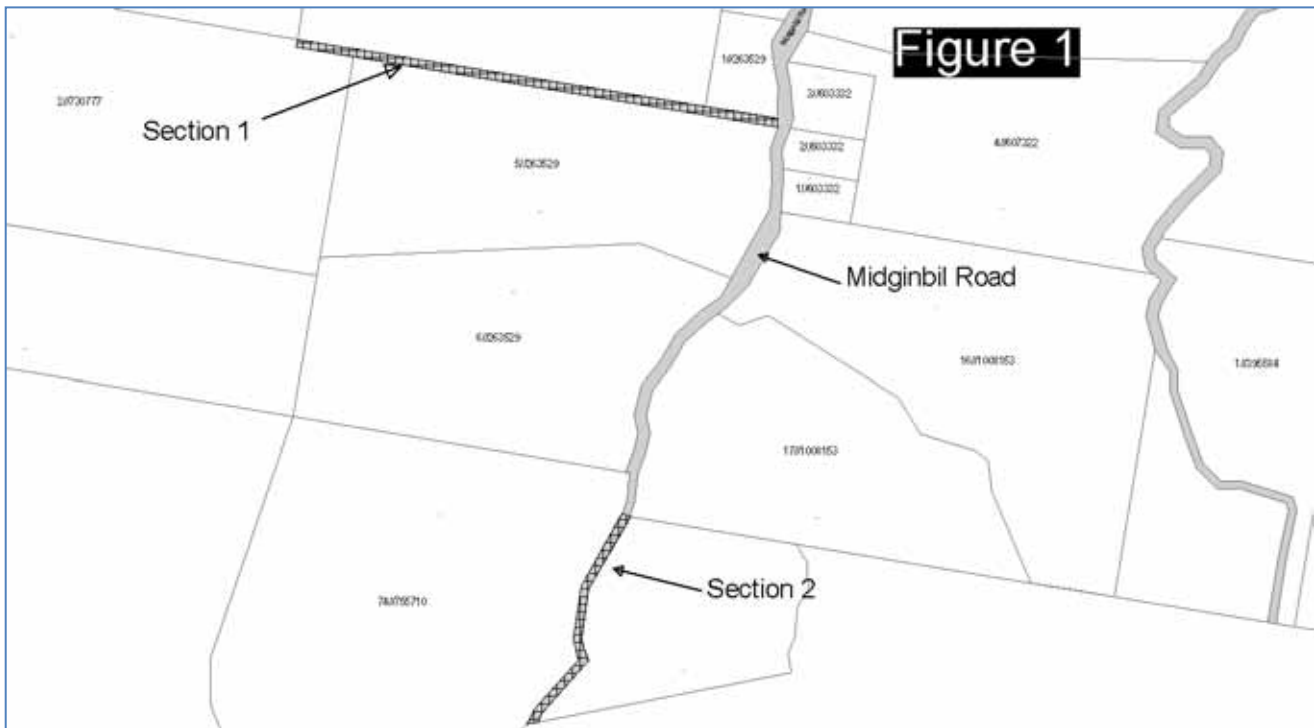
That Council does not object to the closure and private purchase of the Crown Road Reserves running along the southern boundary of Lots 1 and 4 in DP263529 and the Crown Road Reserve within Lot 74 in DP755710 at Midginbil.

REPORT:

Council has received a notice of application to close two (2) sections of Crown Road reserve off Midginbil Road at Midginbil from Crown Lands. Council has been requested to provide its concurrence or objection to the closure and private purchase by the adjacent land owners. See Figure 1 below.

The roads proposed to be closed run along the southern boundary of Lots 1 and 4 in DP263529 (Section 1) and within Lot 74 DP755710 (Section 2).

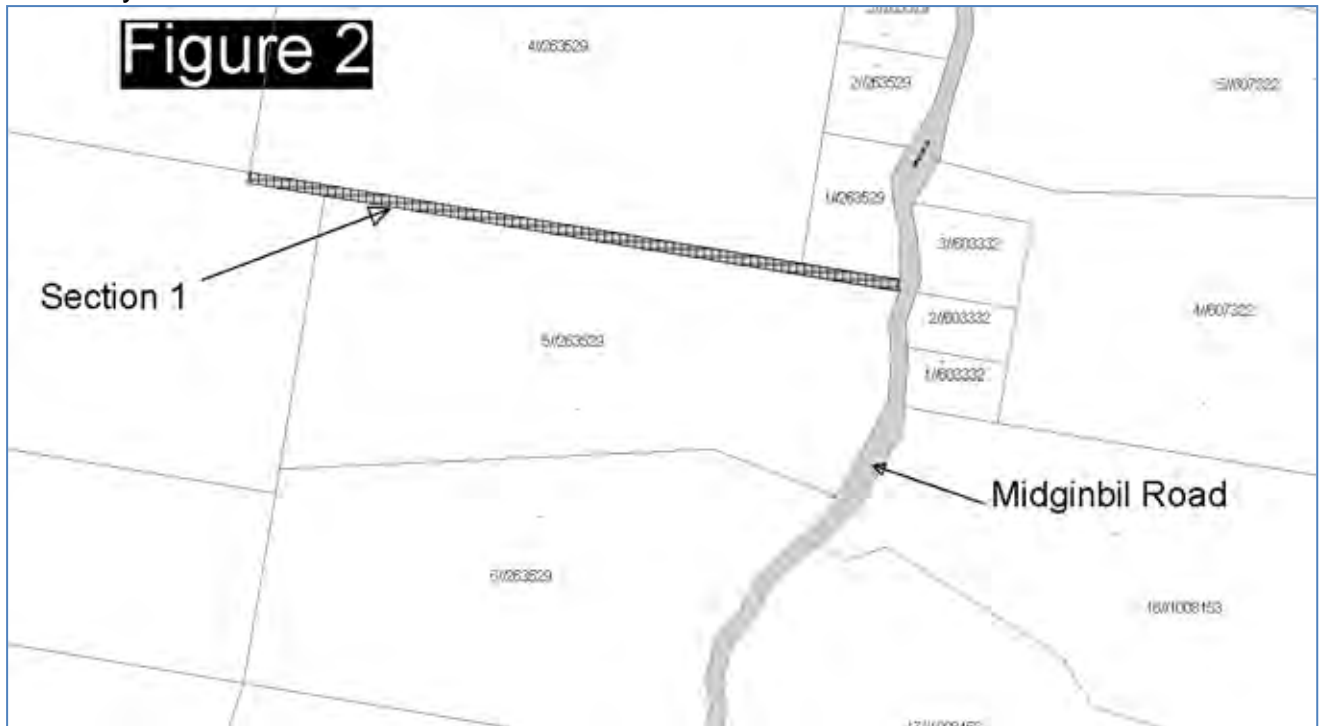
Figure 1. Plan showing proposed road closures in two sections:



A desktop investigation of the Crown Road reserves has been conducted. There is no formation within the roads, no services or infrastructure within them and they do not provide alternate access options for surrounding properties nor do they restrict access or cause any surrounding parcels to be landlocked.

Section 1 of the road reserves proposed to be closed, as shown in Figure 2, runs along the southern boundary of Lots 1 and 4 in DP 263529. There is no formation of the road and it does not provide access to any surrounding properties nor does it restrict access or cause any surrounding parcels to be landlocked (full access to adjoining parcels is obtained via Kunghur Creek Road).

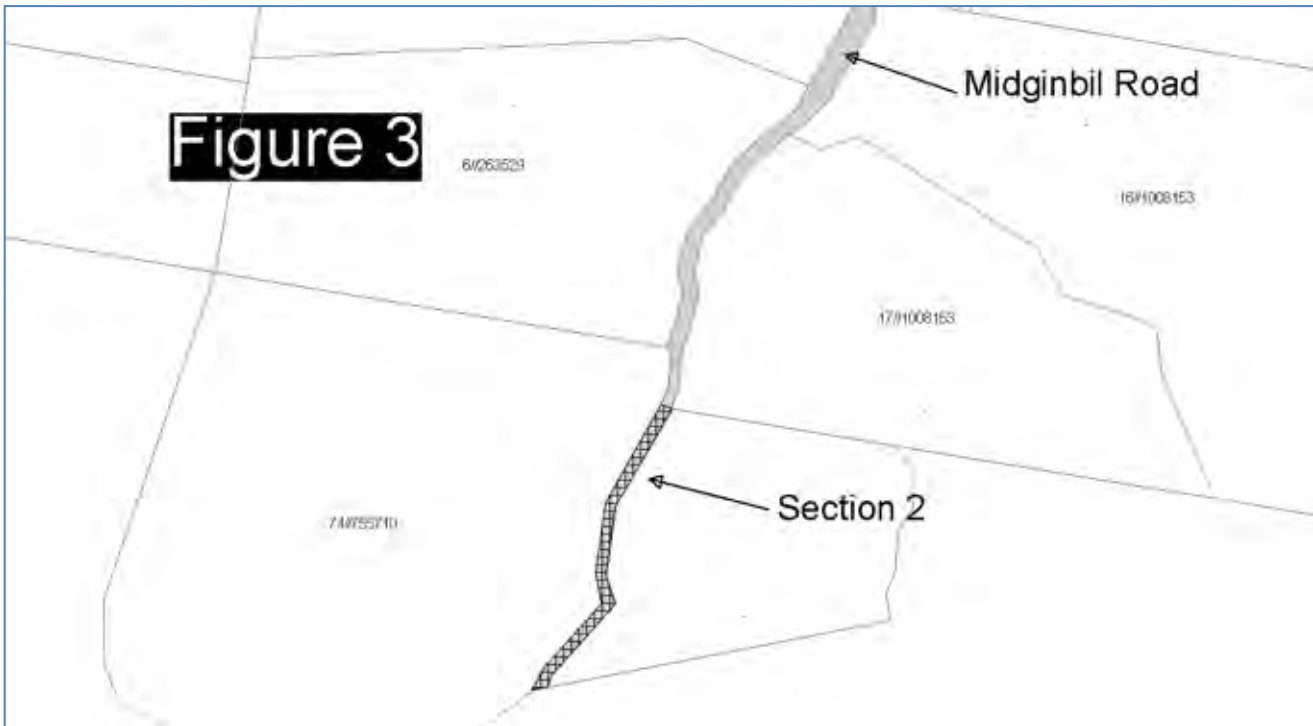
Figure 2. Plan showing section 1 of road reserve proposed to be closed along the southern boundary of Lots 1 and 4 in DP 263529:



Section 2 of the road reserve proposed to be closed is contained fully within Lot 74 in DP 755710, see Figure 3 below. This road reserve runs off the end of the formed section of Midginbil Road and only provides access to Lot 74. The adjoining parcel of land to the south is part of the National Park and access to this parcel via this road reserve is restricted due to the steep and highly erodible topography of the area.

Section 2 of road reserve is zoned 7(l) Environmental Protection in LEP 2000. 7(l) is Environmental Protection (Habitat), this zoning applies to the road reserve and the entire property where the road closure is sought. No development can occur on site without consent.

Figure 3. Plan showing section 2 of road reserve proposed to be closed within Lot 74 DP 755710:



A desktop investigation of the cadastral layers of Council's Geographical Information system indicates the following:

- The southern part of section 2 (see figure 3) contains steep and highly erodible land.
- There is some moderate to high Environmental sensitivity within both of the road reserves, see Figures 4 and 5 below.

Figure 4 showing Moderate Environmental sensitivity within Section 2 of road reserve proposed to be closed:

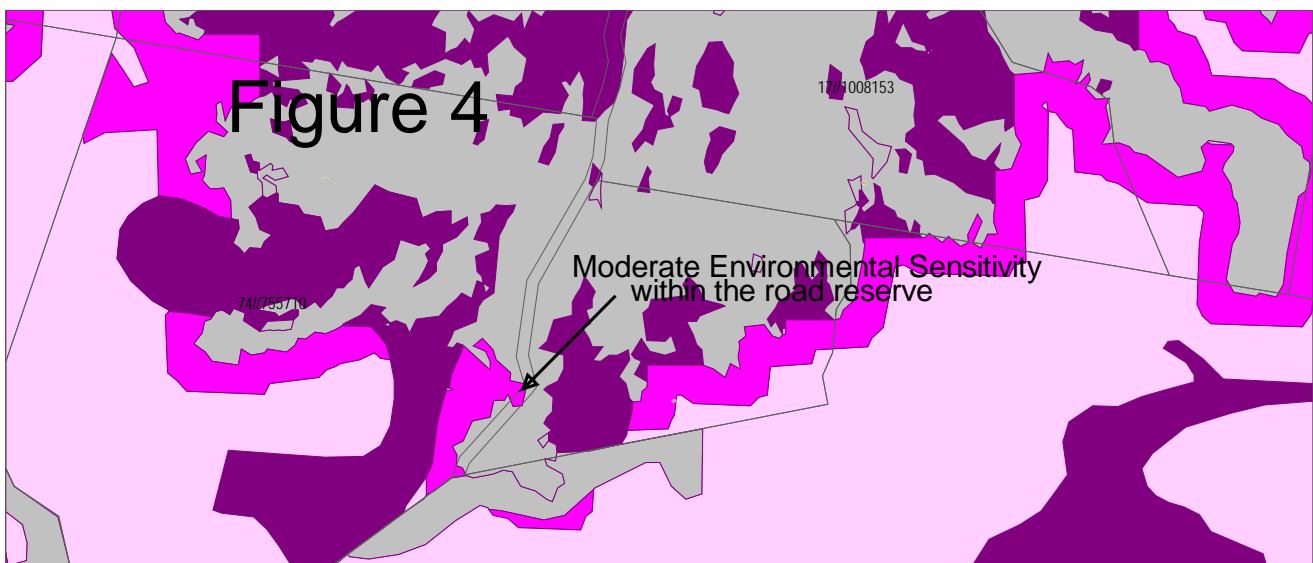
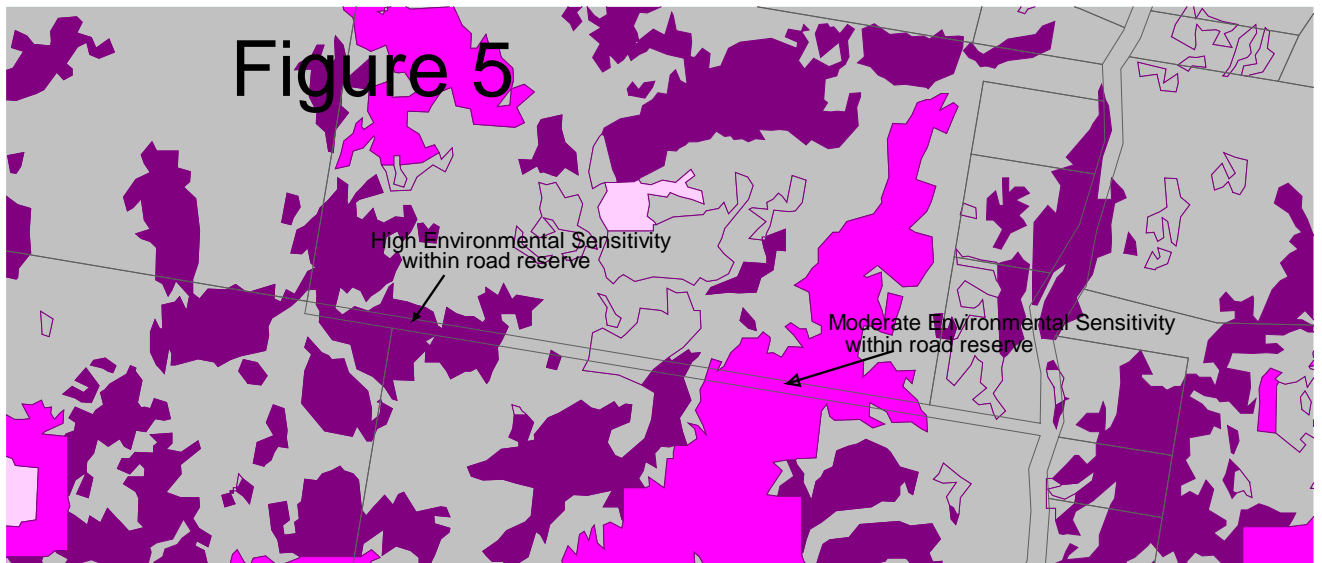


Figure 5 showing Moderate to High Environmental sensitivity within section 1 of the road proposed to be closed:



- There are also areas of high to very high Environmental status within both of the road reserves, see Figures 6 and 7 below.

Figure 6 below shows the Environmental Status within Section 2 of the road proposed to be closed:

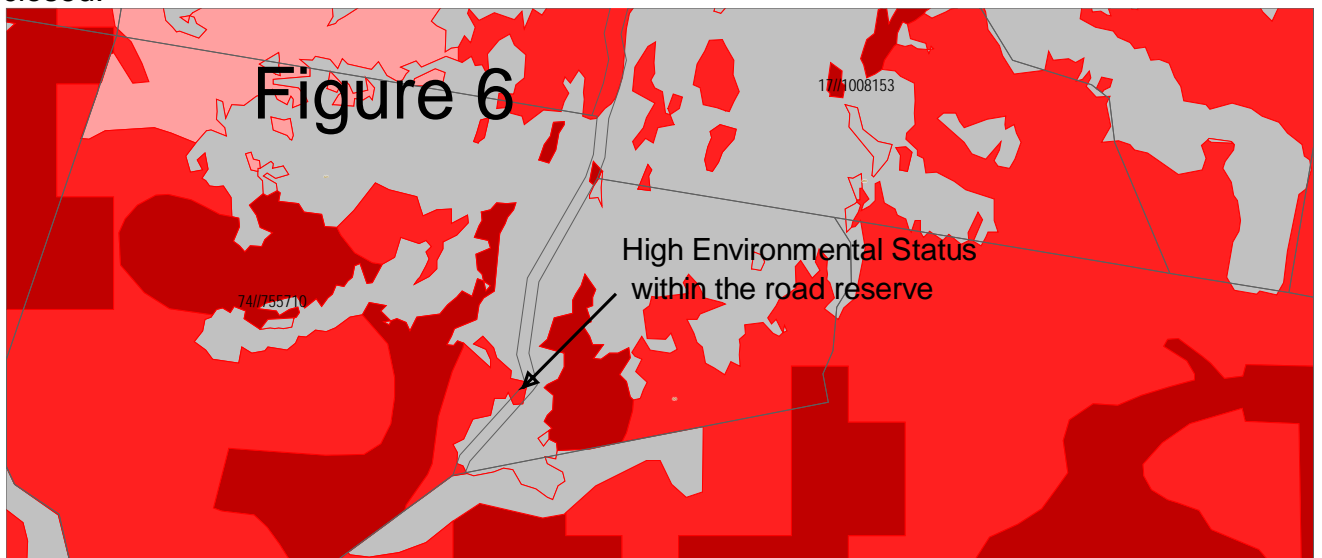


Figure 7 below shows the Environmental Status within Section 1 of the road proposed to be closed:



It should be noted that the area within the road reserve marked as section 2 has been cleared and there is no notable vegetation present.

The land surrounding Lots 1 and 4 in DP 263529 is zoned 1(a) Rural and the land within Lot 74 DP 755710 is zoned 7(l) Environmental protection. Due to the Environmental factors surrounding these sections of road reserve it is highly improbable that any road formation would ever be acceptable.

OPTIONS:

1. Council does not object to the closure and private purchase of the Crown Road Reserve adjoining the southern boundary of Lots 1 and 4 DP 263529 and within Lot 74 DP 755710 at Midginbil.
2. Council does object to the closure and private purchase of the Crown Road Reserves adjoining the southern boundary of Lots 1 and 4 DP 263529 and within Lot 74 DP 755710 at Midginbil.

In the case of Option 2 Council is required to provide valid reasons for objection to Crown Lands with the submission.

CONCLUSION:

This application complies with Council's current policy on Road Closure and purchase in so far as it does not fall within the categories listed for road not eligible for closure. It does however fall within point 1 of the exceptions which states that the road can be considered redundant in terms of access to all surrounding properties.

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.3.

b. Budget/Long Term Financial Plan:

No budgetary implications.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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24 [E-CM] EC2012-251 Margaret Olley Tweed River Art Gallery Extension - Variation Report

SUBMITTED BY: Contracts

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

SUMMARY OF REPORT:

On 14 February 2013 Council resolved to award contract EC2012-251 to Alder Constructions Pty Ltd to perform the design and construction activities for the Margaret Olley Tweed River Art Gallery Extensions for the amount of \$2,477,411.63 exclusive of GST.

On 15 August 2013 Council resolved to approve a variation for the design and construction of the Cafe Pavilion for the amount of \$298,153.00 exclusive of GST, taking the total approved contract amount to \$2,775,564.63 exclusive of GST.

On 21 November 2013 Council received and noted additional variations for the amount of \$322,879.00 increasing the revised the contract sum to \$3,098,443.63 exclusive of GST.

Based on further approved variations to date totalling an additional \$201,809.00 the revised contract sum for EC2012-251 is \$3,300,252.63 exclusive of GST.

RECOMMENDATION:

That:

1. Council approves the variations to date amounting to \$201,809.00 (exclusive of GST) for Contract EC2012-251 Margaret Olley Tweed River Art Gallery Extensions.
2. The General Manager be given delegated authority to approve additional variations up to \$150,000 above the revised contract sum and those variations reported to Council following completion of the works.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

REPORT:

On 14 February 2013 Council resolved to award contract EC2012-251 to Alder Constructions Pty Ltd to perform the design and construction activities for the Margaret Olley Tweed River Art Gallery Extensions for the amount of \$2,477,411.59 exclusive of GST.

On 15 August 2013 Council resolved to approve a variation for the design and construction of the Cafe Pavilion for the amount of \$298,153.18 exclusive of GST. taking the total approved contract amount to \$2,775,564.77 exclusive of GST.

On 21 November 2013 Council received and noted additional variations for the amount of \$322,879.00 increasing the revised the contract sum to \$3,098,443.77 exclusive of GST.

Since the last report to Council further approved variations have been incurred during the design and construction process totalling a further \$201,809.00 due to changes in design and omissions in concept details allowed for at the tender stage which has now increased the contract sum to \$3,300,252.63 exclusive of GST.

A summary of variations approved to date is provided in Confidential Attachment A.

OPTIONS:

Not applicable.

CONCLUSION:

The additional variations to date amounting to \$201,809.00 (exclusive of GST) for Contract EC2012-251 Margaret Olley Tweed River Art Gallery Extensions be received and noted.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.6.

b. Budget/Long Term Financial Plan:

The total budget available to complete this project is \$4,292,840.00 inclusive of design and construct, building concept design and Margaret Olley centre fitout.

The current revised contract sum for EC2012-251 of \$3,300,252.63 is within the budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment A Variations to EC2012-251 Margaret Olley Tweed River Art Gallery Extensions (ECM 3305062).

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25 [E-CM] EC2014-023 Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive

SUBMITTED BY: Works

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.3 Delivering the objectives of this plan
 - 1.3.2 Council will seek the best value in delivering services
-

SUMMARY OF REPORT:

This report outlines the Tender for EC2014-023 for Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation Report included in CONFIDENTIAL ATTACHMENT 1. A summary of the Selection Criteria is also included in the body of this report.

It is recommended that Council accepts the tender from Boral Resources for the Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive.

Tenders were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. Tender submissions closed at 4.00pm (local time) on 5 March 2014 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

RECOMMENDATION:

That:

- 1. Council awards the contract EC2014-023 Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive to Boral Resources for the amount of \$222,209.85 (exclusive of GST).**
- 2. The General Manager is given delegated authority to approve variations up to 10% of the initial contract sum to a maximum of \$150,000 and those variations be reported to Council following completion of the tendered works/services.**

3. **ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)of the Local Government Act 1993, because it contains:-**
- (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret.**

REPORT:**Tender Background**

Tender EC2014-023 was called to asphalt surface Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive.

Tenders were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. Tender submissions closed at 4.00pm (local time) on Wednesday 5 March 2014 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Tender Advertising

As per the requirements of the Local Government Regulation 2005, tenders were officially advertised for EC2014-023 Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive on Wednesday 5 March 2014 in Brisbane Courier Mail. The tender was also advertised in Gold Coast Bulletin, Sydney Morning Herald and Tweed Link.

Tender Addendums

There were nil (Notice to Tenderers) issued before close of tender.

Tender Submissions

As per the requirements of the Local Government Regulation 2005, tender submissions closed at 4.00pm (local time) on 5 March 2014 in the Tender box located in the foyer of the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484 and within the Tweed Shire Council E Tender Box.

16 (copies) of the tender documents were downloaded from Council's web site. A total of 4 responses were submitted and were recorded for EC2014-013 at the Tender Box opening and their details are as follows:

Tenderer	ABN
Boral Resources	46 009 671 809
East Coast Asphalt Pty Ltd	51 755 877 285
Fulton Hogan Industries	46 010 240 758
Creggs Asphalt Pty Ltd	53 163 653 656

Tenders were evaluated was conducted by Council's Tender Evaluation Panel, consisting of the Senior Construction Engineer, Manager Works and Engineering Assistant. A copy of the Tender Evaluation Report in included in ATTACHMENT 1 which is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of non-price criteria. If disclosed, the information would be likely to prejudice the commercial position of the tender in terms of the market competitiveness by giving their competitors and advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

The following selection criteria and weightings were determined prior to the issue of the Tender.

Tender Price	60%
Time Performance	5%
Quality Assurance	10%
Environmental Management	5%
Sustainability	5%
WHS and Risk Management	5%
Local Content	10%

OPTIONS:

1. Council awards the contract EC2014-023 Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive to Boral Resources for the amount of \$222,209.85 (exclusive of GST); or
2. Council does not award the contract EC2014-023 Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive to Boral Resources for the amount of \$222,209.85 (exclusive of GST).

CONCLUSION:

Based on the Tender Evaluation, it is recommended that Boral Resources be awarded the contract for EC2014-023 Asphalt Surfacing on Crabbes Creek Road, Wommin Bay Road, Ducat Street and Fraser Drive.

COUNCIL IMPLICATIONS:

a. Policy:

Asset Management Version 1.0.
Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

The works are included in the 2012/2013 Infrastructure Program. Funding is provided within the 2012/2013 Budget rolled over into the current financial year for these works.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - we will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Tender Evaluation Report (ECM 3306753).

26 [E-CM] EC2014-001 Kyogle Road Embankment Restoration

SUBMITTED BY: Works

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.4 An integrated transport system that services local and regional needs
 - 2.4.3 Ensure local streets, footpaths and cycleways are provided, interconnected and maintained
-

SUMMARY OF REPORT:

This report outlines the tender for EC2014-001 Kyogle Road Embankment Restoration. The works are required to repair a damaged slope below Kyogle Road at Kunghur that occurred during the Natural Disaster declared flood event of January 2012. The item has been accepted by the Roads and Maritime Services as being eligible for grant funding under the Natural Disaster Relief and Recovery Arrangements.

Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation Report included in **CONFIDENTIAL ATTACHMENTS 1 and 2**. A summary of the Selection Criteria is also included in the body of this report.

RECOMMENDATION:

That:

1. The tender from Crosana Pty Ltd for Option 1 be accepted to the value of \$145,870.00 exclusive of GST for tender EC2014-001 Kyogle Road Embankment Restoration.
2. The General Manager be given delegated authority to approve variations up to 10% of the initial contract sum to a maximum of \$150,000 and those variations be reported to Council following completion of the tendered works/services.
3. ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

REPORT:

Tender EC2014-001 is for the detailed design and construction of a structural retaining wall system to a failed support embankment below Kyogle Road at Kunghur. The repair works are to provide for the reinstatement of a 1.5m wide shoulder to the road.

The slope failed during the declared Natural Disaster flood event in January 2012. The site has been accepted by the Roads and Maritime Services in the Natural Disaster Relief and Recovery Arrangements Schedule and will be fully funded by the assistance grant.

Tenders Received

Tenders closed at 4.00pm on 4 December 2013 with eleven (11) submissions received from the following contractors:

- Nviroscope Pty Ltd
- MJ & SL Seery Excavations Pty Ltd
- Crosana Pty Ltd - Option 1
- Crosana Pty Ltd - Option 2
- EarthTEC Pty Ltd
- GEO Stabilise Pty Ltd
- HiWay Stabilizers Aust Pty Ltd
- Pan Civil
- Warner Company

A total of twelve (12) weeks has been allocated to complete the works.

Tender Evaluation

The following selection criteria and weightings were determined prior to the issuing of the Tender:

Criterion	Document Reference	Weighting (%)
Value for Money (Normalised Tender Price)	Schedule 2 & 3	50
Price Compared with TSC Estimate	Schedule 2 & 3	Yes
Financial Details and Capacity	Schedule 4	Yes
Previous and Current Works (Experience)	Schedule 4	10
Project Management (Key Personnel)	Schedule 5	Yes
Methodology and Work Program (Time)	Schedule 6	10
WHS and Risk Management	Schedule 7	10
Environmental Management	Schedule 7	5
Quality Management	Schedule 7	5
Proposed Subcontractors (Experience)	Schedule 8	Yes
Company Insurances	Schedule 9	Yes
Sustainable Procurement	Schedule 10	No
Local Content (Development of Local Business/Industry)	Section 11	10
(Mandatory 10% assessment as per Policy)		
Innovation	All Schedules	Yes

Criterion	Document Reference	Weighting (%)
Maintenance and Running Costs	All Schedules	No
Life of Proposed materials and equipment	All Schedules	No
Warranty Periods Offered	All Schedules	No
Council's Contract Administration Costs	Schedule 6	No
	Total	100

Tender Evaluation is included in **ATTACHMENTS 1 and 2** which are **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers rates to provide specific services. 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.

OPTIONS:

Nil.

CONCLUSION:

Based on the Tender Evaluation, it is recommended that Crosana Pty Ltd be awarded the contract for EC2014-001 Kyogle Road Embankment Restoration for its Option 1 submission. This submission is for the use of soil nails and shotcrete facing to the embankment.

Details of Crosana Pty Ltd's relative competitiveness is shown in the Tender Evaluation Report **CONFIDENTIAL ATTACHMENT 1**.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.4.

Procurement Protocol Version 1.6.

b. Budget/Long Term Financial Plan:

Natural Disaster Relief and Recovery Arrangements.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. EC2014-001 Kyogle Road Embankment Restoration - Tender Evaluation Report (ECM 3304463).

(Confidential) Attachment 2. EC2014-001 Kyogle Road Embankment Restoration - Tender Evaluation Record (ECM 3304419).

27 [E-CM] EC2013-207 Rehabilitation of Sewer Mains

SUBMITTED BY: Contracts

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.3 Provide well serviced neighbourhoods
 - 2.3.3 Provision of high quality and reliable wastewater services which meets health and environmental requirements and projected demand
-

SUMMARY OF REPORT:

Tender EC2013-207 Rehabilitation of Sewer Mains was called to engage a suitably qualified and experienced organisation to provide rehabilitation of approximately 4 kilometres of 150-225mm gravity sewer mains across Tweed Shire as part of the annual maintenance contract. The intent of the rehabilitation is to increase the useful life of the assets and increase their level of service.

Tenders were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. Tender submissions closed at 4.00pm (local time) on 19 February 2014 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

RECOMMENDATION:

That:

1. Council awards the contract EC2013-207 Rehabilitation of Sewer Mains to Insituform Pacific Pty Ltd for the amount of \$396,940.82 (exclusive of GST).
2. The General Manager is given delegated authority to approve variations up to 10% of the initial contract sum to a maximum of \$150,000 and those variations be reported to Council following completion of the tendered works/services.
3. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

REPORT:

Tender Background

Tender EC2013-207 Rehabilitation of Sewer Mains was called to engage a suitably qualified and experienced organisation to provide rehabilitation of approximately 4 kilometres of 150-225mm gravity sewer mains across Tweed Shire as part of the annual maintenance contract. The intent of the rehabilitation is to increase the useful life of the assets and increase their level of service.

Tender Advertising

Tenders were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. Tenders were officially advertised for EC2013-207 Rehabilitation of Sewer Mains on Tuesday 28 January 2014 in The Sydney Morning Herald. The tender was also advertised in the Brisbane Courier Mail, Gold Coast Bulletin, Tweed Link and Councils website.

Tender Addendums

There were no Tender Addendums (Notice to Tenderers) issued before close of tender.

Tender Submissions

Tender submissions closed at 4.00pm (local time) on 19 February 2014 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484. 5 tenders were recorded at the Tender Box opening (details as follows):

Tenderer	ABN	Original Tender Amount (incl GST)
Insituform Pacific Pty Ltd	43 123 427 305	Confidential Information
Interflow Pty Ltd	34 000 563 208	
Underground Asset Services	82 088 675 343	
Nuflow Technologies Pty Ltd	25 109 601 345	
Kembla Watertech	76 003 807 010	

Tender Evaluation

A Tender Evaluation Plan was developed based on the premise that competitive tenders were to be received and scored against specific selection criteria in order to select the best value tender. Tenders were evaluated based on the criteria noted in the following table which were also listed in the Conditions of Tendering. The details of the price and non price evaluation are shown on the attached Tender Evaluation Spreadsheet.

Criterion	Document Reference	Weighting (%)
Value for Money (Normalised Tender Price) (Mandatory but Chairperson sets weighting)	Schedule 2 & 3	50
Previous and Current Works (Experience)	Schedule 4	10
Methodology and Work Program (Time)	Schedule 6	10
WHS and Risk Management	Schedule 7	5
Environmental Management	Schedule 7	5
Quality Management	Schedule 7	10
Local Content (Development of Local Business/Industry) (Mandatory 10% assessment as per Policy)	Schedule 11	10
	Total	100

Refer to Confidential Attachment 1 for the detailed Tender Evaluation Report.

The Tender Evaluation was conducted by Council's Tender Panel, consisting of Water & Sewer Operations Engineer, Contract Engineer and Treatment Plant & Process Engineer.

A copy of the Tender Evaluation Report is included in ATTACHMENT 1 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 tenderer in relation to the tender price and the evaluation of the products offered by the 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.

OPTIONS:

Not Applicable.

CONCLUSION:

Based on the economic advantage and conformity of non-price criteria, it is recommended that Insituform Pacific Pty Ltd be nominated for contract EC2013-207 Rehabilitation of Sewer Mains.

Details of Insituform Pacific Pty Ltd relative competitiveness is shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT 1** which was endorsed by the Tender Evaluation Panel.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

The proposed work is all within the adopted Sewer Fund budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Tender Evaluation Report (ECM 3306042).

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28 [E-CM] EC2011-012 Kirkwood Road Project Variations

SUBMITTED BY: Contracts

FILE REFERENCE: EC2011-012

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.4	An integrated transport system that services local and regional needs
2.4.1	Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities

SUMMARY OF REPORT:

Tweed Shire Council and the Roads and Maritime Services (RMS) have delivered the design and construction of the Kirkwood Road Project Stage 1. This work has been constructed by SEE Civil (contractor) under Contract EC2011-012.

Council and RMS opened the new interchange to traffic on Wednesday 15 January 2014.

The works were delayed approximately 6 months due to the soft soil area settlement performance and wet weather during early 2012.

This report advises of the project variations and informs Council of the full impact of the delays caused by the soft soils as well as the variation that is required to be approved by Council for this delay.

RECOMMENDATION:

That:

1. Council approves the additional variations to date amounting to \$1,838,356.57 (exclusive of GST) for Contract EC2011-012 Kirkwood Road Project as detailed in this report.
2. The General Manager be given delegated authority to approve additional variations up to \$150,000 above the revised contract sum and those variations reported to Council following completion of the works.

REPORT:

Tweed Shire Council and the Roads and Maritime Services (RMS) have delivered the design and construction of the Kirkwood Road Project Stage 1. This work has been constructed by SEE Civil (contractor) under Contract EC2011-012.

Council and RMS opened the new interchange to traffic on Wednesday 15 January 2014.

The works were delayed approximately 6 months due to the soft soil area settlement performance and wet weather during early 2012.

This report advises of the project variations and informs Council of the full impact of the delays caused by the soft soils as well as the variation that is required to be approved by Council for this delay.

Contract Summary with this revised information is as follows;

Total awarded Contract Value	\$11,138,264.55 Ex GST
Total Contract Value as reported in March 2013	\$13,907,964.55 Ex GST
Total proposed Contract Value as of March 2014.	\$15,746,321.12 Ex GST

Contract EC2011-012 Variations to the Project Register

A variation register is tabled below for Council's information and approval.

Variations Previously Reported	AMOUNT
Reported to Council June 2012 and approved	\$29,154
Reported to Council Dec 2012 and approved	\$1,795,446
Reported to Council March 2013 and approved	\$945,100
Total Reported Variations to March 2013	\$2,769,700
Additional Variations to March 2014	\$1,838,356.57

Day Works on Sign Installations	1	Item	\$59,882.33	\$59,882.33
Entry Statement Changes Feb 2012	1	Item	\$10,755.00	\$10,755.00
Pacific Highway Geotechnical	1	Item	\$13,750.00	\$13,750.00
Pacific Highway Design and Installation of Signs	1	item	\$124,400.00	\$124,400.00
Electrical Changes to drawings D11032 EC01 - EC03	1	Item	\$86,311.92	\$86,311.92
Stormwater Line on Pacific Highway	1	Item	\$36,195.00	\$36,195.00
*Apply Extra Surcharge - Day Rates	1	Item	\$91,794.41	\$91,794.41
Move Surcharge	1	Item	\$117,692.00	\$117,692.00
Modification of Electrical Works at corner of Sunshine Avenue	1	Item	\$1,825.24	\$1,825.24
Rock Excavation in LOT 9A	1	item	\$1,210.44	\$1,210.44
Trees for Lot 8 above Sound Wall	1	Item	\$5,577.00	\$5,577.00
Additional Works for Recycled Hebel	1	item	\$121,868.56	\$121,868.56
Drain Works - Day Works	1	Item	\$58,352.02	\$58,352.02
Pedestrian Bridge Modifications	1	item	\$6,688.00	\$6,688.00
Strain Alleviating Strip	1	Item	\$4,341.10	\$4,341.10
Existing Sound Wall Painting	1	per m2	\$36,168.00	\$36,168.00
Lot 15 Additional Stormwater Works	1	Item	\$6,895.00	\$6,895.00
Type F Modifications	1	Item	\$9,312.50	\$9,312.50
Footpath extension to Dry Dock	1	unit rates	\$112,062.00	\$112,062.00
Handrail to type F	1	Item	\$26,398.75	\$26,398.75
Rocks in Roundabout	1	Item	\$18,920.00	\$18,920.00
Footpath in Arkinstall Park	1	Item	\$96,883.00	\$96,883.00
Transition Type F	1	Item	\$12,100.00	\$12,100.00
Additional Work CH480	1	Item	\$5,000.00	\$5,000.00
Additional Kerb Works	1	Item	\$18,447.00	\$18,447.00
Day Works on verge placement CH960	1	Item	\$4,355.30	\$4,355.30

Savings for reuse of Hebel 50% share to Contractor	1	Item	\$24,572	\$24,572
**Delay costs for Soft Soils	85	days	\$7,560	\$642,600
Concrete Drain Caravan Park Boundary	1	Item	\$84,000	\$84,000
Total Variations				\$1,838,356.57

Variation Summary

The present total proposed contract value as of March 2014 is \$15.746 Million. This increase in the contract value exceeds previously reported estimated contract forecasts for the project. The largest of these variations as identified in the above table is the Delay Costs. This Delay Cost is a direct result of the soft soils requiring an extended period of time to verify the primary settlement period had ceased. It is estimated that a further \$700,000 will be deducted from the Contract Value due to quantities in the Schedule of Rates not being realised. A further report will be provided to Council.

Soft Soil Variations and Delay Costs

It was previously reported to Council in April 2012 that the project would be delayed due to the performance of the soft soils located directly underneath the roundabout of the Kirkwood Road interchange.

This report identified that the soft soils design performance had not met previously expected design parameters and that the settlement period would need to be extended.

The full extent of this risk to the project has now been realised with the consequences of two variations to the contract:

- A. Additional Costs for the increase in surcharge height
- B. Additional surcharge settlement days.

Variation A*

Due to the soft soils not progressing through the primary settlement stage as quickly as estimated there was a need to rigorously test the soft soil layers with additional preload material. Acting on engaged consultant's advice (Butler Partners) direction was given to the Contractor to increase the preload material on the main roundabout. These works were agreed to be undertaken as day works as it was very difficult for the Contractor and Principal to accurately determine the volume of material to be shifted, placed and compacted. At the completion of these works the day works time sheet valued these works at \$91,794.41.

Variation B**

During the period after Variation A was completed the Contractor was delayed in completing the original contract works due to the variable nature of the Soft Soils. In accordance with the General Conditions of Contract clause 41.2, the Contractor encountered site conditions, in the execution of the works, which were material adverse to the Site Conditions than what was reasonably to be expected by the Contractor.

In accordance with the General Conditions of Contract clause 41.4, the Contractor is entitled to an adjustment in contract price including costs of delay and disruption for this delay.

In accordance with the General Conditions of Contract Clause 55 the valuation of this delay is calculated by the number of working days delayed multiplied by the value identified under Contract Information item 51 Delay Costs.

The calculated working days delayed is calculated at 85 days, the rate per day for this delay as stated in Contract Information Item 51 is \$7,560 Ex GST. The total cost for these Delay Costs is \$642,600.

In Summary the additional costs to the contract for the soft soils experienced is the sum of \$91,794.41 and \$642,600 which totals \$734,394.41.

OPTIONS:

Not Applicable.

CONCLUSION:

That the variations tabled above have been initiated by Council officers and have been necessary to complete the project.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The total budget estimate for Kirkwood Road as reported to Council in December 2010 was \$16.9 Million. The revision estimate is \$17.5 Million. Funding for this project is through Section 94 Tweed Road Contribution Plan (\$10 million) and Roads and Maritime Services (up to \$7 million).

c. Legal:

Apportionments of contract and budget costs for the Kirkwood Road Project are subject to formal agreement between Council and Roads and Maritime Services.

d. Communication/Engagement:

Inform - we will keep you informed

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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29 [E-CM] Service Allocations and Street Lighting Specifications

SUBMITTED BY: Planning and Infrastructure

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods

SUMMARY OF REPORT:

Recent changes to street lighting standards required a review of Council's Development Design Specification D1 - Road Design and associated standard drawings with respect to service allocations in street verges. This review was headed by the Planning and Infrastructure Section, and involved staff from the Water Unit, Recreation Services Unit, Works Unit and Development Engineering Section, as well as external consultation with Essential Energy as the street lighting authority.

It became readily apparent that not all services can be accommodated within Council's minimum street verge width of 3.5m without some compromise. As this involves acceptance of some risk by Council, the proposed amendments are tabled for consideration.

RECOMMENDATION:

That Council:

- 1. Endorses the proposed amendments to Development Design Specification D1 - Road Design and associated Standard Drawings as outlined in the report;**
- 2. Accepts the use of rigid street lighting poles in Zone 2 areas of street verges until such time as frangible street lighting poles become readily available through Essential Energy for P3, P4 and P5 lighting categories; and**
- 3. Writes to Essential Energy requesting urgent advancement on the provision of frangible street lighting poles for installation in Zone 2 areas of street verges for P3, P4 and P5 lighting categories.**
- 4. Notifies key stakeholders in the development industry in writing to provide a full understanding of the reasons for the changes to D1.**

REPORT:

Development Control Plan Section A5 - Subdivision Manual references *Development Design Specification D1 - Road Design* for the provision of road and associated infrastructure and services in new subdivision development. D1 in turn references a number of standard drawings for use by the development industry.

D1 provides standards for typical road cross sections, which specify carriageway and verge widths according to road hierarchy, as well as the allocation of the road reserve, particularly the road verge, for the provision of infrastructure and utilities, which include:

- Footpaths and cycleways;
- Water mains;
- Sewer mains;
- Stormwater drainage;
- Telecommunications, electricity and gas;
- Street lighting; and
- Street trees.

A review of D1 was prompted by difficulties being experienced in current subdivisions in West Murwillumbah and South Kingscliff (Casuarina, Seaside), where increased street lighting setbacks from the carriageway were resulting in conflicts with other services.

Street Lighting

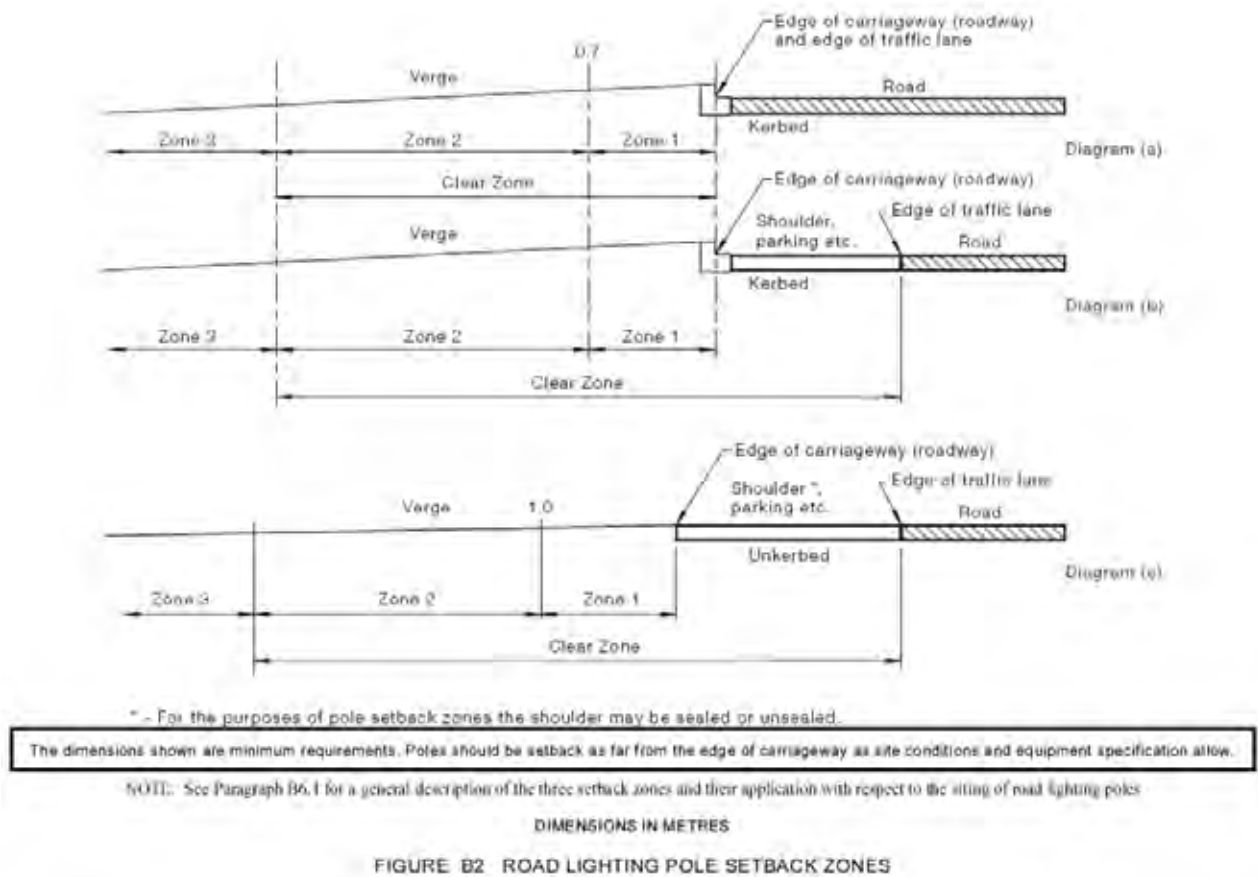
The provision of public street lighting is subject to *AS/NZS 1158 Lighting for road and public spaces Part 1.2: Vehicular traffic (Category V) lighting - Guide to design, installation, operation and maintenance. Appendix B - Guidelines for the use and placement of rigid and frangible road lighting poles* specifies road lighting pole setback zones for various pole types in Table B1 and Figure B2, reproduced below:

**TABLE B1
GUIDE TO POLE SELECTION**

1	2	3	4	5	6
Pedestrian activity	Pole type		Pole setback zone (see Figure B2)		
			1	2	3
High	Rigid		E	N	A
	Frangible	Energy-absorbing	E	A	A
		Slip-base	E	N	N
Other areas	Rigid		E	N	A
	Frangible	Energy-absorbing	E	A	A
		Slip-base	E	A	A

LEGEND:

- A = Acceptable
- N = Not recommended
- E = Total exclusion



While the Standard has been current since 2010, the street lighting authority Essential Energy has only adopted the above pole setback zones as a working design and construction standard since February 2013.

As an interim measure, Council's Standard Drawing *S.D.006 Service Locations in Roadways* was updated in September 2013 to adopt the minimum 0.7m setback from face of kerb for street light poles. However when this has been applied in recent subdivisions in West Murwillumbah, the new street light alignment conflicts with the corridor allocated for water services. This has immediate implications for damage to water services during street light installation, as well as future maintenance access problems. Resolution of this issue is essential for the Water Unit and Development Engineers who are dealing with several current subdivisions applications.

In consideration of the setback, the pole specification also needs to be addressed. The Australian Standard refers to two types of pole:

Frangible poles - designed to break away, yield or otherwise absorb the energy of an impacting vehicle. Two types of frangible pole are commonly used - slip base (which allows the pole to dislodge from position) and energy absorbing (pole deforms but remains attached).

Rigid poles - non-frangible, withstand vehicle impacts without undue deformation whilst remaining upright.

The Standard states that rigid poles "should not be used where there is a reasonable likelihood of impact from an errant vehicle". Accordingly, the Standard recommends that only frangible poles be used in Zone 2 (subject to consideration of pedestrian activity and adjacent overhead services), and rigid poles in Zone 3.

The problem arises that frangible poles are only currently available for Category V lighting applications (i.e. arterial roads, poles >9m height). Essential Energy does not list any frangible poles suitable for use in access streets (Category P3, P4, P5 as specified in D1, e.g. 4.5m high "prestige" lighting). As such, Essential Energy's position is that lighting poles should be placed in Zone 3, unless Council as the local authority authorises otherwise.

The Australian Standard defers to Austroads *Guide to Road Design, Part 6 - Roadside Design, Safety and Barriers*, Table 4.1 in specifying the required setback of Zone 3. This table is reproduced below:

Table 4.1: Clear zone distances from edge of through travelled way

Design speed (km/h)	Design ADT	Clear zone width (m)					
		Fill batter			Cut batter		
		6:1 to flat	4:1 to 5:1	3:1 and steeper ⁽²⁾	6:1 to flat	4:1 to 5:1	3:1 and steeper ⁽²⁾
≤ 60	< 750	3.0	3.0	(2)	3.0	3.0	3.0
	750 – 1500	3.5	4.5	(2)	3.5	3.5	3.5
	1501 – 6000	4.5	5.0	(2)	4.5	4.5	4.5
	> 6000	5.0	5.5	(2)	5.0	5.0	5.0
70 – 80	< 750	3.5	4.5	(2)	3.5	3.0	3.0
	750 – 1500	5.0	6.0	(2)	5.0	4.5	3.5
	1501 – 6000	5.5	8.0	(2)	5.5	5.0	4.5
	> 6000	6.5	8.5	(2)	6.5	6.0	5.0
90	< 750	4.5	5.5	(2)	3.5	3.5	3.0
	750 – 1500	5.5	7.5	(2)	5.5	5.0	3.5
	1501 – 6000	6.5	9.0	(2)	6.5	5.5	5.0
	> 6000	7.5	10.0 ⁽¹⁾	(2)	7.5	6.5	5.5
100	< 750	5.5	7.5	(2)	5.0	4.5	3.5
	750 – 1500	7.5	10.0 ⁽¹⁾	(2)	6.5	5.5	4.5
	1501 – 6000	9.0	12.0 ⁽¹⁾	(2)	8.0	6.5	5.5
	> 6000	10.0 ⁽¹⁾	13.5 ⁽¹⁾	(2)	8.5	8.0	6.5
110	< 750	6.0	8.0	(2)	5.0	5.0	3.5
	750 – 1500	8.0	11.0 ⁽¹⁾	(2)	6.5	6.0	5.0
	1501 – 6000	10.0 ⁽¹⁾	13.0 ⁽¹⁾	(2)	8.5	7.5	6.0
	> 6000	10.5 ⁽¹⁾	14.0 ⁽¹⁾	(2)	9.0	9.0	7.5

In a typical urban access street, with 50km/h design speed and relatively low traffic volume (750-6000 vpd) the Zone 3 setback would be 3.5m-4.5m, which places street lights into private lots. Clearly this is impractical, and leaves Council with few options in specifying streetlight type and location.

In new subdivisions that are subject to DCP-A5, various measures are used in road design to limit vehicle speeds and driver behaviour in urban environments, including road alignment, intersection spacing, traffic calming, narrower road widths with on street parking, and limited straights. These risk reduction measures should be considered when assessing whether there is a "reasonable likelihood of impact from an errant vehicle" that would prevent the use of rigid poles in Zone 2 under the Standard.

Street Lighting Conclusion and Recommendation

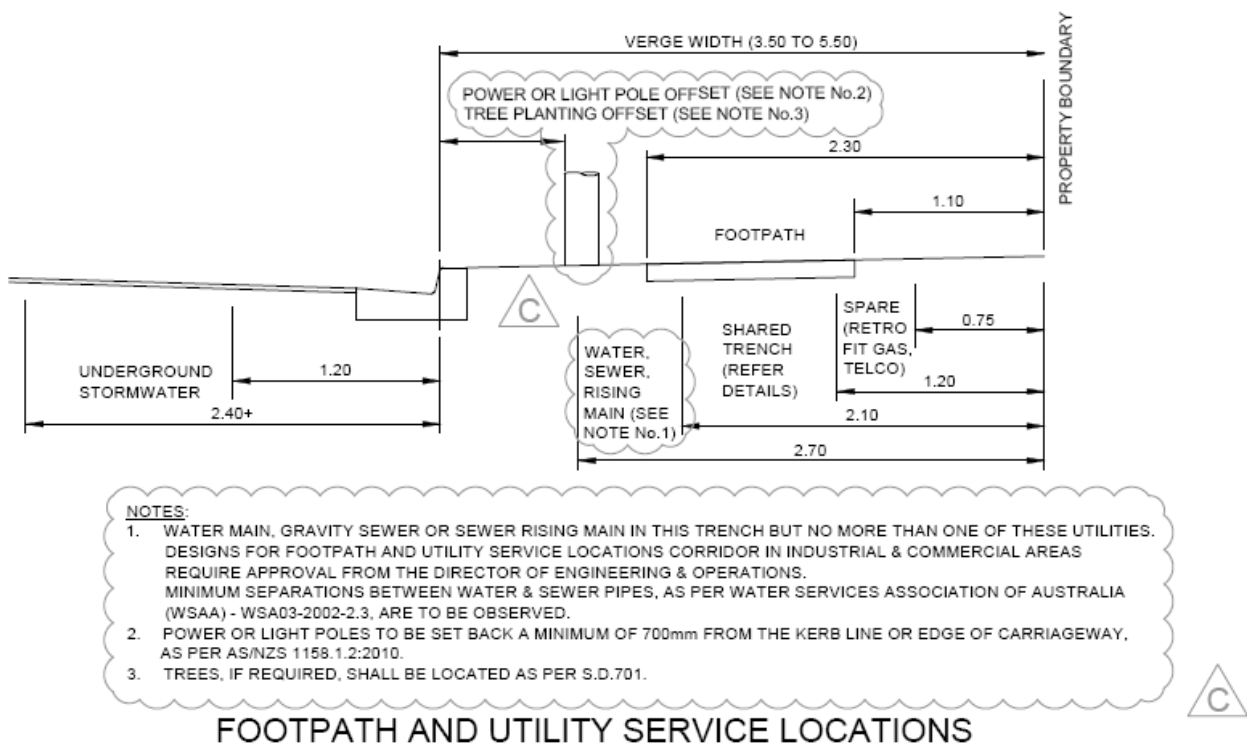
The 0.7m exclusion Zone 1 should be adopted in Council specifications. While the Standard measures this setback to the centreline of the pole, it is recognised that Essential Energy's practice is to set back all pole elements beyond 0.7m.

Due to the unavailability of frangible poles for Category P street lighting at this time, the impracticality of specifying rigid pole locations in Zone 3, and low residual risk of errant vehicle impact in urban low speed environments, it is recommended that the use of rigid poles in Zone 2 be endorsed by Council.

It is further recommended that in order to achieve future compliance with the recommendations of the Australian Standard, Essential Energy be requested to urgently advance the provision of a frangible street lighting pole for inclusion in their street light selection tables suitable for Category P lighting applications.

Service Allocation

Service allocations are specified in Table D1.8 of *Development Design Specification D1 - Road Design*, and shown in Standard Drawing S.D.006 *Service Locations in Roadways*. An extract of the current drawing is provided below (note previous amendment to street light setback):

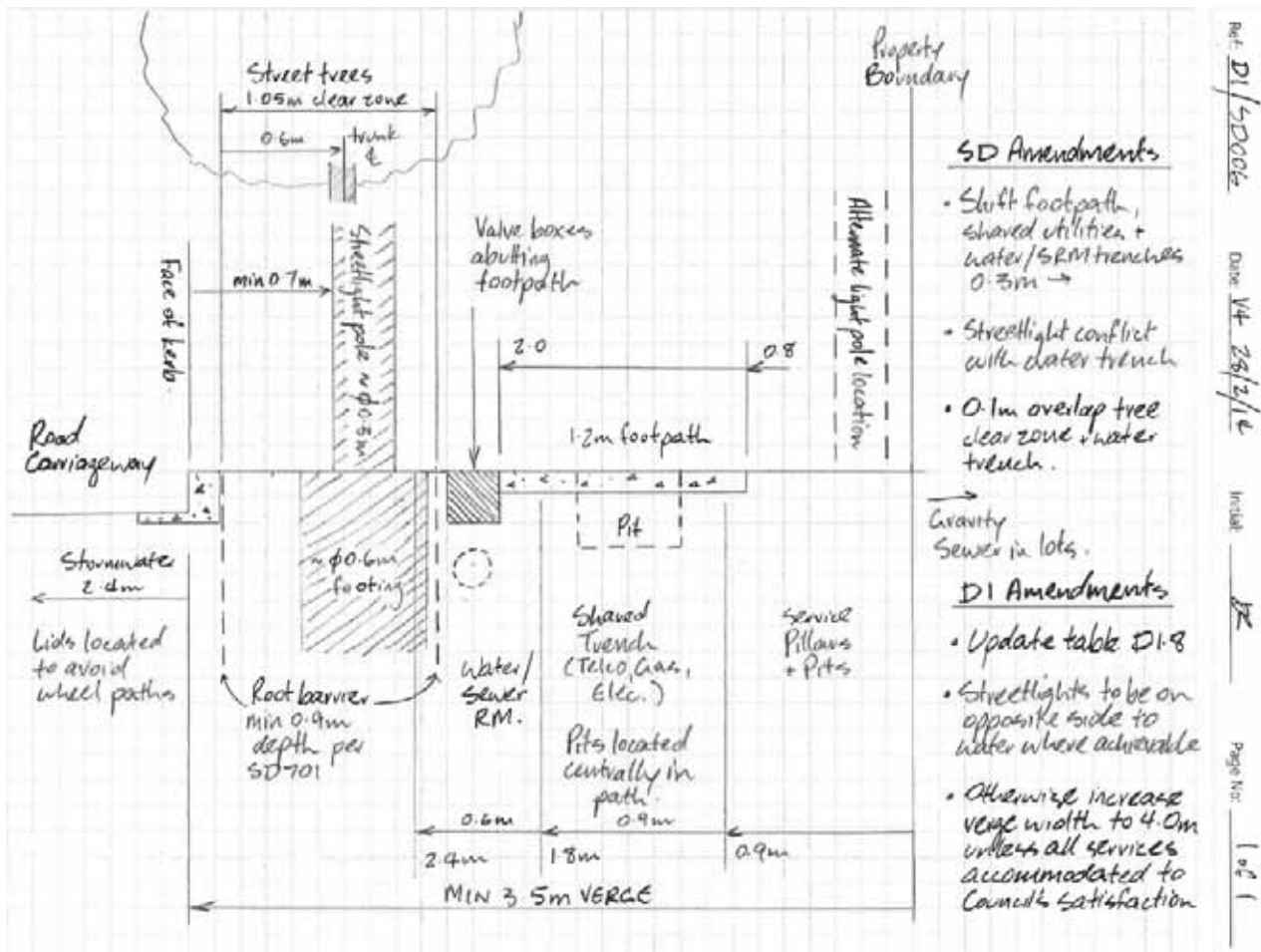


The conflict between streetlights and water mains is apparent in the drawing above, particularly when pole footings are taken into account. As noted earlier, Essential Energy's practice is to require all streetlight elements to be outside of the minimum offset in the Australian Standard.

Standard Drawing S.D.701 *Tree and Shrub Planting Details*, which relates to street tree requirements, also conflicts with the water corridor, by requiring a 1050mm clear zone

between back of kerb and adjacent services. Some maintenance problems between street trees and water services have been reported in recent subdivisions by the Water Unit.

The review of service allocations headed by the Planning and Infrastructure Section has included relevant staff from various units with responsibility for the affected assets. Several iterations have resulted in the revised service allocation sketch below:



As shown, the 3.5m minimum verge struggles to accommodate all services, and as Essential Energy promotes streetlight locations further than the minimum from the kerb, the likelihood of clashes with water services increases. As such, it is proposed to require streetlighting and water services be placed on opposite sides of the street, thus maintaining the minimum 3.5m verges. Where this is not achievable due to site constraints or servicing requirements, the minimum verge must be increased to 4.0m accordingly.

While the position of street trees relative to water services is improved under the amended sketch, there is around a 100mm overlap between the tree "clear zone" and the water trench allocation. It is proposed to provide deeper root barriers along the edge of the clear zone to try and prevent root intrusion in and around water pipes, thereby reducing the risk of future maintenance issues. There is concern that this encroachment could impact on tree stability. The adoption of a 4.0m minimum verge width would mitigate this risk.

Except in cases where street lighting and water services conflict, the option to increase the specified minimum verge width to 4.0m is not supported, as this minimum standard has operated with few problems over many years of intense development (until the street lighting

issue arose), and due to likely objections by the development industry due to loss of yield resulting from the increased road reserve width.

Service Allocation Conclusion and Recommendations

Given Essential Energy's support for street light pole locations in excess of the minimum setbacks specified in the Australian Standard, D1 should be amended to require street lights and water services to be located on opposite sides of the street. Where this is not practical the verge width must be increased to 4.0m.

By shifting the footpath, shared trench and water trench 0.3m closer to the property boundary, the clear zone for street trees is maximised, with additional root barrier specified to avoid conflicts with services.

OPTIONS:

Options to mandate 4.0m as the minimum verge width were considered in the D1 review. However for the reasons detailed above, it was considered that the minimum 3.5m wide verge width could be retained in most circumstances, and mandating wider road reserves would therefore be an unfair impost on the development industry.

With respect to street lighting pole specifications, it should be recognised that the majority of pole installations in local access streets would not currently comply with the Australian Standard, and the option to continue to allow rigid poles to be installed in Zone 2, where there are no apparent alternatives, remains the recommendation.

CONCLUSION:

The proposed amendments to D1 service allocations provides compliance with the exclusion zone for street light poles in accordance with the Australian Standard AS/NZS 1158, and greatly reduces the likelihood of service clashes in new subdivision areas during construction and future maintenance activities.

At this time, street light installation in urban access streets with minimum verge widths cannot comply with AS/NZS 1158 as frangible light poles are not readily available for these applications. It is therefore recommended that Council endorses the current practice of allowing rigid type poles to be placed in street verges until such time as frangible poles are made available through the street lighting authority, Essential Energy.

COUNCIL IMPLICATIONS:

a. Policy:

DCP-A3 Subdivision Manual and referenced Development Design Specification D1 - Road Design.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Potential liability exposure by accepting rigid poles in Zone 2, as outlined in the body of the report. However the benefits to providing street lighting in urban residential subdivisions for

road and pedestrian safety are considered to outweigh the residual risk of vehicle collisions with rigid street poles in urban low speed environments. The unavailability of frangible poles for access street applications leaves Council with little option but to accept this risk. The vast majority of existing light pole installations would not conform to the current Australian Standard. Acceptance of this residual risk in the short term should be subject to pursuing frangible pole options further with Essential Energy.

d. Communication/Engagement:

Inform - We will keep you informed..

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

30 [E-CM] Review of Public Road Maintenance Categories

SUBMITTED BY: Works

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.4 An integrated transport system that services local and regional needs
 - 2.4.3 Ensure local streets, footpaths and cycleways are provided, interconnected and maintained
-

SUMMARY OF REPORT:

At its meeting on Tuesday 25 July 2006 after considering a report titled "Review of Public Road Maintenance Categories", Council resolved that:

- "1. *A further report be brought back to Council recommending adoption of a road categorisation system based on the Strategic Asset and Service Management Program (SAMP) and the principles foreshadowed in this report.*
2. *Defer any requests for review of the maintenance status of individual road segments, until this system is adopted."*

Following this decision, Council's Risk Management framework commenced a lengthy period of review, culminating in the adoption of the Enterprise Risk Management Policy on 29 April 2010, and Enterprise Risk Management Protocol on 17 August 2011.

From the dual perspectives of applying road maintenance funds for the greatest community benefit and to manage risk, it is prudent for Council to again review the standard of maintenance applied to the various categories of Public Road.

RECOMMENDATION:

That Council adopts the following classification system for segments of unsealed roads:

Category	Description/Criteria	Typical Actions
Unformed Roads	Unformed roads (paper roads) are only discernible by reference to a cadastral map. These are basically uncleared bushland or agricultural land that may or may not be usable by vehicles. They are often of similar character to the surrounding land.	Not maintained by Council. In general, no action taken.
Class 3 Unsealed road, "not maintained"	These formed road segments may or may not have a gravel pavement; provide access to 3 or less properties from higher order roads; traffic volumes are very low; usually no guideposts or signs or vegetation control.	Inspection in response to notification of potential safety issues. Signing or barricading of safety hazards until rectified by landowners. Eligible for restoration of storm/flood damage by Council if grant funds are made available. Not serviced by routine maintenance or repair works.
Class 2 Unsealed Road, maintained	These formed road segments would have a gravel pavement and pipe culverts; may or may not have guideposts & signs; are 'dead-end' roads, principally to provide access to 4 or more occupied properties; traffic volumes are low to medium. Road formation must be within Road Reserve and be of a suitable standard to move from Class 3 to Class 2.	Inspection in response to notification of defects or problems. Signing or barricading of safety hazards until rectified by Council. Serviced by some routine maintenance and repair works on a lower frequency.
Class 1 Unsealed Road, maintained	These formed road segments would have a gravel pavement, guideposts, signs, pipe culverts, width for 2 vehicles to pass, and form a through avenue for connection to the sealed road network. Traffic volumes are reasonably high. Road formation must be within Road Reserve and be of a suitable standard to move from Class 2 or 3 to Class 1.	Inspection in response to notification of defects or problems. Regular inspection for defects and safety issues. Signing or barricading of safety hazards until rectified by Council. Serviced by routine maintenance and repair works on a higher frequency.

REPORT:**Legal Position**

The Roads Act 1993 is the over-riding legislation applicable to the management of roads. Its objectives are stated as:

- "(a) to set out the rights of members of the public to pass along public roads, and*
- (b) to set out the rights of persons who own land adjoining a public road to have access to the public road, and*
- (c) to establish the procedures for the opening and closing of a public road, and*
- (d) to provide for the classification of roads, and*
- (e) to provide for the declaration of RMS and other public authorities as roads authorities for both classified and unclassified roads, and*
- (f) to confer certain functions (in particular, the function of carrying out road work) on RMS and on other roads authorities, and*
- (g) to provide for the distribution of the functions conferred by this Act between RMS and other roads authorities, and*
- (h) to regulate the carrying out of various activities on public roads."*

Council is the Road Authority for Council Public Roads. Other classes of road for which Council is not the Road Authority include Classified Freeways, Crown Public Roads and Reserved Subdivision Roads.

Section 71 of the Roads Act states:

"A roads authority may carry out road work on any public road for which it is the roads authority and on any other land under its control."

That is, the Act does NOT impose a statutory duty on a Road Authority to carry out works of construction or repair of public roads, or to keep them in repair.

The Cost of Road Maintenance

The Tweed Shire Local Road network that is maintained by Council is comprised of:

	Length (km)
Sealed Roads	928
Unsealed Roads	159
Total	1,087

On average, the cost to maintain each type of road in perpetuity is:

	\$/km/Year
Sealed Roads	\$16,800
Unsealed Roads	\$7,600

The above table shows that addition to the length of road maintained by Council adds to the annual maintenance account. Council needs to be very careful in accepting additional road maintenance responsibility so that the fixed maintenance budget is not spread too thinly.

Non-Maintained Roads

As noted above, Council currently maintains 928km of sealed roads and 159km of unsealed roads (excluding Regional Roads).

In addition to the above length of roads that Council does maintain, there are other sections of Council Public Road that Council does not maintain. These can be either -

- Unformed roads; or
- Formed Roads.

Unformed roads are only discernible by reference to a cadastral map and hence are sometimes referred to as “paper roads”. These are basically uncleared bushland or agricultural land that may or may not be usable by vehicles. There are perhaps hundreds of kilometres of paper roads – no attempt to systematically identify and collate them has ever been made.

Formed roads consist of a road formation that provides for the passage of vehicles.

Requests for review of roads in the non-maintained category are regularly but infrequently received – perhaps five to ten per year. The most recent requests have been Chauviers Road, Settlement Road, Solomons Road, Geles Road, Snake Gully Road and Glengarrie Road.

Council Public Road segments not maintained by Council

ROADS NOT MAINTAINED (FULL LENGTH)

ROAD NAME	RUNS OFF
Bangalow Drive	Tanglewood Drive
Blackbutt Road	Urliup Road
Bowgum Street	Cudrigan Street
Boobialla Road	Warwick Park Road
Braken Road	Tomewin Road
Carabeen Road	Pumpenbil Road
Cassia Road	Reserve Creek Road
Cavendish Road	Duroby Creek Road
Colagang Street	Cudrigan Street
Condowie Road	Byrill Creek Road
Coolamon Close	Bangalow Drive
Cooradilla Road	Sh10
Coorong Street	Carraboi Terrace
Corkwood Road	Terranora Road
Cowell Park Road	Pottsville Road
Curabee Street	Cooloon Street
Elkhorn Road	Old Piggabeen Road
First Avenue	Sh10 At Burringbar
Gipps Street	Wollumbin Street
Gooninbar Road	Mount Burrell Road
Grevilla Road	McCallisters Road
Griers Creek Road	Doon Doon Road
Heath Road	Round Mountain Road
Highfields Road	Kungur Creek Road
Hideaway Lane	Kyogle Road
Koong Street	Balluna Street
Kurrajong Road	Mount Warning Road
Lillypilly Road	Stoddarts Road
Lofts Pinnacle Road	Mr141
Lord Roberts Street	Second Ave
Lorna Street	Coast Road
Lowanna Drive	Omiyah Way
Lower Mebbin Road	Byrill Creek Road
Mahogany Road	Mr142
Mountain Ash Road	Urliup Road
Murnane's Road	Reservoir Road
North Wollumbin Forest Road	Tyalgum Road
Nightcap Road	Doon Doon Road
Nobboi Street	Carraboi Terrace
Oak Tree Road	Reserve Creek Road
Old Coast Road (Wooyung)	Coast Road At Motel

ROAD NAME	RUNS OFF
O'sullivan Drive	Terranora Road
Quinns Road	Reserve Creek Road
Rainforest Road	Mount Warning Road
Rhodonite Road	Parish Billinudgel
Rifle Range Road	Stokers Road
Secret Lane	Depot Road
Sellicks Lane	Charles Street
Short Street	Cougal Street
Slash Pine Road	Carool Road
Solomons Road	Mount Warning Road
Spotted Gum Road	Piggabeen Road
Stringbark Road	Mr142
Swamp Road	Clothiers Creek Road
The Warra Willows Road	Upper Burringbar Road
Third Avenue	Station Street
Tree Fern Road	Mount Warning Road
Torbonts Road	Glengarrie Road
Tristania Road	Clothiers Creek Road
Tuckeroo Road	Cudgera Creek Road
Tumbulgum Street	Brays Creek Road
Wulffs Lane	Reserve Creek Road
Wabba Road	Cudgera Creek Road
Zig Zag Road	Carool Road

ROADS NOT MAINTAINED (PARTIAL LENGTH)

ROAD NAME
Beantree Road
Boormans Road
Boxsells Road
Butlers Road
Cabbage Gum Road
Camphor Laurel Road
Cadaga Road
Cadell Road
Chauviers Road
Costellos Road
Cougal Road
Double View Road
Edwards Lane
Everests Road
Geles Road
Glengarrie Road
Hazelbrook Road
Hickory Way

Hindmarsh Road
Hopkins Creek Road
Irvines Road
Jowetts Road
Kings Gully Road
Omeara's Road
Rawsons Road
Ripps Road
Rockface Road
Settlement Road
Sharps Road
Starlight Way
Stoddarts Road
Turners Road
Walmsley Road
Wulffs Lane

The Need for a Review

The decision to either maintain or not maintain any particular segment of road was taken by Council decades ago. The July 2006 decision of Council confirmed this classification pending adoption of a rational classification system.

The implication of the current two-category concept is that once a road segment falls into the “maintained” category, it is subject to the same maintenance regime as every other road in the category. This is clearly not the case – roads in the higher functional hierarchy with higher traffic volumes receive greater maintenance than low traffic no-through roads.

Public Liability

Aside from Council’s discretionary power to carry out work on a road, it also has a responsibility for public safety, subject to the protections and limitations of the Civil Liability Act 2002, specifically:

"42 Principles concerning resources, responsibilities etc of public or other authorities

The following principles apply in determining whether a public or other authority has a duty of care or has breached a duty of care in proceedings for civil liability to which this Part applies:

(a) the functions required to be exercised by the authority are limited by the financial and other resources that are reasonably available to the authority for the purpose of exercising those functions,

(b) the general allocation of those resources by the authority is not open to challenge,

(c) the functions required to be exercised by the authority are to be determined by reference to the broad range of its activities (and not merely by reference to the matter to which the proceedings relate),

(d) the authority may rely on evidence of its compliance with the general procedures and applicable standards for the exercise of its functions as evidence of the proper exercise of its functions in the matter to which the proceedings relate."

and

"45 Special non-feasance protection for roads authorities

(1) A roads authority is not liable in proceedings for civil liability to which this Part applies for harm arising from a failure of the authority to carry out road work, or to consider carrying out road work, unless at the time of the alleged failure the authority had actual knowledge of the particular risk the materialisation of which resulted in the harm.

(2) This section does not operate:

(a) to create a duty of care in respect of a risk merely because a roads authority has actual knowledge of the risk, or

(b) to affect any standard of care that would otherwise be applicable in respect of a risk."

In effect, Section 42 allows Council to set its budget allocations for roads and other public infrastructure acknowledging that these allocations will not be able to rectify every problem, and that the failure to rectify every problem will not result in a breach of a duty of care.

Section 45 provides indemnity in situations where Council is unaware of a road problem that causes harm to a member of the public.

It is noted that neither of these Sections eliminate the need for Council to inspect any road problem, assess the risk, and take appropriate action. Appropriate action could range from doing nothing, to simply warning of the risk by way of signage, to full rectification of the problem. Therefore, when advised of a problem on a section of non-maintained road, Council still has a responsibility to inspect the problem and assess the risk.

Criteria for Categorising Roads

To provide guidance for staff and to minimise liability for Council, a system for the categorisation of roads, transfer of roads between categories, and appropriate procedures for each category is necessary. Such a system would need to provide criteria against which any particular road segment can be assessed.

Categories

The following categories are recommended for unsealed Council Public Road segments:

Category	Description/Criteria	Typical Actions
Unformed Roads	Unformed roads (paper roads) are only discernible by reference to a cadastral map. These are basically uncleared bushland or agricultural land that may or may not be usable by vehicles. They are often of similar character to the surrounding land.	Not maintained by Council. In general, no action taken.
Class 3 Unsealed road, "not maintained"	These formed road segments may or may not have a gravel pavement; provide access to 3 or less properties from higher order roads; traffic volumes are very low; usually no guideposts or signs or vegetation control.	Inspection in response to notification of potential safety issues. Signing or barricading of safety hazards until rectified by landowners. Eligible for restoration of storm/flood damage by Council if grant funds are made available. Not serviced by routine maintenance or repair works.
Class 2 Unsealed Road, maintained	These formed road segments would have a gravel pavement and pipe culverts; may or may not have guideposts & signs; are 'dead-end' roads, principally to provide access to 4 or more occupied properties; traffic volumes are low to medium. Road formation must be within Road Reserve and be of a suitable standard to move from Class 3 to Class 2.	Inspection in response to notification of defects or problems. Signing or barricading of safety hazards until rectified by Council. Serviced by some routine maintenance and repair works on a lower frequency.
Class 1 Unsealed Road, maintained	These formed road segments would have a gravel pavement, guideposts, signs, pipe culverts, width for 2 vehicles to pass, and form a through avenue for connection to the sealed road network. Traffic volumes are reasonably high. Road formation must be within Road Reserve and be of a suitable standard to move from Class 2 or 3 to Class 1.	Inspection in response to notification of defects or problems. Regular inspection for defects and safety issues. Signing or barricading of safety hazards until rectified by Council. Serviced by routine maintenance and repair works on a higher frequency.

OPTIONS:

1. That Council adopts the classification system for unsealed roads as recommended; or
2. That Council does not adopt the classification system for unsealed roads as recommended.

CONCLUSION:

- Council does not have a statutory duty to carry out works of construction or repair of public roads, or to keep them in repair.
- Council needs to be very careful in accepting additional road maintenance responsibility so that the fixed maintenance budget is not spread too thinly.
- In practice, the road maintenance regime varies with the standard and function of any given road. It would be sensible for Council to adopt a policy framework that reflects this reality.
- Council has a responsibility to inspect any reported road safety issue, assess the risk and take appropriate action.

COUNCIL IMPLICATIONS:

a. Policy:

Asset Management Version 1.0.

Enterprise Risk Management Version 1.0.

b. Budget/Long Term Financial Plan:

Nil, since any additional roads added to Council's maintenance responsibility will be managed within existing budgets.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

31 [E-CM] Quarterly Water Meter Reading and Consumption Billing - Outcomes of Community Engagement

SUBMITTED BY: Water

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.2	Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand

SUMMARY OF REPORT:

In December 2013, Council resolved to advertise its intent to implement a 'rolling' quarterly water meter reading and billing regime along with pro-rating of the water consumption charges and a stepped daily average threshold for water usage by residential customers.

Any feedback regarding the proposed changes was to be considered in the Revenue Policy and Statement 2014/2015.

Community consultation on quarterly meter reading and water consumption billing was conducted from Tuesday 28 January 2014 to Monday 17 February.

Customer feedback was gathered via a simple 3-question survey, which was available online and in hardcopy format. Feedback was also received via phone and email. Council staff visited a local shopping centre and markets to conduct additional surveys in person.

There were a total of 65 responses to the survey. According to these results, the respondents were divided on quarterly reading/billing, with 49 per cent saying they *would* prefer to receive bills quarterly and 43 per cent saying they *would not* prefer to receive quarterly water bills and eight per cent not having a strong view either way. The reasons for maintaining the current six-monthly meter readings and water consumption bills, were varied but a small number of key themes emerged. These were:

- Council rates would go up due to the increased administration costs
- The additional time it would take to negotiate and allocate water used by individual households in a multi-residential property
- The inconvenience of having to pay more bills in the one year.

Despite these concerns, it is recommended that Council proceeds with the implementation of quarterly meter reading and billing, noting that:

- There are costs to Council associated with the implementation, including initial set-up costs of about \$100,000 and ongoing annual costs of about \$230,000 per year.
- The costs would be negligible for the majority of water customers.
- Quarterly reading/billing and the associated changes being proposed provide a number of benefits for both Council and water customers and these benefits will increase as water consumption charges increase over time.
- Quarterly billing for water consumption is the preferred approach of the NSW Office of Water (NOW) Best-Practice Management of Water Supply and Sewerage Guidelines (August 2007)
- Quarterly reading/billing is consistent with other utility services such as electricity and gas
- Concerns raised about a potential increase in water charges resulting directly from the introduction of quarterly reading/billing can be addressed by providing suitable information to the community
- Other concerns raised can be addressed to a large extent through community education
- The qualitative feedback received during the survey was very valuable and can be used to determine the information and communication needs of customers when quarterly billing is implemented
- 49 per cent of respondents said they would prefer to receive bills quarterly and a further eight per cent did not express a strong view either way.

It is recommended that the '*Water Pricing Policy*' and '*Sewerage Charging Policy*' sections of the draft *Revenue Policy and Statement 2014/2015* be amended to reflect the proposed changes. Members of the community will have another opportunity to comment on the changes once the *Revenue Policy* is exhibited.

RECOMMENDATION:

That Council:

- 1. Notes the outcomes of community engagement in relation to the introduction of quarterly water meter reading and water consumption billing.**
- 2. Amends its *Revenue Policy and Statement 2014/2015* to reflect the implementation of a 'rolling' quarterly water meter reading and billing regime along with pro-rating of the water consumption charges and a stepped daily average threshold for water usage by residential customers.**

REPORT:

Background

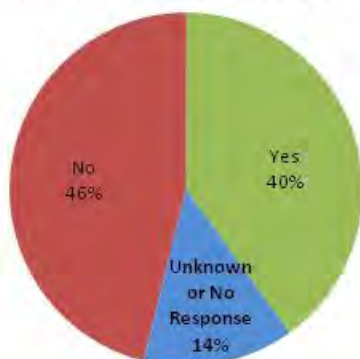
Community consultation on quarterly billing was rolled out from Tuesday 28 January 2014 - Monday 17 February.

Customer feedback was gathered via a simple three-question survey, which was available online and in paper. Feedback was also received via phone and email. Council staff visited a local shopping centre and markets to conduct additional surveys in person.

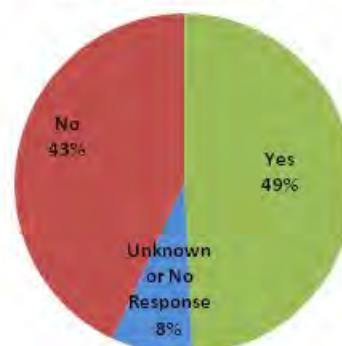
Respondents were asked the following 3 questions:

Question	Yes	No	Unsure or No Response	Total
Would quarterly billing for your water help your budgeting?	26	30	9	65
Would quarterly billing for your water help you to be more water-wise?	18	36	11	65
Would you prefer to receive your water bills every quarter rather than every six months?	32	28	5	65

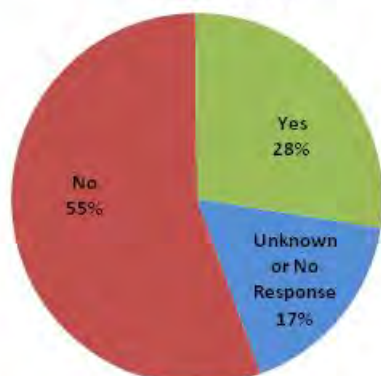
Would quarterly billing for your water help your budgeting?



Would you prefer to receive your water bills every quarter rather than every six months?



Would quarterly billing for your water help you to be more water-wise?



Key Findings

There were 65 responses to the survey which is a relatively good result. Although this is a small sample size when compared to Council's 34,680 water assessments, it still provides a reasonable indication of community views on this issue.

According to these results, the respondents were divided on quarterly billing, with 49 per cent saying they *would* prefer to receive bills quarterly, 43 per cent saying they *would not* prefer to receive quarterly water bills and eight per cent not having a strong view either way.

Forty (40) per cent of respondents said that quarterly billing *would* help with their household budgeting while 46 per cent said it *would not*. Generally, people who said that quarterly water billing *would not* help with their household budgeting also said that their water bills were small in comparison to other bills such as Council rates and electricity so paying them every six months was not a burden. Tenants and families seemed more likely to favour quarterly billing as a means of helping with the household budget.

Only 28 per cent of respondents said that receiving more frequent information on their water use would help them to be more water wise. This was a disappointing result and indicates a clear opportunity for further education about monitoring household water consumption and watching for leaks.

Respondents were given the opportunity to provide additional qualitative feedback. Amongst those opposed to quarterly billing, the most common issues that emerged with the move to quarterly billing were:

- Council rates would go up due to the increased administration costs
- The additional time it would take to negotiate and allocate water used by individual households in a multi-residential property
- The inconvenience of having to pay more bills in the one year.

This qualitative feedback was valuable in determining the information and communication needs of customers when quarterly billing is implemented.

Information and Consultation Tools

In accordance with Council's Engagement Strategy, a range of channels were used to inform and consult with customers.

Online

- Your Say Tweed contained information, factsheets, an online survey and a Q&A function (<http://www.yoursaytweed.com.au/waterbills>).
- A Quarterly Billing page was set up on Council's website (www.tweed.nsw.gov.au/QuarterlyWaterBilling).
- Quarterly billing was also a '*Hot Topic*' on the homepage of Council's website to direct visitors to the site to the Quarterly Billing webpage.

Online Case studies and Factsheets

- A factsheet explained how quarterly bills would be calculated, including the pro-rating of charges and application of the stepped daily average threshold for water usage.

- To simplify how the stepped daily average threshold for water usage would be calculated, a quarterly excess water threshold was used.
- Four targeted case studies were created to highlight the impact on different consumer groups (e.g. families with high water consumption).
- Both were available on Council's website and Your Say Tweed.

Customer contact

- Two Council Officers met with customers at the Sunnyside Mall (Murwillumbah), the Caldera Farmers Market (Murwillumbah) and the PCYC Markets (Tweed Heads) to raise awareness of the shift to quarterly billing. They either directed customers to Your Say Tweed, handed out paper surveys (for those without internet access) or surveyed customers in person. The paper-based survey was also available for customers to complete at Council's Customer Contact Centres in Tweed Heads and Murwillumbah.
- Further information was posted on digital displays, counter signs and notice boards in Council's Customer Contact Centres in Tweed Heads and Murwillumbah.
- Two briefing sessions were held with the Contact Centre staff to train them on the changes, allowing them to answer questions from the public.

Media

- Editorial featured in the Tweed Link on 28 January 2014
- Advertising featured in Tweed Link on 11 February 2014
- A media release was issued on 30 January 2014

Results – Community Reach

Research Period: 28 January 2014 to 17 February 2014 (3 weeks)

Channel	Measure	Result
Survey	- Online (Your Say Tweed)	22
	- Paper	34
	- Email/Phone/Letter	9
	- Total	65
Your Say Tweed	- Unique visitors to the site	147
	- Downloads of factsheet/case studies	75
	- Visitors who completed the online survey	22

OPTIONS:

Options available to Council include:

Option	Advantages/Benefits	Disadvantages/Risks
1. Maintain six-monthly reading/billing	<ul style="list-style-type: none"> - No increased costs to Water Fund - Supported by 43per cent of respondents - No changes to water bills required - No new education of customers required 	<ul style="list-style-type: none"> - Does not comply with NOW guidelines - Not supported by 49 per cent of respondents - Weaker water wise signals - Slower response to leaks and high water use

Option	Advantages/Benefits	Disadvantages/Risks
2. Introduce quarterly i.e. three-monthly reading/billing	<ul style="list-style-type: none">- Complies with NOW guidelines- Consistent with other utilities- Supported by 49 per cent of respondents- Strong water wise signals- Faster response to leaks and high water use	<ul style="list-style-type: none">- Increased costs to Water Fund- Not supported by 43 per cent of respondents- Changes to water bills required- New education of customers required

COSTS

The costs to Council associated with implementing quarterly water meter reading and consumption billing include set-up costs and ongoing annual costs.

The initial set-up costs include:

- purchase and fit-out of accommodation for additional Revenue staff
- reconfiguration of the Ci Property Water Module
- changes to water consumption bills
- community engagement
- staff costs associated with project planning, participation in the working group, testing of the reconfigured Water Module and review of the amended water bills

The set-up costs are estimated to be \$100,000.

The ongoing costs include:

- staff costs associated with reading meters, processing payments, debt recovery, data handling and scheduling
- printing and postage
- travel costs associated with reading meters more frequently

The ongoing costs are estimated to be \$230,000 per year.

The costs impact to the majority of water customers due to quarterly reading/billing would be negligible. Some respondents to the survey expressed concern that Council's water charges would increase as a direct result of quarterly reading/billing. This is not the case as both, the water access charge and water volumetric charges have been set in the Revenue Policy and Statement until 2016-2017.

For multi-residential assessments with one Council-owned master water meter, there would be an indirect cost created by the need for the Body Corporate or property owner/manager to read internal meters four times a year rather than two. This would only apply to assessments with internal meters and as it is usually done by one of the residents, the cost would be in terms of additional time and effort. Many multi-residential assessments do not have internal meters and so would be unaffected by the change to quarterly reading/billing.

Modelling has shown that the proposed stepped daily average method of calculating the step water consumption charge will affect a small number of high residential water users, increasing their overall water consumption bill for the year. It will be possible for a customer with large usage fluctuations to use less than 300kL in the financial year whilst paying some excess water charges in one or more billing periods if the water usage exceeds the calculated thresholds for those periods. This usage pattern would affect only a very small number of customers. A customer would need to use more water than the equivalent of a

4-5 person household (about 822L/d) in one billing period and virtually no water for the rest of the year to fall into this category.

Note that the step charge does not apply to non-residential water customers who are charged a flat rate for water usage over the entire financial year and unaffected by these changes.

BENEFITS

Quarterly reading/billing and the associated changes being proposed provide a number of benefits for Council, including:

- more regular information about water consumption patterns in the shire
- earlier indication of high water usage and possible water leaks
- quicker response to meter problems
- improved meter maintenance and replacement program
- clearer pricing signals consistent with Council's Demand Management Strategy
- improved cash flow for Council
- better management of staff resources with no peak resourcing requirements
- compliance with the NSW Office of Water Best-Practice Management of Water Supply and Sewerage Guidelines (August 2007)

For water customers, the benefits of quarterly reading/billing include:

- more regular information about their own water consumption patterns
- smaller individual payments for water consumption charges spread throughout the year, allowing for improved household budgeting
- earlier indication of high water usage
- earlier warning about possible water leaks

Notably, all of these benefits will increase as water consumption charges increase over time.

CONCLUSION:

It is recommended that Council proceeds with the implementation of quarterly meter reading and billing, noting that:

- Concerns raised about a potential increase in water charges resulting directly from the introduction of quarterly reading/billing can be addressed by providing suitable information to the community
- Other concerns raised can be addressed to a large extent through community education
- The qualitative feedback received during the survey was very valuable and can be used to determine the information and communication needs of customers when quarterly billing is implemented
- 49 per cent of respondents said they would prefer to receive bills quarterly and a further eight per cent did not express a strong view either way.

Although the 65 people surveyed represent a small sample size in relation to total population, it is indicative of the perceptions of quarterly billing. Furthermore, the qualitative feedback received is valuable in gauging the *perceived* benefits and costs to Council's customers. It is envisaged that with the public exhibition of Council's Revenue Policy, additional feedback will be provided to further gauge customer sentiment.

COUNCIL IMPLICATIONS:

a. Policy:

Revenue Policy and Statement 2014/15. The '*Water Pricing Policy*' and '*Sewerage Charging Policy*' sections of the draft *Revenue Policy and Statement 2014/15* have been amended to reflect the proposed changes. Members of the community will therefore have another opportunity to comment on the changes to water billing once the *Revenue Policy* is exhibited.

b. Budget/Long Term Financial Plan:

The costs associated with implementing quarterly water meter reading and consumption billing, as well as the community engagement, are to be borne by the Water Fund. The initial set-up costs are estimated at \$100,000. The ongoing costs are estimated at \$230,000 per year. There are no plans to increase the water consumption charges as a direct consequence of introducing quarterly reading/billing. The water access charge and water volumetric charges have been set in Council's Revenue Policy and Statement until 2016-2017.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult-We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

32 [E-CM] Backflow Prevention and Cross Connection Control Policy for the Tweed District Water Supply

SUBMITTED BY: Water

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.3 Provide well serviced neighbourhoods
 - 2.3.2 Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
-

SUMMARY OF REPORT:

On 21 November 2013 Council resolved to exhibit the draft Policy entitled “Backflow Prevention and Cross Connection Control” Version 2.0 for a period of 28 days and accept public submissions for a period of 42 days as per Section 160 of the Local Government Act 1993.

The draft Policy was subsequently placed on exhibition from 13 January 2014 to 24 February 2014. No public submissions were received.

Following the Phase 1 restructure, the Division name on this Policy has now been amended to Engineering (previously under Community & Natural Resources).

The draft Policy deals with the protection of Council’s reticulated water supply by reducing the risk of contamination through backflow, back siphonage and cross connections. Such contamination can affect not only the wider water distribution system but also individual properties.

RECOMMENDATION:

That Council adopts the Policy entitled “Backflow Prevention and Cross Connection Control” Version 2.0.

REPORT:

Since May 2002 Council has followed an unadopted policy to manage backflow prevention and cross connections.

In 2013 the policy was completely rewritten and updated using the Water Directorate's *Backflow Prevention and Cross Connection Control Guidelines (July 2013)* and the *Plumbing Code of Australia* as the main references.

The Policy deals with the protection of Council's reticulated water supply by reducing the risk of contamination through backflow, back siphonage and cross connections. Such contamination can affect not only the wider water distribution system but also individual properties.

The Policy:

- defines the key terms "backflow prevention" and "cross connection"
- identifies relevant legislation, standards and codes
- explains the risks associated with backflow, back siphonage and cross connections
- outlines the responsibilities of Council, property owners and plumbers with respect to the installation, testing, maintenance and certification of backflow prevention devices
- outlines the responsibilities of Council, property owners and plumbers with regards to the costs associated with compliance
- summarises Council's duty of care for the protection of the drinking water supply to safeguard public health and the duty of care of property owners to prevent such an occurrence, as well as their responsibilities to ensure a safe water supply within their own property boundaries.

On 21 November 2013 Council resolved to exhibit the draft Policy and consider public submissions before adoption. The draft Policy was subsequently placed on exhibition from 13 January 2014 to 24 February 2014.

To encourage comment on the draft Policy, letters were sent to plumbers and plumbing retailers in the shire, alerting them to its exhibition.

No submissions were received from members of the public or other internal and external stakeholders.

It is therefore recommended that Council adopts the draft Policy, without any further changes, as a formal Policy of Council. Following the Phase 1 restructure, the Division name on this Policy has now been amended to Engineering (previously under Community & Natural Resources).

OPTIONS:

1. That Council adopts the draft policy.
2. That Council takes some form of affirmative action.

CONCLUSION:

The Policy formalises and updates an unadopted policy that has been used to manage backflow prevention and cross connections in the Tweed Shire for some years. Council will ensure that the Policy is implemented to provide consistency and clarity to plumbers and other stakeholders operating in the shire.

COUNCIL IMPLICATIONS:

a. Policy:

This Policy will replace the existing unadopted policy previously prepared on 1 May 2002.

b. Budget/Long Term Financial Plan:

Council responsibilities covered by this Policy are funded from existing budgets.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Consult-We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Backflow Prevention and Cross Connection Control
(Version 2.0) (ECM 3301098).

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REPORTS FROM THE ACTING DIRECTOR CORPORATE SERVICES

33 [CS-CM] Council Meeting and Planning Committee Venues

SUBMITTED BY: Corporate Governance

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
-

SUMMARY OF REPORT:

The February Council Meeting was conducted at the Banora Point Community Centre and following this meeting a report is to be considered by council if it wishes to meet at venues outside of the Murwillumbah Council Chambers.

This report provides some options for the conducting of meetings at other venues for consideration by council.

RECOMMENDATION:

That in accordance with the Code of Meeting Practice Version 2.4, meeting venues be determined.

REPORT:

Section 1.1.12 of the Code of Meeting Practice, states:

"Council meetings are normally held in the Council Chambers Civic and Cultural Centre, Tumbulgum Road, Murwillumbah. It is up to council to decide when and where to have the meeting."

Council resolved at 17 October 2013 meeting the following, in relation to conducting meetings at a venue other than the Murwillumbah Council Chambers:

"That:

- 1. Council's Ordinary meeting in February 2014 be held at the Tweed Civic Centre South Sea Islander Room; and*
- 2. A report for the March 2014 Ordinary Council meeting be prepared outlining the success of moving the February meeting to the Tweed Civic Centre South Sea Islander Room and outlines whether there should be further meetings held outside of the Council Chambers in Murwillumbah, other possible venues for Council meetings; and a schedule for further such meetings for 2014 and 2015."*

In reviewing the proposed venue of the February 2014 council meeting, an administrative decision was taken that a more appropriate venue would be the Banora Point Community Centre and this was advertised accordingly.

At the November 2013 council meeting in response to a recommendation within the SINC Report it was resolved to meet as a Planning Committee and then in a Council Meeting on different Thursdays of the month.

It was further resolved at December 2013 meeting to conduct Planning Committee and Council Meetings on the following dates:

	1st Thursday	3rd Thursday
Month	Planning	Council
January		23
February	6	20
March	6	20
April	3	10
May	1	15
June	5	19
July	3	17
August	7	21
September	4	18
October	2	16
November	6	20
December	4	11

The Council Meeting of 20 February 2014 held at the Banora Point Community Centre was attended by approximately 30 community members at the commencement of the meeting, with 6 of these members continuing to attend the meeting following the resumption after the dinner break. From a logistical perspective, information technology support was required in setting up the meeting to enable the councillors, staff and members of the public to view the minutes of the meeting as they occurred, as well as ensuring adequate power availability for the use of the iPads. A further consideration was the use of a hand held microphone to ensure that the members of the community were aware of what item the council was considering. While the venue may have had some limitations in being able to accommodate a large number of community members, with the number of community members present the venue proved adequate. Council may give consideration to holding a meeting at this venue on an annual basis.

In relation to the conducting of further meetings at a venue other than the Murwillumbah Council Chambers, consideration can be given to the holding of meetings at other council properties, either coastal or inland, such as the Cabarita Sports Club, Pottsville Beach Community Hall, Kingscliff Community Hall, Chillingham Public Hall. Other venues for consideration that are not within the care of control of council could be the Tyalgum Hall and the Uki Hall. Should meetings be held at venues other than the Murwillumbah Chambers, suitable catering arrangements can be arranged to accommodate these meetings. Dependent upon the venue selected, the same type of meeting support may not be able to be achieved at each venue and this would need to be considered when analysing the proposed venues more closely.

Currently, with the election of the Mayor occurring annually at the September council meeting, it would not be favourable to relocate this meeting to another venue.

Now that council is meeting as a separate Planning Committee and then in a Council Meeting format, with both these meetings being preceded by Community Access, consideration could also be given to alternating Planning Committee meetings to make them more accessible to the community. However, this would provide logistical issues in relation to the transport of a number of physical DA files, and the lack of access to technical staff that the Murwillumbah Civic Centre provides.

Consideration also needs to be given to the requirement that should a meeting be held at an alternate venue, the ease of attending by community members who wish to address the meeting via the Community Access platform.

OPTIONS:

1. Consider conducting on an annual basis up to three meetings at suitable locations other than the Murwillumbah Council Chambers.
2. Retain the current meeting venue, with all meetings being conducted at the Murwillumbah Council Chambers.

CONCLUSION:

As per the Code of Meeting Practice it is up to council to decide when and where to have the meeting.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.4.

b. Budget/Long Term Financial Plan:

Due allowance is made within the budget for costs associated with the conduct of council meetings.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

34 [CS-CM] Complaints Analysis Report for the period 1 October to 31 December 2013

SUBMITTED BY: Corporate Governance

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
-

SUMMARY OF REPORT:

Council's Complaints Handling Policy provides a framework for the effective managing and resolving customer complaints. The Policy is designed to ensure that complaints are appropriately recorded and resolved in a timely and equitable manner.

A complaint analysis report is to be reported to Council detailed by type and outcomes/actions on a quarterly basis, without personal identifying particulars of complainants or associated persons or properties.

RECOMMENDATION:

That Council receives and notes the Complaints Analysis Report for the period 1 October to 31 December 2013.

REPORT:

Council's Complaints Handling Policy provides a framework for the effective managing and resolving customer complaints. The Policy is designed to ensure that complaints are appropriately recorded and resolved in a timely and equitable manner.

A complaint is an expression of dissatisfaction, made in a respect to a Council Officers role in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified or not. It is not a request for service (customer work request), or information or an explanation of a policy or procedure, or objections to a development application before Council determination.

A complaint can progress from Council's lack of action following the lodgement of a customer request for service or a request for information.

A complaint analysis report is to be reported to Council detailed by type and outcomes/actions on a quarterly basis, without personal identifying particulars of complainants or associated persons or properties.

The complaints principally refer to the:

- Failure of Council Officers to comply with Council's Customer Service Charter in not responding to items within 14 days in accordance with the Correspondence - Response to Policy.
- Respondents being dissatisfied with the actions of Council Officers in handling their original request for service.
- Respondents being dissatisfied that issues have not been dealt with by Council Officers.
- Complainants being dissatisfied by decisions made by Council.

The type of complaint has been categorised in accordance with categories used by the Office of Local Government. This methodology will assist in monitoring the effectiveness of Council's handling of complaints and improving service delivery.

No compliments have been received. Information on 20 complaints follows:

Complaint Type	Ref	Details of Complaint	Comments
Customer Service Service Standards, Administration	1.	1. Marsupial Drive, Pottsville - complaint regarding unfavourable treatment of development application due to contact between Council employee and Councillors.	Detailed response sent outlining issues and denying any contact between Council employee and Councillors.
		2. Morrison Property Group, Palm Lake Banora Point - third email sent - disappointed no response to previous emails. Request an explanation on development activity.	Detailed response sent by email, providing a response to the issues raised.

Complaint Type	Ref	Details of Complaint	Comments
Enforcement and Regulatory Powers Building/Noise	2.	1. Ridgeway Street, Tweed Heads South - previously lodged complaints about overgrown property. There has been no action - the danger has intensified.	Discussions are continuing with owner of the property to rectify the complaint.
		2. Pacific Street, Kingscliff - emails and telephone calls made to Council office regarding building projects at the property.	Information noted.
		3. Marine Parade, Kingscliff - smoke coming from chimney is bad, getting worse, loss to understand how Council permitted chimney in the first place.	Discussions taken place with owner of the business and complainant regarding rectification of complaint. Independent consultant engaged to investigate complaint and make appropriate suggestions to rectify complaint.
		4. Hassett Drive, Pottsville - No reply to email received from Council after 2 months.	Detailed response sent providing comment in regarding to issues raised.
		5. Depot Road sportsfields, Kings Forest - various complaints alleging that Council has not complied with and/or breached conditions of consent for DA09/0186 and DA09/0836.	Response sent advising external consulting firm to conduct an independent compliance audit.
		6. Hastings Point pump station - still having problems renting out the Unit due to smell from pump station.	Complaint investigated - response sent advising that maintenance has been carried out which should provide some relief.

Complaint Type	Ref	Details of Complaint	Comments	
Roads, Parks and Water	7.	Australia Drive, Terranora - appalled it has taken Council a month to act on development application. Letter sent to client is very vague.	Matter has been discussed with complainant, advising of DA processing issues - application has now been processed.	
	8.	Prospero Street, South Murwillumbah - disapproval with Council's disappointing activity towards cleaning up the area.	Issue discussed with complainant, working with owner of property to improve the general environment in Prospero Street.	
	3.	1.	Reserve Creek Road, proposed class action against Council - failure to maintain dangerous road.	Detailed response sent outlining Council's strategy for sealing and maintaining roads.
	2.	Piggabeen Road is in an appalling condition - road should be repaired.	Response sent advising of proposed pavement rehabilitation in 2014/2015. Routine maintenance of Piggabeen Road will continue.	
	3.	Boundary Lane, Tweed Heads - in May wrote to Council regarding condition of this road.	Response sent advising pothole repairs and removal of weed growth referred to maintenance section - asphalt resurfacing to be included in 2013/2014 program.	
	4.	Banks Avenue, Tweed Heads - complaint about road condition - continual potholes.	Detailed response sent advising no funds in 2013/2014 Infrastructure Program for upgrade. Works will be considered in 2014/2015 Program with routine maintenance continuing to be carried out.	

Complaint Type	Ref	Details of Complaint	Comments
	5.	Salt Central Park, Kingscliff - formal complaint about equipment in park not being repaired - request written response.	Replacement equipment had been ordered and awaiting installation at time of complaint - installed soon after.
	6.	Seabreeze Estate, Pottsville - complaint about the state of the entrance pond and trees.	Complaint has been subject to submission of a petition to Council - Council resolved on 23 January 2014 to undertake works with respect to entrance pond and trees.
	7.	Round Mountain Road - object to decision to bitumen road, sealing of Reserve Creek Road would be more beneficial.	Detailed response sent advising it was a decision of Council on 17 October 2013.
	8.	Brisbane Street, Murwillumbah - condition of road surface between Condong and King Street is atrocious - damage to cars.	Response sent advising that funding for road reconstruction and stormwater drainage upgrade in 2013/2014 budget.
	9.	Narraden Street, Kingscliff - formal complaint - damage to pandanus tree by Council staff.	Detailed response sent following investigation by Council officers.
	10.	Pacific Street, Kingscliff - nothing has been done since first complaint lodged regarding erection of no through road sign.	No through road signs erected.

OPTIONS:

Not Applicable.

CONCLUSION:

That Council receives and notes the Complaints Analysis Report for the period 1 October to 31 December 2013.

COUNCIL IMPLICATIONS:

a. Policy:

Compliments and Complaints Handling Policy, Version 1.4.

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

35 [CS-CM] Monthly Investment Report for Period Ending 28 February 2014

SUBMITTED BY: Financial Services

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.3 Delivering the objectives of this plan
 - 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
-

SUMMARY OF REPORT:

This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

There is a requirement by Council's investment consultant to allow at least five (5) working days following the end of the month to provide the statistics for this report. Due to this time constraint and the Council requirement to receive reports ten (10) days prior to the Council meeting, there will be an addendum report provided to Council for consideration at its meeting on 20 March 2014.

RECOMMENDATION:

Refer to addendum report.

REPORT:

As per summary.

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Local Government (General) Regulations 2005 - Section 212 - Reports on council investments

"(1) The responsible accounting officer of a council:

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:

(i) if only one ordinary meeting of the council is held in a month, at that meeting, or

(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and

(b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

(2) The report must be made up to the last day of the month immediately preceding the meeting."

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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ORDERS OF THE DAY



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations

- 36 [NOR] [PR-PC] Development Application DA10/0800.03 for an Amendment to Development Consent DA10/0800 for Cobaki Estate Subdivision of Precinct 1 and 2 Comprised of 475 Residential Lots (Including 1 Residual Lot) and Lots for Drainage, Open Space and Urban infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Pt 199, 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529 & Lots 46, 55, Pt 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes**

NOTICE OF RESCISSION:

Councillors C Byrne, B Longland and B Longland move that the resolution at Item 4 of the Planning Committee Meeting held Thursday 6 March 2014 at Minute Number P6 being:

"that Development Application DA10/0800.03 for an amendment to Development Consent DA10/0800 for Cobaki Estate Subdivision of Precinct 1 and 2 comprised of 475 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Pt 199, 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529 & Lots 46, 55, Pt 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes be approved and the consent be modified as follows:

1. *Delete Condition No. 16 and replace it with Condition No. 16A which reads as follows:*

16A. Evidence must be submitted to Council prior to the registration of any Plan of Residential Subdivision, demonstrating that works have been commenced in accordance with the Revised Saltmarsh Rehabilitation Plan by James Warren and Associates dated October 2010 and as specified within Condition 65 of MP08_0200.

The works are to be undertaken in accordance with the timing and responsibilities contained within the approved, Final Saltmarsh Rehabilitation Plan.

2. Delete Condition No. 18 and replace it with Condition No. 18A which reads as follows:

18A. The proponent must maintain Asset Protection Zones (APZs) for Precinct 1 and 2 for a period of five years from the date of the issue of the first subdivision certificate for Precinct 1 or 2. The APZs must be regularly slashed to ensure a reduced fuel zone and Council is to be notified on each occurrence. Council will audit APZs annually, prior to the bushfire danger period, and at other times as appropriate (e.g. when the risk of bushfire is high), to ensure APZs are compliant with Planning for Bushfire Protection 2006 and in order to meet its reporting requirements under the Rural Fires Act 1997. If APZs are not compliant, the proponent must undertake the necessary works as directed by Council and within the timeframe specified by Council. An unconditional bond to the value of 5% of the Asset Protection Zone (including landscaping, fencing, earthworks and fire trail) cost will be held in the favour of Council to be utilised in the event of non-compliance with this condition.

Release of the bond will be at the completion of the five year maintenance period dependent upon the performance of carrying out the requirements of this condition.

3. Delete Condition No. 32 and replace it with Condition No. 32A which reads as follows:

32A. 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
 - Clearly showing pre and post development levels (spot levels and contours) at a legible scale.
 - Comply with the provisions of Council's Design Specification D6 – Site Regrading.
 - Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council.
 - The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed 5ha, unless otherwise approved by the General Manager or his delegate
- Roadworks/furnishings
 - Providing road profiles complying with Council's Design Specification D1 – Road Design, unless approved otherwise by

Council.

- . Stormwater drainage*
- . Water supply works*
 - o In general accordance with Yeats Consulting Engineers - Water Network Analyses, April 2011, Revision 03, unless modified otherwise by the conditions of this Consent.*
- . Sewerage works*
 - o In general accordance with Yeats Consulting Engineers - Master Sewer Reticulation Plan Revision C, unless modified otherwise by the conditions of this Consent.*
- . 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.

- 4. Delete Condition No. 46 and replace it with Condition No. 46A which reads as follows:*

46A. Any playgrounds provided must comply with the guidelines established in the Playground Audit for Tweed Shire Council (July 2009), appendix 3 establishes the procedure for assessing nearby hazards and mitigation measures. The proposed open space areas for this stage as identified in Planit Consulting Drawing Set Dated March 2011 shall be designed to minimise the hazards to designated playground areas consistent with those mitigating features identified in Appendix 3A7 of the Playground Audit for Tweed Shire Council (July 2009). Detailed drawings and reporting outlining mitigation measures to be employed to mitigate risk are to be submitted for approval by the General Manager or his delegate. In proposing mitigation measures consideration of long term maintenance costs shall be considered and evaluated in any reporting.

- 5. Delete Condition No. 51 and replace it with Condition No. 51A which reads as follows:*

51A. One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316.

Such plan(s) must be prepared for Management Areas 1, 3, 4, 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated April 2013 and representing compensatory offset for loss of habitat and Endangered Ecological Communities (EEC) on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the Subdivision Plan (that is, other than as an environmental protection area such as park or drainage reserve lots),

additional EEC and habit offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:

- (a) a schedule and timing of works to be undertaken*
- (b) a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Revegetation Plan are achieved and until such time as an agreement is reached with Council regarding the dedication of that land.*
- (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.*
- (d) a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land not proposed to be dedicated to Council.*

6. *Insert new Condition 51.1 as follows:*

51.1. Following the successful rehabilitation of Management Areas 1, 2, 3, 4, 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2013, the landowner shall offer to dedicate that land to Council.

7. *Delete Condition No. 55 and replace it with Condition No. 55A which reads as follows:*

55A. Asset Protection Zones for Precinct 1 and 2 must be compliant with the bush fire protection measures for residential subdivisions as outlined in Section 4.1.3 of Planning for Bush Fire Protection 2006. If APZs are not compliant with acceptable solutions as per Section 4.1.3 of Planning for Bush Fire Protection 2006, then as per the guidelines a detailed performance assessment must be prepared by a Bushfire Planning and Design Certified Practitioner (BPAD-A) accredited under the Fire Protection Association of Australia and submitted to Council for approval. The performance assessment must include a detailed assessment and demonstration that the APZ can be maintained in the long term with minimal resources in a cost effective manner without compromise of its function to the satisfaction of the General Manager or delegate.

8. *Delete Condition No. 56 and replace it with Condition No. 56A which reads as follows:*

56A. The Plans lodged for Construction Certificate must be certified by a Bushfire Planning and Design Certified Practitioner (BPAD-A) accredited under the Fire Protection Association of Australia as compliant with Planning for Bushfire Protection Guidelines 2006 or the alternate

solutions approved by Council under Conditions 54 and 55.

9. Delete Condition No. 59 and replace it with Condition No. 59A which reads as follows:
 - 59A. Should, following the proponent's best endeavours, National Rental Affordability Scheme (NRAS) (or equivalent) funding be available to provide affordable housing within the development in accordance with the approved Cobaki Estate Affordable Housing Study, a staging plan detailing the location, mix and type of dwellings to be provided as affordable rental accommodation is to be submitted to Council in accordance with the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd. by Hill PDA and dated November 2010.

10. Delete Condition No. 68 and replace it with Condition No. 68A which reads as follows:
 - 68A. Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08_0200 and be submitted to and approved by the PCA prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.

11. Delete Condition No. 100 and replace it with Condition No. 100A which reads as follows:
 - 100A. All waters that are to be discharged from the site during dry weather periods and wet weather periods up to the Q3 month rain event (as defined in Council's Design Specification D7 – Stormwater Quality) shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. Where water is to be discharged from the site the contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

12. Delete Condition No. 112 and replace it with Condition No. 112A which reads as follows:
 - 112A. The proposed passive parks are to be progressively dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan. Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate.

13. Delete Condition No. 114 and replace it with Condition No. 114A which reads as follows:

114A. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

14. Delete Condition No. 115 and replace it with Condition No. 115A which reads as follows:

115A. A bond shall be lodged to ensure suitable care and maintenance is provided to plantings and turf over a 12 month establishment period. This care is required to achieve optimal plant establishment and performance. The bond shall be held by Council to ensure that the associated landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate.

The amount of the bond shall be 20% of the estimated cost of the landscaping.

15. Delete Condition No. 116 and replace it with Condition No. 116A which reads as follows:

116A. Cash Bond/Bank Guarantee

- (a) A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is implemented and completed, must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works remaining to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the bond will be equivalent to 100% of the estimated cost of works.
- (b) One third of the Cash Bond or Bank Guarantee will be refunded one year after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works are being satisfactorily undertaken in accordance with the approved SRRP. A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of

certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-way stage of the SRRP. The final one third of the Bond or Bank Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.

- (c) *Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified.*

16. *Delete Condition No. 129 and replace it with Condition No. 129A which reads as follows:*

129A. *The Plan of Proposed Subdivision shall dedicate the proposed drainage reserve adjacent to that stage of the development at no cost to Council. The proponent shall submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.*

17. *Delete Condition No. 144 and replace it with Condition No. 144A which reads as follows:*

144A. *The staged embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate.*

The Developer will be responsible for maintaining the installed playground equipment and softfall for a period of 6 months after 20% of the relevant stage's allotments have been occupied. A maintenance compliance bond of 5% of the total cost of the installed playground equipment and softfall must be paid to Council prior to the release of the relevant Subdivision Certificate for each stage. The bond will be return upon request at the completion of the maintenance period, if not expended during the maintenance period.

18. *Delete Condition No. 155 and replace it with Condition No. 155A which reads as follows:*

155A. *Prior to the release of a Subdivision Certificate the land owner of the site of the future Cobaki Community Centre under Concept Plan Approval MP06_0316 is to enter into a Deed of Agreement with Council such that the identified land is to be provided with a constructed road frontage and all*

normal urban services and dedicated to Council at no cost prior to the release of a Subdivision Certificate that would allow the creation of more than 2000 residential lots within the Cobaki development."

be rescinded.

- 37 [NOM] Development Application DA10/0800.03 for an Amendment to Development Consent DA10/0800 for Cobaki Estate Subdivision of Precinct 1 and 2 Comprised of 475 Residential Lots (Including 1 Residual Lot) and Lots for Drainage, Open Space and Urban Infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Pt 199, 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529 & Lots 46, 55, Pt 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes

NOTICE OF MOTION:

Councillor C Byrne moves that Development Application DA10/0800.03 for an amendment to Development Consent DA10/0800 for Cobaki Estate Subdivision of Precinct 1 and 2 comprised of 475 residential lots (including 1 residual lot) and lots for drainage, open space and urban infrastructure (JRPP) at Lot 1 DP 570076, Lots 54, Pt 199, 200 DP 755740 Piggabeen Road, Cobaki Lakes; Lot 1 DP 562222, Lot 1 DP 570077, Lot 1 DP 823679, Lot 2 DP 566529 & Lots 46, 55, Pt 199, 201, 202, 205, 206, 209, 228, 305 DP 755740 Sandy Lane, Cobaki Lakes be approved and the consent be modified as follows:

1. Delete Condition No. 16 and replace it with Condition No. 16A which reads as follows:
 - 16A. Evidence must be submitted to Council prior to the registration of any Plan of Residential Subdivision, demonstrating that works have been commenced in accordance with the Revised Saltmarsh Rehabilitation Plan by James Warren and Associates dated October 2010 and as specified within Condition 65 of MP08_0200. The works are to be undertaken in accordance with the timing and responsibilities contained within the approved, Final Saltmarsh Rehabilitation Plan.
2. Delete Condition No. 18 and replace it with Condition No. 18A which reads as follows:
 - 18A. The proponent must maintain Asset Protection Zones (APZs) for Precinct 1 and 2 for a period of five years from the date of the issue of the first subdivision certificate for Precinct 1 or 2. The APZs must be regularly slashed to ensure a reduced fuel zone and Council is to be notified on each occurrence. Council will audit APZs annually, prior to the bushfire danger period, and at other times as appropriate (e.g. when the risk of bushfire is high), to ensure APZs are compliant with Planning for Bushfire Protection 2006 and in order to meet its reporting requirements under the Rural Fires Act 1997. If APZs are not compliant, the proponent must undertake the necessary works as directed by Council and within the timeframe specified by Council. An unconditional bond to the value of 5% of the Asset Protection Zone (including landscaping, fencing, earthworks and fire trail) cost will be held in the favour of Council to be utilised in the event of non-compliance with this condition. Release of the bond will be at the completion of the five year maintenance period

dependent upon the performance of carrying out the requirements of this condition.

3. Delete Condition No. 32 and replace it with Condition No. 32A which reads as follows:

32A. 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**
 - o **Clearly showing pre and post development levels (spot levels and contours) at a legible scale.**
 - o **Comply with the provisions of Council's Design Specification D6 – Site Regrading.**
 - o **Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise authorised by Council. o The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed 5ha, unless otherwise approved by the General Manager or his delegate**
- **Roadworks/furnishings**
 - o **Providing road profiles complying with Council's Design Specification D1 – Road Design, unless approved otherwise by Council.**
- **Stormwater drainage**
- **Water supply works o In general accordance with Yeats Consulting Engineers - Water Network Analyses, April 2011, Revision 03, unless modified otherwise by the conditions of this Consent.**
- **Sewerage works o In general accordance with Yeats Consulting Engineers - Master Sewer Reticulation Plan Revision C, unless modified otherwise by the conditions of this Consent.**
- **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.**

4. Delete Condition No. 46 and replace it with Condition No. 46A which reads as follows:

- 46A. Any playgrounds provided must comply with the guidelines established in the Playground Audit for Tweed Shire Council (July 2009), appendix 3 establishes the procedure for assessing nearby hazards and mitigation measures. The proposed open space areas for this stage as identified in Planit Consulting Drawing Set Dated March 2011 shall be designed to minimise the hazards to designated playground areas consistent with those mitigating features identified in Appendix 3A7 of the Playground Audit for Tweed Shire Council (July 2009). Detailed drawings and reporting outlining mitigation measures to be employed to mitigate risk are to be submitted for approval by the General Manager or his delegate. In proposing mitigation measures consideration of long term maintenance costs shall be considered and evaluated in any reporting.**
- 5. Delete Condition No. 51 and replace it with Condition No. 51A which reads as follows:**
- 51A. One or more detailed Habitat Restoration Plan(s) must be submitted to and approved by Council in accordance with Council's draft guidelines (attached), and in accordance with specific matters listed in Condition C4 of Concept Plan MP 06_0316. Such plan(s) must be prepared for Management Areas 1, 3, 4, 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated April 2013 and representing compensatory offset for loss of habitat and Endangered Ecological Communities (EEC) on the site in areas adjacent to the development. Where offset areas as detailed in the Revised Site Regeneration and Revegetation Plan are proposed as an alternate use within the Subdivision Plan (that is, other than as an environmental protection area such as park or drainage reserve lots), additional EEC and habit offset areas must be designated elsewhere in a location suitable to the vegetation community and/or threatened species to be protected and their habitat restored, with such areas totalling at least as committed within Concept Plan MP06_0316. The Habitat Restoration Plan(s) must also include:**
- (a) a schedule and timing of works to be undertaken**
 - (b) a statement of commitment by the consent holder to maintain the works until the relevant performance criteria of the Site Regeneration and Revegetation Plan are achieved and until such time as an agreement is reached with Council regarding the dedication of that land.**
 - (c) a statement of commitment by the consent holder that the works will be completed by qualified and experienced bush regeneration personnel.**
- 6. Insert new Condition 51.1 as follows:**
- 51.1. Following the successful rehabilitation of Management Areas 1, 2, 3, 4, 13 of the Revised Site Regeneration and Revegetation Plan by James Warren and Associates dated October 2013, the landowner shall offer to dedicate that land to Council.**
-

7. Delete Condition No. 55 and replace it with Condition No. 55A which reads as follows:

55A. Asset Protection Zones for Precinct 1 and 2 must be compliant with the bush fire protection measures for residential subdivisions as outlined in Section 4.1.3 of Planning for Bush Fire Protection 2006. If APZs are not compliant with acceptable solutions as per Section 4.1.3 of Planning for Bush Fire Protection 2006, then as per the guidelines a detailed performance assessment must be prepared by a Bushfire Planning and Design Certified Practitioner (BPAD-A) accredited under the Fire Protection Association of Australia and submitted to Council for approval. The performance assessment must include a detailed assessment and demonstration that the APZ can be maintained in the long term with minimal resources in a cost effective manner without compromise of its function to the satisfaction of the General Manager or delegate.

8. Delete Condition No. 56 and replace it with Condition No. 56A which reads as follows:

56A. The Plans lodged for Construction Certificate must be certified by a Bushfire Planning and Design Certified Practitioner (BPAD-A) accredited under the Fire Protection Association of Australia as compliant with Planning for Bushfire Protection Guidelines 2006 or the alternate solutions approved by Council under Conditions 54 and 55.

9. Delete Condition No. 59 and replace it with Condition No. 59A which reads as follows:

59A. Should, following the proponent's best endeavours, National Rental Affordability Scheme (NRAS) (or equivalent) funding be available to provide affordable housing within the development in accordance with the approved Cobaki Estate Affordable Housing Study, a staging plan detailing the location, mix and type of dwellings to be provided as affordable rental accommodation is to be submitted to Council in accordance with the recommended strategy contained in the Cobaki Estate Affordable Housing Study (Final Version print date 14.1.2011) prepared for Leda Manorstead Pty Ltd. by Hill PDA and dated November 2010.

- 9A. Insert new Condition No. 60.1 as follows:**

60.1 Prior to the issue of a Construction Certificate for Civil Work the proponent must reach an agreement with Council regarding a mechanism to fund in perpetuity the ongoing maintenance of the environmental protection land.

10. Delete Condition No. 68 and replace it with Condition No. 68A which reads as follows:

68A. Prior to the commencement of construction works a Construction Environmental Management Plan (CEMP) must be prepared that covers the area of works. The CEMP shall be consistent with the Guideline for the

Preparation of Environmental Management Plans (DIPNR, 2004). The CEMP shall include details sufficient to understand and avoid, mitigate and remedy all potential environmental impacts of the proposal during construction. The CEMP must include, but not be limited to all matters specified within Condition 25 of Project Application MP08_0200 and be submitted to and approved by the PCA prior to commencement of construction, or within such period otherwise agreed by the General Manager or delegate.

- 11. Delete Condition No. 100 and replace it with Condition No. 100A which reads as follows:**
 - 100A. All waters that are to be discharged from the site during dry weather periods and wet weather periods up to the Q3 month rain event (as defined in Council's Design Specification D7 – Stormwater Quality) shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. Where water is to be discharged from the site the contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.**

- 12. Delete Condition No. 112 and replace it with Condition No. 112A which reads as follows:**
 - 112A. The proposed passive parks are to be progressively dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan. Embellishment arrangements shall be in place prior to the issue of a Subdivision Certificate.**

- 13. Delete Condition No. 114 and replace it with Condition No. 114A which reads as follows:**
 - 114A. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath and cycleway construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths and cycleways are built on. Alternatively, the developer may elect to pay a cash contribution to the value of the footpath and cycleway construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.**

- 14. Delete Condition No. 115 and replace it with Condition No. 115A which reads as follows:**
 - 115A. A bond shall be lodged to ensure suitable care and maintenance is provided to plantings and turf over a 12 month establishment period. This care is required to achieve optimal plant establishment and performance. The bond shall be held by Council to ensure that the associated landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping.**

15. Delete Condition No. 116 and replace it with Condition No. 116A which reads as follows:

116A. Cash Bond/Bank Guarantee

- (a) A Cash Bond or Bank Guarantee to ensure that the approved Site Regeneration and Revegetation Plan (SRRP) is implemented and completed, must be lodged with Council prior to the release of the Subdivision Certificate. The amount of such bond will be based on the cost of environmental repair, enhancement and maintenance works remaining to be undertaken in accordance with the approved SRRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of the General Manager or his delegate) must be submitted to Council which detail the cost of all works associated with the SRRP. The amount of the bond will be equivalent to 100% of the estimated cost of works.
- (b) One third of the Cash Bond or Bank Guarantee will be refunded one year after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works are being satisfactorily undertaken in accordance with the approved SRRP. A further one third of the Bond or Bank Guarantee will be refunded 3 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that works have been satisfactorily reached the defined half-way stage of the SRRP. The final one third of the Bond or Bank Guarantee will be released 5 years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the SRRP has been satisfactorily completed.
- (c) Monitoring of the effectiveness of environmental repair, enhancement and maintenance works must be undertaken by an independent and suitably qualified and experienced bush regenerator at yearly intervals following initiation of the Environmental Restoration Plan SRRP works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee refunding stages and must be annually submitted to Council as evidence. Any supplementary or approved adaptive management works deemed necessary by the independent bush regenerator during the life of the SRRP must be undertaken once the need is identified.

16. Delete Condition No. 129 and replace it with Condition No. 129A which reads as follows:

129A. The Plan of Proposed Subdivision shall dedicate the proposed drainage reserve adjacent to that stage of the development at no cost to Council. The proponent shall submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

17. Delete Condition No. 144 and replace it with Condition No. 144A which reads as follows:

144A. The staged embellishment of all areas of casual open space, structured open space, cycleways, pedestrian links and streetscapes is to be completed, consistent with the approved landscape plans, to the satisfaction of the General Manager Tweed Shire Council or delegate prior to issue of the Subdivision Certificate. The Developer will be responsible for maintaining the installed playground equipment and softfall for a period of 6 months after 20% of the relevant stage's allotments have been occupied. A maintenance compliance bond of 5% of the total cost of the installed playground equipment and softfall must be paid to Council prior to the release of the relevant Subdivision Certificate for each stage. The bond will be return upon request at the completion of the maintenance period, if not expended during the maintenance period.

18. Delete Condition No. 155 and replace it with Condition No. 155A which reads as follows:

155A. Prior to the release of a Subdivision Certificate the land owner of the site of the future Cobaki Community Centre under Concept Plan Approval MP06_0316 is to enter into a Deed of Agreement with Council such that the identified land is to be provided with a constructed road frontage and all normal urban services and dedicated to Council at no cost prior to the release of a Subdivision Certificate that would allow the creation of more than 2000 residential lots within the Cobaki development.

Management Comments:

Delivery Program:



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations

Budget/Long Term Financial Plan:

Whilst this Motion would result in the deferral of having to resolve the long term management of environmental lands at Cobaki to a later stage, there still needs to be continuing discussions between Council and Leda to seek a clear position on significant long term funding issues.

Legal Implications:

Leda has stated that they may take action in the Land and Environment Court in respect of the current Section 96 applications for Cobaki. It would therefore be prudent for Council to seek further legal advice to inform any determination of these applications.

Policy Implications:

Any decision on the long term funding for maintaining environmental lands at Cobaki is likely to create a precedent for Council's consideration of other major developments in the Tweed Shire.

- 38 [NOR] [PR-PC] Development Application DA12/0170.04 for an Amendment to Development Consent DA12/0170 for Alterations and Additions to Motel (Staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent; Lots 1 & 2 Section 4 DP 29748 Nos. 26- 28 Tweed Coast Road, Cabarita Beach

NOTICE OF RESCISSION:

Councillor C Byrne, W Polglase and P Youngblutt move that the resolution at Item 8 of the Planning Committee Meeting held Thursday 6 March 2014 at Minute Number P13 being:

"that Development Application DA12/0170.04 for an amendment to Development Consent DA12/0170 for alterations and additions to motel (staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent; Lots 1 & 2 Section 4 DP 29748 Nos 26- 28 Tweed Coast Road, Cabarita Beach be approved and the consent be amended as follows:

1. *Insert Condition No. 1.1 which reads as follows:*

- 1.1. *The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:*

- . Site Plan Proposed, S96 02 Revision G, dated 23/10/2013;*
- . Ground Floor Plan, S96 03 Revision G, dated 23/10/2013;*
- . First Floor Plan Proposed, S96 04, Revision G, dated 23/10/2013;*
- . Second Floor Plan Proposed, S96 05, Revision G, dated 23/10/2013;*
- . Roof Plan Proposed, S96 06, Revision G, dated 23/10/2013;*
- . North Elevation, S96 07, Revision G, dated 23/10/2013;*
- . South Elevation, S96 08, Revision G, dated 23/10/2013*
- . East Elevation, S96 09, Revision G, dated 23/10/2013*
- . West Elevation, S96 10, Revision G, dated 23/10/2013*
- . Section A, S96 11, Revision G, dated 23/10/2013;*
- . Section B, S96 012, Revision G, dated 23/10/2013;*
- . Section C, S96 13, Revision G, dated 23/10/2013;*

All prepared by Virginia Kerridge Architect, except where varied by the conditions of this consent.

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

- 1B. *The development shall be carried out in three (3) stages as follows:*

Stage 1:

- . Construction of new covered entry including common amenities;*
- . Conversion of existing caretakers dwelling, laundry, reception and restaurant service kitchen area to new circulation space, reception, reception office, restaurant dining space, new*

- kitchen, chef office, dry store, cold store, freezer, wine store and lift;*
- . Renovation of rooms 1 through 5 including room enlargement and new individual ground level balcony areas;*
 - . Conversion of room 6 and adjoining storage space into new kitchen store and communal lounge room;*
 - . Renovation of existing serviced apartment and existing rooms 7 through 12 (identified as rooms 6 through 11 pm proposed plans) including room and balcony enlargement;*
 - . Conversion of rooms 14 and 15 into a second serviced apartment;*
 - . Renovation of existing external staircase access upgraded to comply with the Building Code of Australia (BCA)*
 - . Construction of outdoor food and beverage service area;*
 - . Construction lounge, bar and outdoor bar area;*
 - . Construction of external bin storage area, equipment store and new at grade car parking;*
 - . Partial site landscaping;*
 - . Renovation of existing stair access to foreshore reserve; and*
 - . Retention and renovation of existing swimming pool.*

Stage 2:

- . Construction of third level including new motel rooms 12 through 19;*
- . Extension of existing external stairs to provide access to third level; and*
- . Partial site landscaping.*

Stage 3:

- . Construction of new caretakers dwelling, storeroom, common amenities and multipurpose space.*

3. *Add the following new Condition No. 15.1 under the GENERAL heading which reads as follows:*

15.1. The roof top of the dining/lounge/bar area not forming part of the private terrace for the south apartment is not to be used for trafficable purposes.

4. *Add the following new Condition No. 15.2 under the GENERAL heading which reads as follows:*

15.2. The 'chicken run' referenced on the Ground Floor Plan Drawing No. S9603, Issue G dated 23/10/2013 does not form part of this approval.

5. *Add the following new Condition No. 15.3 under the GENERAL heading which reads as follows:*

15.3. *The proposed height of the timber 'privacy screen' along the southern side of the private terrace for the south apartment is to be increased from 1.6m to 2.0m in height.*

6. *Delete Condition No. 23 and replace it with Condition No. 23A which reads as follows:*

23A. *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 plan and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required work:*

- (a) *Vehicular access: construction of two (2) vehicular footpath crossings.*
- (b) *Construction of a 1.2m wide concrete footpath to the following standards (100mm thick concrete reinforced with S72 mesh over 50mm compacted crusher dust) constructed along the entire site frontage on Cypress Crescent and linking into the existing concrete footpath on Tweed Coast Road*

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

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

[PCC0895]

7. *Delete Condition No. 29 and replace it with Condition No. 29A which reads as follows:*

29A. *An updated noise management plan shall be prepared and submitted to the satisfaction of the General Manager or his delegate which details the type of plant and equipment proposed, proposed location of all plant and equipment, and proposed noise mitigation measures to ensure that the emission of intrusive noise is prevented. Such management plan shall be submitted and approved prior to the issue of the construction certificate.*

8. *Delete Condition No. 69.*

9. *Delete Condition No. 89 and replace it with Condition No. 89A which reads as follows:*

89A. *The outdoor food and beverage service area is to be constructed as a separate structure and be demountable or relocatable.*

10. *Delete Condition No. 93 and replace it with Condition No. 93A which reads as follows:*

93A. *Section 94 Contributions*

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

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

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

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

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

Stage 1

(a) *Tweed Road Contribution Plan:*
12.92 Trips @ \$1186 per Trips *\$15,323*
(\$1145 base rate + \$41 indexation)
S94 Plan No. 4
Sector7_4

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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

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

where:

$$\text{\$Con}_{TRCP - Heavy} \text{ heavy haulage contribution}$$

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 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- (b) *Open Space (Casual):*
 2.1 ET @ \$543 per ET \$1140
 (\$502 base rate + \$41 indexation)
 S94 Plan No. 5
- (c) *Shirewide Library Facilities:*
 2.1 ET @ \$838 per ET \$1760
 (\$792 base rate + \$46 indexation)
 S94 Plan No. 11
- (d) *Community Facilities (Tweed Coast - North)*
 2.1 ET @ \$1389 per ET \$2917
 (\$1305.6 base rate + \$83.4 indexation)
 S94 Plan No. 15
- (e) *Extensions to Council Administration Offices & Technical Support Facilities*
 2.1 ET @ \$1860.31 per ET \$3906.65
 (\$1759.9 base rate + \$100.41 indexation)
 S94 Plan No. 18
- (f) *Regional Open Space (Casual)*
 2.1 ET @ \$1091 per ET \$2291
 (\$1031 base rate + \$60 indexation)
 S94 Plan No. 26

Stage 2

- (a) *Tweed Road Contribution Plan:*
 12.4 Trips @ \$1186 per Trips \$14706
 (\$1145 base rate + \$41 indexation)
 S94 Plan No. 4
 Sector7_4

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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

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

where:

$\text{\$Con}_{TRCP - Heavy}$ 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 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- (b) Open Space (Casual):
6.5 ET @ \$543 per ET \$3530
(\$502 base rate + \$41 indexation)
S94 Plan No. 5
- (c) Shirewide Library Facilities:
6.5 ET @ \$838 per ET \$5447
(\$792 base rate + \$46 indexation)
S94 Plan No. 11
- (d) Community Facilities (Tweed Coast - North)
6.5 ET @ \$1389 per ET \$9029
(\$1305.6 base rate + \$83.4 indexation)
S94 Plan No. 15
- (e) Extensions to Council Administration Offices
& Technical Support Facilities
6.5 ET @ \$1860.31 per ET \$12092.02
(\$1759.9 base rate + \$100.41 indexation)
S94 Plan No. 18
- (f) Regional Open Space (Casual)
6.5 ET @ \$1091 per ET \$7092
(\$1031 base rate + \$60 indexation)
S94 Plan No. 26

[POC0395]

11. Delete Condition No. 99 and replace it with Condition No. 99A which reads as follows:

99A. 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.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate for Stage 1 (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Stage 1

Water DSP6:	2.3612 ET @ \$12575 per ET	\$29,692.10
Sewer Hastings Point:	3.8827 ET @ \$6042 per ET	\$23,459.30

Stage 2

Water DSP6:	1.5 ET @ \$12575 per ET	\$18,862.50
Sewer Hastings Point:	2.25 ET @ \$6042 per ET	\$13,594.50

Stage 3

Water DSP6:	0.0658 ET @ \$12575 per ET	\$827.40
Sewer Hastings Point:	0.0987 ET @ \$6042 per ET	\$596.30

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

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

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

[POC0675]

12. Delete Condition No. 107 and replace it with Condition No. 107A which reads as follows:

107A. As the development subject of this consent has been identified as being within one or more of the Coastal Hazard Zones as described in Tweed Development Control Plan B25 this consent is subject to the owner of the subject land PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

creating a positive covenant under section 88E of the (Conveyancing Act, 1919) on the following terms:

- “(i) The registered proprietor of the subject land acknowledges that the subject land is within a Coastal Hazard Zone as described in Tweed Development Control Plan B25 or any other subsequent iteration of that planning instrument.
- (ii) The registered proprietor also acknowledges that any development within the subject land must comply with the terms set out herein as follows:
- a. In the event that the erosion escarpment comes within 20 metres of any building/s on the subject land then the use of any building/s shall cease and the registered proprietor of the subject land shall remove any or all buildings to a location on the subject land that is further than 20 metres from the erosion escarpment where possible, or off site where not possible. In the event that relocation is not possible, then any affected building shall be demolished.
 - b. The registered proprietor of the subject land shall bear all costs in relation to the relocation or demolition of any or all buildings located on the subject land.
 - c. The terms "Coastal Hazard Zones", "erosion escarpment" and any other references of this covenant are to be read as having the meaning in accordance with their definitions in the Tweed Development Control Plan B25”.
13. Delete Condition No. 111 and replace it with Condition No. 111A which reads as follows:
- 111A. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{A90}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.
14. Delete Condition No. 113 and replace it with Condition No. 113A which reads as follows:
- 113A Hours of operation of the business are restricted to the following:
- Enclosed Dining/Lounge/Bar areas and Outdoor Bar - 7am to 10pm Sunday to Thursday and 7am to 12 midnight Friday, Saturday and Public Holidays.
 - Outdoor facilities, including pool and BBQ - 7am - 10pm Monday to Sunday.

15. Delete the GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997 and replace it with the following:

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

1. The motel re-development proposal is to comply with the plans; attached to the Bush Fire Safety Authority (BFSA) application, referred by Tweed Shire Council under S100B of the Rural Fires Act and received by the NSW RFS 5/12/13, along with amendments made by the attached conditions. The plans referred to (and used for this assessment) are noted as being prepared by Virginia Kerridge Architect, and are identified as:

- Site Plan Proposed, S96 02 Revision G, dated 23/10/2013;
- Ground Floor Plan, S96 03 Revision G, dated 23/10/2013;
- First Floor Plan Proposed, S96 04, Revision G, dated 23/10/2013;
- Second Floor Plan Proposed, S96 05, Revision G, dated 23/10/2013;
- Roof Plan Proposed, S96 06, Revision G, dated 23/10/2013;
- North Elevation, S96 07, Revision G, dated 23/10/2013;
- South Elevation, S96 08, Revision G, dated 23/10/2013;
- East Elevation, S96 09, Revision G, dated 23/10/2013;
- West Elevation, S96 10, Revision G, dated 23/10/2013.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. 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 documents 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bushfire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

4. *Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bushfire Protection 2006'*

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. *New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.*
6. *Exits are to be located away from the hazard side of the building.*
7. *Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building.*
8. *No brushwood fencing shall be used.*
9. *Roofing of the single storey buildings shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.*

Landscaping

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

General Advice – consent authority to note

Bushfire-Resisting Timber

- *The following bushfire-resisting timbers have been determined as being acceptable to withstand exposure up to BAL-29 conditions as per Australian Standard AS 3959-2009 'Construction of buildings in bush fire-prone areas' and are identified with Appendix F of the standard. These species include: Silvertop Ash, Blackbutt, River Red Gum, Spotted Gum, Red ironbark, Kwila (Merbau) and Turpentine."*

be rescinded.

- 39 [NOM] Development Application DA12/0170.04 for an Amendment to Development Consent DA12/0170 for Alterations and Additions to Motel (Staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent; Lots 1 & 2 Section 4 DP 29748 Nos. 26- 28 Tweed Coast Road, Cabarita Beach

NOTICE OF MOTION:

Councillor P Youngblutt moves that Development Application DA12/0170.04 for an amendment to Development Consent DA12/0170 for alterations and additions to motel (staged) at Lots 9-12 Section 4 DP 31209 Nos. 19-25 Cypress Crescent; Lots 1 & 2 Section 4 DP 29748 Nos 26- 28 Tweed Coast Road, Cabarita Beach be approved and the consent be amended as follows:

1. Insert Condition No. 1.1 which reads as follows:

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

- *Site Plan Proposed, S96 02 Revision G, dated 23/10/2013;*
 - *Ground Floor Plan, S96 03 Revision G, dated 23/10/2013;*
 - *First Floor Plan Proposed, S96 04, Revision G, dated 23/10/2013;*
 - *Second Floor Plan Proposed, S96 05, Revision G, dated 23/10/2013;*
 - *Roof Plan Proposed, S96 06, Revision G, dated 23/10/2013;*
 - *North Elevation, S96 07, Revision G, dated 23/10/2013;*
 - *South Elevation, S96 08, Revision G, dated 23/10/2013*
 - *East Elevation, S96 09, Revision G, dated 23/10/2013*
 - *West Elevation, S96 10, Revision G, dated 23/10/2013*
 - *Section A, S96 11, Revision G, dated 23/10/2013;*
 - *Section B, S96 012, Revision G, dated 23/10/2013;*
 - *Section C, S96 13, Revision G, dated 23/10/2013;*
- All prepared by Virginia Kerridge Architect, except where varied by the conditions of this consent.*

2. Delete Condition No. 1A and replace it with Condition No. 1B which reads as follows:

1B. The development shall be carried out in three (3) stages as follows:

Stage 1:

- **Construction of new covered entry including common amenities;**
- **Conversion of existing caretakers dwelling, laundry, reception and restaurant service kitchen area to new circulation space, reception, reception office, restaurant dining space, new kitchen, chef office, dry store, cold store, freezer, wine store and lift;**

- Renovation of rooms 1 through 5 including room enlargement and new individual ground level balcony areas;
- Conversion of room 6 and adjoining storage space into new kitchen store and communal lounge room;
- Renovation of existing serviced apartment and existing rooms 7 through 12 (identified as rooms 6 through 11 pm proposed plans) including room and balcony enlargement;
- Conversion of rooms 14 and 15 into a second serviced apartment;
- Renovation of existing external staircase access upgraded to comply with the Building Code of Australia (BCA)
- Construction of outdoor food and beverage service area;
- Construction lounge, bar and outdoor bar area;
- Construction of external bin storage area, equipment store and new at grade car parking;
- Partial site landscaping;
- Renovation of existing stair access to foreshore reserve; and
- Retention and renovation of existing swimming pool.

Stage 2:

- Construction of third level including new motel rooms 12 through 19;
- Extension of existing external stairs to provide access to third level; and
- Partial site landscaping.

Stage 3:

- Construction of new caretakers dwelling, storeroom, common amenities and multipurpose space.

3. Add the following new Condition No. 15.1 under the GENERAL heading which reads as follows:

15.1. The roof top of the dining/lounge/bar area not forming part of the private terrace for the south apartment is not to be used for trafficable purposes.

4. Add the following new Condition No. 15.2 under the GENERAL heading which reads as follows:

15.2. The 'chicken run' referenced on the Ground Floor Plan Drawing No. S9603, Issue G dated 23/10/2013 does not form part of this approval.

5. Add the following new Condition No. 15.3 under the GENERAL heading which reads as follows:

15.3. The proposed height of the timber 'privacy screen' along the southern side of the private terrace for the south apartment is to be increased from 1.6m to 2.0m in height.

6. Delete Condition No. 23 and replace it with Condition No. 23A which reads as follows:

23A. 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 plan and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required work:

- (a) Vehicular access: construction of two (2) vehicular footpath crossings.**
- (b) Construction of a 1.2m wide concrete footpath to the following standards (100mm thick concrete reinforced with S72 mesh over 50mm compacted crusher dust) constructed along the entire site frontage on Cypress Crescent and linking into the existing concrete footpath on Tweed Coast Road**

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

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

[PCC0895]

7. Delete Condition No. 29 and replace it with Condition No. 29A which reads as follows:

29A. An updated noise management plan shall be prepared and submitted to the satisfaction of the General Manager or his delegate which details the type of plant and equipment proposed, proposed location of all plant and equipment, and proposed noise mitigation measures to ensure that the emission of intrusive noise is prevented. Such management plan shall be submitted and approved prior to the issue of the construction certificate.

8. Delete Condition No. 69.

9. Delete Condition No. 89 and replace it with Condition No. 89A which reads as follows:

89A. The outdoor food and beverage service area is to be constructed as a separate structure and be demountable or relocatable.

10. Delete Condition No. 93 and replace it with Condition No. 93A which reads as follows:
-

93A. Section 94 Contributions

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

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

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

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

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

Stage 1

- (a) Tweed Road Contribution Plan:
12.92 Trips @ \$1186 per Trips \$15,323
(\$1145 base rate + \$41 indexation)
S94 Plan No. 4
Sector7_4

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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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 6.4 (currently 2.5c per tonne per kilometre)	
Admin.	Administration component - 5% - see Section 6.5	
(b)	Open Space (Casual):	
	2.1 ET @ \$543 per ET	\$1140
	(\$502 base rate + \$41 indexation)	
	S94 Plan No. 5	
(c)	Shirewide Library Facilities:	
	2.1 ET @ \$838 per ET	\$1760
	(\$792 base rate + \$46 indexation)	
	S94 Plan No. 11	
(d)	Community Facilities (Tweed Coast - North)	
	2.1 ET @ \$1389 per ET	\$2917
	(\$1305.6 base rate + \$83.4 indexation)	
	S94 Plan No. 15	
(e)	Extensions to Council Administration Offices & Technical Support Facilities	
	2.1 ET @ \$1860.31 per ET	\$3906.65
	(\$1759.9 base rate + \$100.41 indexation)	
	S94 Plan No. 18	
(f)	Regional Open Space (Casual)	
	2.1 ET @ \$1091 per ET	\$2291
	(\$1031 base rate + \$60 indexation)	
	S94 Plan No. 26	

Stage 2

(a)	Tweed Road Contribution Plan:	
	12.4 Trips @ \$1186 per Trips	\$14706
	(\$1145 base rate + \$41 indexation)	
	S94 Plan No. 4	
	Sector7_4	

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 5.1.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. 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 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- (b) **Open Space (Casual):**
6.5 ET @ \$543 per ET \$3530
(\$502 base rate + \$41 indexation)
S94 Plan No. 5

- (c) **Shirewide Library Facilities:**
6.5 ET @ \$838 per ET \$5447
(\$792 base rate + \$46 indexation)
S94 Plan No. 11

- (d) **Community Facilities (Tweed Coast - North)**
6.5 ET @ \$1389 per ET \$9029
(\$1305.6 base rate + \$83.4 indexation)
S94 Plan No. 15

- (e) **Extensions to Council Administration Offices
& Technical Support Facilities**
6.5 ET @ \$1860.31 per ET \$12092.02
(\$1759.9 base rate + \$100.41 indexation)
S94 Plan No. 18

- (f) **Regional Open Space (Casual)**
6.5 ET @ \$1091 per ET \$7092
(\$1031 base rate + \$60 indexation)
S94 Plan No. 26

[POC0395]

11. Delete Condition No. 99 and replace it with Condition No. 99A which reads as follows:

99A. 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.

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate for Stage 1 (whichever comes first), all Section 64 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Stage 1

Water DSP6:	2.3612 ET @ \$12575 per ET	\$29,692.10
Sewer Hastings Point:	3.8827 ET @ \$6042 per ET	\$23,459.30

Stage 2

Water DSP6:	1.5 ET @ \$12575 per ET	\$18,862.50
Sewer Hastings Point:	2.25 ET @ \$6042 per ET	\$13,594.50

Stage 3

Water DSP6:	0.0658 ET @ \$12575 per ET	\$827.40
Sewer Hastings Point:	0.0987 ET @ \$6042 per ET	\$596.30

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

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

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

[POC0675]

12. Delete Condition No. 107 and replace it with Condition No. 107A which reads as follows:

107A. As the development subject of this consent has been identified as being within one or more of the Coastal Hazard Zones as described in Tweed Development Control Plan B25 this consent is subject to the owner of the subject land **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE** creating a positive covenant under section 88E of the (*Conveyancing Act, 1919*) on the following terms:

“(i) *The registered proprietor of the subject land acknowledges that the subject land is within a Coastal Hazard Zone as described in Tweed*

Development Control Plan B25 or any other subsequent iteration of that planning instrument.

(ii) The registered proprietor also acknowledges that any development within the subject land must comply with the terms set out herein as follows:

- a. In the event that the erosion escarpment comes within 20 metres of any building/s on the subject land then the use of any building/s shall cease and the registered proprietor of the subject land shall remove any or all buildings to a location on the subject land that is further than 20 metres from the erosion escarpment where possible, or off site where not possible. In the event that relocation is not possible, then any affected building shall be demolished.***
- b. The registered proprietor of the subject land shall bear all costs in relation to the relocation or demolition of any or all buildings located on the subject land.***
- c. The terms "Coastal Hazard Zones", "erosion escarpment" and any other references of this covenant are to be read as having the meaning in accordance with their definitions in the Tweed Development Control Plan B25".***

13. Delete Condition No. 111 and replace it with Condition No. 111A which reads as follows:

111A. The $L_{Aeq, 15 \text{ min}}$ noise level emitted from the premises shall not exceed the background noise level (L_{A90}) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

14. Delete Condition No. 113 and replace it with Condition No. 113A which reads as follows:

113A Hours of operation of the business are restricted to the following:

- Enclosed Dining/Lounge/Bar areas and Outdoor Bar - 7am to 12 midnight Monday to Sunday.**
- Outdoor facilities, including pool and BBQ - 7am - 10pm Monday to Sunday.**

15. Delete the GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997 and replace it with the following:

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

1. The motel re-development proposal is to comply with the plans; attached to the Bush Fire Safety Authority (BFSA) application, referred by Tweed Shire Council under S100B of the Rural Fires Act and received by the NSW RFS 5/12/13, along with amendments made by the attached conditions. The plans referred to (and used for this assessment) are noted as being prepared by Virginia Kerridge Architect, and are identified as:

- Site Plan Proposed, S96 02 Revision G, dated 23/10/2013;
- Ground Floor Plan, S96 03 Revision G, dated 23/10/2013;
- First Floor Plan Proposed, S96 04, Revision G, dated 23/10/2013;
- Second Floor Plan Proposed, S96 05, Revision G, dated 23/10/2013;
- Roof Plan Proposed, S96 06, Revision G, dated 23/10/2013;
- North Elevation, S96 07, Revision G, dated 23/10/2013;
- South Elevation, S96 08, Revision G, dated 23/10/2013;
- East Elevation, S96 09, Revision G, dated 23/10/2013;
- West Elevation, S96 10, Revision G, dated 23/10/2013.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. 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 documents 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bushfire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bushfire Protection 2006'

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
6. Exits are to be located away from the hazard side of the building.
7. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building.
8. No brushwood fencing shall be used.
9. Roofing of the single storey buildings shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.

Landscaping

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

General Advice – consent authority to note

Bushfire-Resisting Timber

- The following bushfire-resisting timbers have been determined as being acceptable to withstand exposure up to BAL-29 conditions as per Australian Standard AS 3959-2009 'Construction of buildings in bush fire-prone areas' and are identified with Appendix F of the standard. These species include: Silvertop Ash, Blackbutt, River Red Gum, Spotted Gum, Red ironbark, Kwila (Merbau) and Turpentine.
-

Management Comments:

Delivery Program:



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
 - 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
-

Budget/Long Term Financial Plan:

N/A

Legal Implications:

The determination of this DA by Council may be subject to a third party legal challenge, or Class 1 appeal by the applicant in the Land and Environment Court.

Policy Implications:

N/A

40 [NOM] Holiday Rentals

NOTICE OF MOTION:

Councillor C Byrne moves that Council brings forward a report regarding 'holiday rentals' in residential unit blocks and residential areas (single dwellings) currently zoned Residential 2(a) Local Environmental Plan 2000 (or similarly in the Draft Local Environmental Plan 2012). The report to include, but not limited to, the need for utilising residential lots for short term accommodation in the Shire, the restrictions on owners on using their lot for this commercial venture, any concerns raised to Council regarding 'holiday rentals' and the actions Council has taken against the owner of the lot, managing agent or the occupant of the lot in response to a complaint.

Councillor's Background Notes

Recommended priority:

Draft 2012 Local Environmental Plan

Description of project:

Whether a possible amendment to the Draft Local Environmental Plan 2012 should be attended to at some time in the future to address any anomaly, similar to Gosford and Byron councils and the cases of Debrototoff v Bennic (2013) NSWLEC61 and Byron Shire v Blaney (2012) NSWLEC.

Management Comments:

Delivery Program:



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
-
-

Budget/Long Term Financial Plan:

Council staffing resources will need to be re-directed to this task.

Legal Implications:

There has been extensive legal scrutiny of these complex legal matters in a number of local government areas across the state. Increased compliance and enforcement of

any unauthorised uses is likely to require additional resources in defending legal action. Council may require further legal advice as part of these investigations.

Policy Implications:

Council expects the gazettal of its current Draft Council wide LEP in a number of weeks. The LEP would need to be amended for any significant change in Council policy on this issue.

41 [NOM] Parking at Kingscliff CBD

NOTICE OF MOTION:

Councillor C Byrne moves that Council removes the restriction of 'front to kerb only' at the carpark in Kingscliff CBD and that the wheel stops be relocated approximately 300mm further away from the footpaths to cater for this change in circumstance.

Councillor's Background Notes

Recommended priority:

It is understood that some maintenance will be performed at the caravan park and this may be timely for these works.

Description of project:

I have seen a number of cars being 'pinned' and some of the parks are extremely difficult to manoeuvre a large car and park front to kerb. Revenue is raised at \$101 per ticket and the sign warning of the restriction is extremely small and not well sign-posted. The alternative to put in angle parking would lose approximately 8-10 parks and defeats some of the purpose of making the Marine Parade CBD one way. A parking ticket does not encourage a visitor to the town to want to return.

Management Comments:

Delivery Program:



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.4 An integrated transport system that services local and regional needs
 - 2.4.3 Ensure local streets, footpaths and cycleways are provided, interconnected and maintained
-

Budget/Long Term Financial Plan:

The estimated cost to undertake this work is \$8,000 plus the loss of use of the carpark for one (1) day.

Legal Implications:

Nil.

Policy Implications:

The subject row of carparking on the eastern side of the parking area is located within Crown Reserve (Kingscliff Holiday Park) and if this resolution is adopted by Council it will need to be considered by the Holiday Parks Reserves Trust and be endorsed by

the Local Traffic Committee as it would be a change to regulatory signage, prior to implementation.

The current parking configuration is a result of the construction of the cycleway/walkway within the Crown Reserve, which consumed a sloped, vegetated embankment that buffered the adjacent campsites from the carpark. A vertical retaining wall was built at the eastern toe of the embankment that provided the space for the cycleway and upgraded carpark which moved closer to the camp sites. As a result of complaints from customers of the Holiday Park regarding fumes, "rear to kerb" parking was banned.

The relocation of the wheel stops should allow safe access of the shared pedestrian path and footpath on both sides of the car park, but may generate fresh complaints regarding fumes from Holiday Park customers.

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REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

42 [SUB-ADC] Minutes of the Australia Day Committee Meeting held Wednesday 10 December 2013

SUBMITTED BY: Business and Economic Development



Strengthening the Economy

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
 - 3.1 Expand employment, tourism and education opportunities
 - 3.1.2 Attract major events to the Tweed
-

SUMMARY OF REPORT:

The Minutes of the Australia Day Committee Meeting held Wednesday 10 December 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Australia Day Committee Meeting held Wednesday 10 December 2013 be received and noted.

REPORT:

The Minutes of the Australia Day Committee Meeting held Wednesday 10 December 2013 are reproduced as follows for the information of Councillors.

Venue:

Mt Warning Room, Murwillumbah Civic Centre

Time:

2:00pm

Present:

Graham Jackson, Bruce Murray, Lloyd Warren, Cr Barry Longland (Chair), Bianca Dimont (Minutes), Barbara Allen (Council Officer)

Apologies:

Donald MacDonald, Barbara Pudsey, Sue Breckenridge, Brian Breckenridge, Bevan Wise, Paul Compton, Euan Walker and Wendy Warren

Agenda Items:

1. Selecting 2013 Tweed Shire Australia Day Awards

Nominations for awards were provided to Committee members prior to the meeting. Ms Barbara Allen noted preferences advised by absent committee members during the discussion. The final decision for each category was as follows:

Citizen of the Year	-	Kenneth Eldridge
Young Achiever	-	Emma Marks
Arts and Cultural Achievement	-	Committee of Murwillumbah Festival of Performing Arts Inc
Sporting Achievement	-	Beau Nixon
Community Event of the Year	-	Lions Club of Kingscliff Carols by the Coast
Volunteer of the Year	-	Stanley Felsman

It was determined that Cr Barry Longland would contact the successful award recipients and invite them to attend the Australia Day main event. Council will send a letter to all nominators thanking them for taking the time to submit a nomination.

Committee members were also advised they are embargoed from discussing the award recipients. Media will be arranged by Council for the announcement on Australia Day.

2. Update on Main Event

Cr Barry Longland advised the meeting that no Ambassador had been appointed yet as the original suggestion was not available and he was contacting alternatives. The Committee provided suggestions for Cr Longland to follow up. Advice will be sent to all Committee members of the Ambassador once finalised.

It was agreed that as suggested by the Aboriginal Advisory Committee that Cr Barry Longland as Mayor, provide the Indigenous Acknowledgement at the event. The Committee

also agreed that a special presentation be made to Aunty Kath Lena for her contributions to past Australia Days and more broadly to the community.

The Committee was advised that the Citizenship Ceremony that will follow the award presentations is likely to bring the numbers attending to approximately 200.

The Committee noted that Ms Barbara Allen and Mr Graham Jackson undertook a site visit at Pottsville Hall and that the Lions will prepare a barbeque lunch. Council will arrange for any additional equipment or resources as required.

Discussion followed regarding playing the National Anthem and Graham's suggestion of the current version played in schools was accepted. Mr Lloyd Warren's suggestion to provide both verses of the anthem in the program was also accepted.

3. Support for Community Events

Funding for small community events will be advertised again in the Tweed Link next week and the meeting was advised of the events currently scheduled to go ahead. Should any committee members require medallions and/or gift certificates they are to advise Ms Barbara Allen. Mr Lloyd Warren requested new flag bunting. Mr Don MacDonald's requirements have been received.

Cr Barry Longland confirmed that there is an intention to take the Ambassador to other community events.

General Business:

Nil.

Next Meeting:

The next meeting of the Australia Day Committee will be held after the event of 26 January 2014, date to be advised.

The meeting closed at 3:15pm.

GENERAL MANAGER'S COMMENTS:

Nil

GENERAL MANAGER'S RECOMMENDATIONS:

Nil

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Endorsed by Council 17 July 2012

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

43 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Monday 10 February 2014

SUBMITTED BY: Recreation Services



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.3 Provide well serviced neighbourhoods
 - 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities
-

SUMMARY OF REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 10 February 2014 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Sports Advisory Committee Meeting held Monday 10 February 2014 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

GB2.Committee Membership

That Council:

1. ***Amends the term of reference for the Sports Advisory Committee to increase the number of community representatives from five to seven.***
2. ***Calls for nominations for three community representatives on the Sports Advisory Committee, one to fill the current vacant position plus two new positions, for the term of the current committee.***

REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 10 February 2014 are reproduced as follows for the information of Councillors.

Venue:

Banora Point Community Hall

Time:

5.00pm

Present:

Merve Edwards, Leigh Tynan, Cr Youngblutt, Cr Polglase, Stewart Brawley.

Apologies:

Carolyn Pickering, Rob Neinhuis.

Minutes of Previous Meeting:

Moved: Merve Edwards

Seconded: Stewart Brawley

RESOLVED that the Minutes of the Sports Advisory Committee meeting held Monday 9 December 2013 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

BA1. Business Plan - Tweed Academy of Sport

Merve revisited the business plan submitted by the Tweed Academy of Sport with a request for an annual funding allocation. Merve questioned whether the allocation of funding to the Tweed Academy of Sport should be regarded as a priority over other infrastructure needs such as addition of toilets at the Walter Peate Complex.

Agenda Items:

A1. Kingscliff Football Club Meeting

Stewart informed the committee of a recent meeting with executive of the Kingscliff Football Club with respect to plans for extensions to the clubhouse at the Reg Dalton Field. The club has received funding through the State Government to build a covered deck area extending from the existing clubhouse building. It is anticipated the club will make application for funding support through the assets reserve fund.

A2. Arkinstall Park

Arkinstall Park stage 1 construction is progressing well with the netball clubhouse likely to finish ahead of time and other elements progressing as planned at this stage.

Stage 2 feasibility study and concept plan is also progressing. Draft financial report was distributed to committee members at the last meeting and comments have been forwarded to consultants for consideration. A draft Masterplan of the site has also been produced.

A3. Sports Field Strategy Update

The initial rounds of consultation for the sports field strategy have been completed. The consultants will be providing an overview of findings on 4 March 2014 at 12.00pm in the Civic Centre Offices Murwillumbah. An invitation will be sent to all committee members.

General Business:

GB1. Black Rocks Sports Field

Cr Polglase requested an update on the current status of the Black Rock Sportsfields as he has been fielding a number of calls from community members concerned at rumours that the fields will be closed to public access.

The committee was advised that at this point in time there are no plans to close the fields although it is acknowledged that there is pressure from some within the community to at least severely restrict access.

GB2. Committee Membership

Cr Youngblutt noted that since his appointment to the committee most meetings only have two to three community representatives. It was noted that in past years community representation on the committee has been significantly stronger.

The current committee consisted of five community representatives at commencement. Since that time there has been one resignation and one committee member unable to attend for extended periods due to work commitments.

The committee discussed the need to replace the current vacancy and also expand membership to seven to allow for a reasonable representation when apologies are received.

RECOMMENDATION:

Moved: Cr Youngblutt

Seconded: Merve Edwards

That Council:

1. Amends the term of reference for the Sports Advisory Committee to increase the number of community representatives from five to seven.
2. Calls for nominations for three community representatives on the Sports Advisory Committee, one to fill the current vacant position plus two new positions, for the term of the current committee.

Next Meeting:

The next meeting of the Sports Advisory Committee will be held 14 April 2014.

The meeting closed at 6.00pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

GB2.Committee Membership
Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

GB2.Committee Membership

That Council:

1. Amends the term of reference for the Sports Advisory Committee to increase the number of community representatives from five to seven.
2. Calls for nominations for three community representatives on the Sports Advisory Committee, one to fill the current vacant position plus two new positions, for the term of the current committee.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - reviewed 21 August 2012 (ECM2846627).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

44 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 12 February 2014

SUBMITTED BY: Natural Resource Management



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
 - 4.3 Maintain and enhance Tweed's waterways and its catchments
 - 4.3.1 Manage water resources sustainably and minimise impact on the environment by achieving more integration of water supply, wastewater and stormwater services
-

SUMMARY OF REPORT:

The Minutes of the Tweed River Committee Meeting held Wednesday 12 February 2014 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Tweed River Committee Meeting held Wednesday 12 February 2014 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

BA1. Responses from State Government regarding Requests for Assistance to Fund Erosion Problems.

That Council:

1. ***Forwards responses from State Government Ministers regarding assistance to fund erosion problems to local members, Geoff Provest and Thomas George.***
2. ***The Tweed River Committee on behalf of Council, invites the local members to inspect the site.***

A1. Environmental Levy

That the Tweed River Committee, in supporting the introduction of an environment levy, requests that consideration be given to projects consistent with priorities identified in the forthcoming environmental sustainability strategy.

REPORT:

The Minutes of the Tweed River Committee Meeting held Wednesday 12 February 2014 are reproduced as follows for the information of Councillors.

Venue:

Canvas & Kettle Meeting Room

Time:

9.10am

Present:

Robert Quirk (NSW Cane Growers' Association) (Chair); Cr Katie Milne; Cr Gary Bagnall; Pat Dwyer (Department of Primary Industries - Fisheries NSW); Rhonda James (Restoration Industry); Claire Masters (Tweed Landcare Inc); Eddie Norris (Community Representative); Bob Modystack (Community Representative); Lindy Smith (Community Representative); Sam Dawson (Caldera Environment Centre); Scott Petersen (Tweed River Charter Operators); Jane Lofthouse, Tom Alletson, Mark Kingston (Tweed Shire Council).

Informal:

Cathey Philip (Minutes Secretary).

Apologies:

Ben Fitzgibbon (Office of Environment and Heritage); Max Boyd (Community Representative).

Not in Attendance:

Carl Cormack (Roads and Maritime Services).

Minutes of Previous Meeting:

Moved: Cr Milne

Seconded: Lindy Smith

RESOLVED that the Minutes of the Tweed River Committee meeting held Wednesday 11 December 2013 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

BA1. Responses from State Government regarding Requests for Assistance to Fund Erosion Problems.

Tom advised that correspondence had been forwarded to various government agencies regarding the above and that responses had been received from Don Page Minister for the North Coast and the Office of Environment and Heritage.

Scott attended at 9.15am

It was agreed that it may be helpful if a copy of the responses were forwarded to the local members, Geoff Provest and Thomas George, so that they can keep the wheels turning.

RECOMMENDATION:

Moved: Sam Dawson

Seconded: Scott Petersen

That Council:

1. Forwards responses from State Government Ministers regarding assistance to fund erosion problems to local members, Geoff Provest and Thomas George.
2. The Tweed River Committee on behalf of Council, invites the local members to inspect the site.

BA2. Integrated Water Cycle Management Plan

Tom referred to Tim Mackney's presentation at the last meeting and provided an update of the consultation process being undertaken by Council on the IWCMP. Tom advised of the upcoming information sessions and recommended that members attend a session if possible.

Rhonda will represent the Committee at the session being held at Pottsville on 19 February. Tom hopes to attend both Tweed and Murwillumbah sessions on 17 February. Sam will attempt to attend the Murwillumbah session on 17 February.

A discussion was held on climate change, its effect on water supply and other related topics.

It was suggested that an expert on environmental flows be invited to address the TRC at a future meeting.

Jane attended at 9.55am

BA3. Update on Chinderah pontoon

Tom provided an update on the proposal. A report went to Council on 23 January which resulted in the following resolution:

1. *External environmental consultants be engaged and funded through the Tweed River Estuaries Management Program to produce a report on the ecological impacts of the Chinderah pontoon, particularly on the Lillie's Island and other seagrass beds in that vicinity. The report is to identify baseline conditions and include recommendations for the management of these ecological impacts.*
2. *This report is to form part of the Review of Environmental Effects (REE) and Part V application for the proposed Chinderah pontoon which is to be completed internally.*

The next step is to send out a scope that complies with the resolution and to get external agencies to prepare a report on the ecological impacts of the proposed pontoon.

Cr Bagnall attended at 10.20am

A lengthy discussion took place on seagrass beds in the area. Aerial photography shows that seagrass in the area has been damaged by boats and inviting more boats into the area will cause more damage to seagrass.

Agenda Items:

A1. Environmental Levy

Tom provided an update on where Council is up to with introducing an environmental levy. Council resolved as follows at the January meeting however a rescission motion has been lodged.

That Council:

- 1. Proceeds to include information on a proposed 2015/2016 Environmental Levy in the 2014/2015 Integrated Planning and Reporting process based on the Tweed River Bank Management Project, funded by an ordinary rate increase of 1% for a period of 10 years.*
- 2. Consults with the community on the alternatives as detailed within this report.*

There was discussion on the proposed levy and what projects the income should be used for if the levy comes into effect.

Moved: Rhonda James

Seconded: Lindy Smith

RESOLVED that the Tweed River Committee supports the introduction of an environment levy.

RECOMMENDATION:

Moved: Rhonda James

Seconded; Lindy Smith

That the Tweed River Committee, in supporting the introduction of an environment levy, requests that consideration be given to projects consistent with priorities identified in the forthcoming environmental sustainability strategy.

A2. Condong Erosion Management Project

Tom provided details on this project. Discussion was held on what should be done to improve the area. The committee agreed that the project should be progressed and requested that Tom provide design details at a future meeting.

Pat Dwyer left at 11.45am

A3. Bilambil Creek Riparian Restoration Project

Tom provided details on the grant received from the NSW Fish Habitat Action fund and general background to the project.

Rhonda, on behalf of the Committee, thanked Tom for the work done on the Bilambil Creek Riparian Restoration Project which has successfully restored five kilometres of riparian zone.

A4. Correspondence from NSW Maritime - Development of Regional Boating Plans

Tom read to meeting a letter received from Transport for NSW/GHD regarding the above.

Tom advised that GHD has been engaged by Transport for NSW as the consultant on the project to develop the Regional Boating Plans across all of the major regions in NSW. This will involve the implementation of a comprehensive stakeholder engagement program which

will include a variety of stakeholders ranging from high-level industry and stakeholder groups to everyday users of boating facilities.

After discussion it was agreed that a representative from GHD should be invited to attend a future meeting.

General Business:

GB1. Seagrass Beds

Cr Bagnall advised that David Oxenham had informed him that there is no reason signage cannot be erected warning that seagrass beds are located in areas controlled by Council (on land).

Jane advised that a sign with a range of seagrass information on it was erected many years ago in Kennedy Drive however the sign was removed by vandals and not re-installed.

It was agreed that Tom prepare an article for Tweed Link on the importance of seagrass.

Eddie noted that the Roads and Maritime Services has appointed educational officers to liaise with boaters at boat ramps to raise awareness of seagrass and other related matters.

RESOLVED:

Moved: Claire Masters

Seconded: Sam Dawson

That the Tweed River Committee, under the education allocation, develops an educational campaign to inform and raise awareness of the impacts of recreational use on seagrass and other ecological values in the Tweed's waterways.

Rhonda left at 12.05pm

Action Item:

Tom to bring back a report to the committee including recommendations on how an educational program including protection of seagrass beds should be developed.

GB2. Saltmarsh Issues

Cr Milne advised she is submitting a notice of motion to Council on this matter.

GB3. Seagrass Beds at Jack Evans Boat Harbour

Cr Milne raised concerns about the seagrass beds at Jack Evans Boat harbour. The area of seagrass has decreased since redevelopment of the area.

Tom advised that the comprehensive response that Dave Hannah had put together for Cr Milne regarding the monitoring of seagrass in Jack Evans Boat Harbour had not changed or been updated and there was nothing further that he could add. Cr Milne asked Tom to provide a report to next meeting.

Action Item:

Dave Hannah be invited to a future meeting to provide further information on this matter.

Next Meeting:

The next meeting of the Tweed River Committee will be held Wednesday 9 April 2014.

The meeting closed at 12.25pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

BA1. Responses from State Government regarding Requests for Assistance to Fund Erosion Problems.

Nil

A1. Environmental Levy

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

BA1. Responses from State Government regarding Requests for Assistance to Fund Erosion Problems.

That Council:

- 1. Forwards responses from State Government Ministers regarding assistance to fund erosion problems to local members, Geoff Provest and Thomas George.**
- 2. The Tweed River Committee on behalf of Council, invites the local members to inspect the site.**

A1. Environmental Levy

That the Tweed River Committee, in supporting the introduction of an environment levy, requests that consideration be given to projects consistent with priorities identified in the forthcoming environmental sustainability strategy.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Adopted by Council 24 January 2013 (ECM2939677)

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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45 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 February 2014

SUBMITTED BY: Natural Resource Management



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
 - 4.4 Manage the Tweed coastline to ensure a balance between utilisation and conservation
 - 4.4.1 Recognise and accommodate natural processes and climate change
-

SUMMARY OF REPORT:

The Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 February 2014 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 February 2014 be received and noted.

REPORT:

The Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 February 2014 are reproduced as follows for the information of Councillors.

Venue:

Canvas & Kettle Meeting Room

Time:

1.00pm

Present:

Cr Barry Longland (Chair); Cr Gary Bagnall; John Harbison (Mooball); Terry Kane (Cabarita Beach-Bogangar); Michael Munday (Bogangar); Jason Pearson (Kingscliff); David Cranwell (Pottsville); Roger Graf (Fingal Head); Jane Lofthouse, Tom Alletson, Marama Hopkins, (Tweed Shire Council).

Informal:

Cathey Philip (Minutes Secretary).

Apologies:

Ben Fitzgibbon (Office of Environment and Heritage); Peter Sloan (Hasting Point); Pat Dwyer (Department of Primary Industries - Fisheries NSW); Tim Jack Adams (Kingscliff); Rhonda James (Restoration Industry); Stewart Brawley (Tweed Shire Council).

Minutes of Previous Meeting:

Moved: Terry Kane

Seconded: John Harbison

RESOLVED that the Minutes of the Tweed Coastal Committee meeting held Wednesday 11 December 2013 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

BA1. Coastal Zone Management Plan for Tweed Coast Estuaries

Jane advised the CZMP was adopted by Council on 12 December 2013 and provided a brief update.

BA2. Tweed Shire Coastal Hazards Assessment

Jane advised that a report is going to the February Council meeting recommending that the hazards study be adopted for the purposes of planning and management of coastal hazards on the Tweed Shire coastline.

Jane showed maps of the predicted hazard lines and a discussion was held. Jane will raise concern regarding the position of the immediate hazard line at Cabarita Beach with the consultants.

Jane advised that Council has adopted a DCP for coastal hazards. Michael expressed the importance of dune maintenance and restoration.

BA3. Lot 490 at Kingscliff

John requested an update on Lot 490 and Cr Longland responded by advising that the community seems to be keen for Council to purchase the property. The following was resolved at the January Council meeting:

1. *Signifies its preference for the preservation of the area identified as Lot 1 DP1117599 (formerly known as Lot 490, Kingscliff) as a public open space and recreation reserve while preserving its ecological values for the community.*
2. *Enquires with Government Property NSW as to the prospects of Tweed Shire Council acquiring the land for that purpose.*

There was a discussion on the potential uses of the land. John expressed the importance of keeping access to the beach available.

Agenda Items:

A1. Coastal Program Update

Jane advised that the *Tweed Shire Coastal Hazards Assessment 2013* is going to Council for adoption on 20 February.

Tom provided an update on the Pottsville canal noting that improved tidal water flushing had reduced algae growth.

There was a discussion on the repairs of the revetment walls in Mooball Creek. It was noted that log walls near the bridge are an ongoing maintenance issue and that if the logs were to be replaced by rock, consideration of the rock type used would need to consider amenity and access.

A2. Proposed Environmental Levy

Council resolved as follows at the January meeting however a rescission motion has been lodged.

That Council:

1. *Proceeds to include information on a proposed 2015/2016 Environmental Levy in the 2014/2015 Integrated Planning and Reporting process based on the Tweed River Bank Management Project, funded by an ordinary rate increase of 1% for a period of 10 years.*
2. *Consults with the community on the alternatives as detailed within this report.*

Cr Longland provided background to the levy and a discussion was held on the pros and cons of such a levy.

Members were advised of the resolution from the Tweed River Committee meeting being:

That the Tweed River Committee, in supporting the introduction of an environment levy, requests that consideration be given to projects consistent with priorities identified in the forthcoming environmental sustainability strategy.

A3. Survey of Seagrass in Tweed Coast Estuaries

Tom provided an update of most recent survey of seagrass beds in the coastal creeks. He noted that there had been a dramatic decline previously but the recent monitoring showed that the seagrass extent had stabilised.

Action Item:

Tom to provide the results of the survey at the next meeting.

A4. Tweed DuneCare Coordinating Committee

A copy of the minutes of the meeting held 30 January 2014 was circulated to members. Marama provided a verbal update on the outcomes of the meeting and answered queries from members.

A number of concerns were raised:

- Camping along Mooball Creek over Christmas period.
- Council clean ups - furniture being taken to dunes and dumped.
- Fires on the beach - temporary signage an option.

Jane advised that Amalia Pahlow has commenced as the Community Support Officer two days per week for Natural Resource Management matters.

General Business:

GB1. Public Access to Kingscliff Beach

Jason congratulated the Tweed Coast Holiday Parks staff on the reinstatement of the stairs at the northern end of the holiday park. Jane provided details on the design of the stairs and advised that they are a robust and removable design.

GB2. Sand Monitoring

Terry noted that a bathymetric survey of the offshore area at Kingscliff was to be undertaken by the City of Gold Coast survey team. This will be the second time a bathymetric survey has been undertaken.

GB3. Cudgera Creek Drainage Union

John provided an update on the proposed drain clearing upstream of Cudgen Lake and advised that the drainage union had gained approval from several authorities but waiting on approval from Office of Water.

GB4. Items from Pottsville Community Association

The association forwarded emails to Council on 11 February regarding:

- Slippery stairs leading into Mooball Creek from the reserve on Overall Drive.
- Request to install a walkway from the end of the current concrete path on the northern end of Ambrose Brown Park to the beach behind it. Residents seeking funds for the works.

GB5. Recycling by Local Businesses

Michael raised concerns about the lack of recycling being done by businesses. Cr Longland advised this is a matter for Council's Waste Management section.

Action Item:

Jane to discuss with Rod Dawson and report back to next meeting.

GB6. Clean up over Christmas Period

David commended Council staff on their efforts to keep the coastal area clean over the Christmas period.

GB7. Increase in Overnight Camping

John raised concerns about the amount of illegal camping/overnight parking during holiday periods.

Action Item:

Jane to refer to Regulatory Services.

Next Meeting:

The next meeting of the Tweed Coastal Committee will be held Wednesday 9 April 2014.

The meeting closed at 2.40pm.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - reviewed 21 August 2012 (ECM2947539)

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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46 [SUB-LTC] Local Traffic Committee Meeting held Thursday 13 February 2014

SUBMITTED BY: Planning and Infrastructure



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.4 An integrated transport system that services local and regional needs
 - 2.4.1 Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities
-

SUMMARY OF REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 13 February 2014 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Local Traffic Committee Meeting held Thursday 13 February 2014 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

A2. Silkwood Terrace, Tweed Heads West

That subject to not meeting the RMS warrants for "Stop" signs the existing stop sign on Silkwood Terrace on the intersection of Piggabeen Road be replaced with a "Giveaway" sign.

A3. Mount Warning Road, Mount Warning

That a "Giveaway" sign and associated line marking be installed on Mount Warning Road at the passing bay for downhill traffic and a "No Overtaking or Passing" sign be installed at the other end of the one way section for uphill traffic.

A4. Mt St Patrick's Primary School - Parking Zones

That:-

1. *The existing "No Parking" adjacent to the school be removed on Mooball Street.*

2. *The current Bus Zone along Mooball Street - In the morning revert to a "No Parking" zone between 8 - 9.30am and in the afternoon revert to a "Bus" zone 2.30 - 4.00pm school days".*
3. *The off road bus bay on Queensland Road be sign posted as a "Bus" zone 8am to 9.30am and a "No Parking" zone 2.30 - 4pm school days.*

A5. Cane Road and Racecourse Road, Tyngalah

That the "Giveaway" sign on Racecourse Road (northbound) at the intersection of Cane Road be replaced with a "Stop" sign and the associated line marking.

A6. Wharf Street, Murwillumbah

That subject to an approved Development Application for the installation of an outdoor dining area on Wharf Street:-

1. *The existing two "No Parking" spaces on Wharf Street Murwillumbah adjacent to the barber shop be signposted as 2 hour during the normal business operating hours.*
2. *The existing disabled parking space on Wharf Street Murwillumbah adjacent to the Commonwealth Bank be relocated one space to the west.*
3. *Council's Equal Access Advisory Committee's comments be sought on the disabled space's relocation.*

REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 13 February 2014 are reproduced as follows for the information of Councillors.

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 10.00am

PRESENT:

Committee Members: Cr Barry Longland, Ms Liz Smith, Roads and Maritime Services of NSW, Snr Constable Justin Lavin, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Ray Clark (Chairman), Mr Michael Kenny, Mr Stephen Sharp, Mr David Bonner, Ms Sandy Zietlow (Minutes Secretary).

APOLOGIES:

Mr Thomas George MP, Member for Lismore; Snr Constable Ray Wilson, NSW Police.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 5 December 2014 be adopted as a true and accurate record of proceedings of that meeting.

FOR VOTE - Unanimous

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC-SOR] Schedule of Outstanding Resolutions - 13 February 2014

1. [LTC] Kennedy Drive and Gollan Drive, Tweed Heads (B1)

FILE NO: ECM 3096455; Traffic - Committee; Traffic - Safety; Traffic - Speed Zones; Kennedy Drive, Tweed Heads

SUMMARY OF REPORT:

"A review of Kennedy Drive / Gollan Drive, Tweed Heads has revealed a significant crash history for a 4km length of road, approximately between Terranora Terrace and Scenic Drive. Kennedy Drive has a sign posted speed of 60km/h.

During the period 1 January 2008 to 31 December 2012 (5 years) there were 90 reported crashes within the subject distance on Kennedy Drive.

Information was tabled at the meeting with a view to RMS reducing the speed limit to 50km/h.

COMMITTEE ADVICE:

That:

1. *The RMS be requested to review the speed limit on Kennedy Drive and Gollan Drive in accordance with the speed zoning guidelines.*
2. *This item be placed on the Schedule of Outstanding Resolutions."*

Current Status: That the Schedule of Outstanding Resolutions Item Kennedy Drive and Gollan Drive, Tweed Heads, from Local Traffic Committee meeting held 5 December 2013 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 11 July 2013 (Item B1).

The RMS conducted a speed zone review that concluded that the speed limit on Kennedy Drive, Gollan Drive and Scenic Drive, Tweed Heads West be reduced to 50km/h from Minjungbal Drive to Gollan Drive, Gollan Drive from Kennedy Drive to Scenic Drive and on Scenic Drive 300m west of Gollan Drive. The Committee noted the RMS advice and had no objections to the speed zoning review.

This item is to be removed from the Outstanding Resolutions:-

From Meeting held 7 November 2013:

2. [LTC] Fraser Drive, Banora Point (B1)

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3194837; Traffic; Committee; Speed Zones; Safety; Fraser Drive

SUMMARY OF REPORT:

Request received for a reduction in the 80km/h speed zone on Fraser Drive Banora Point/Terranora based on the following:

"The matters to take in consideration are:

1. *There are no footpaths to speak of, forcing the many people, including children, having to walk on the road verge because of the rough nature either side of the bitumen. Many bike riders walk their bikes up the steep hill.*
2. *At night there is no street lighting in the areas of the road that are currently 80km/h particularly in the vicinity of the sporting fields. In a dark rainy night this danger is further advanced especially because of the bends in the road.*

3. *The volume of traffic that now uses Fraser Drive, to and from Terranora Road, has increased enormously since its completion of The Sexton Hill. Vehicles turning from Terranora Road down the hill accelerate, exceeding the 60km/h prior to reaching 80km/h areas, making exiting driveways hazardous. Many of them are using mobile phones too.*
4. *In the afternoon traffic sometimes queues 300 metres trying to turn into Terranora Road.*
5. *Large numbers of bike riders use Fraser Drive.*
6. *Whether we like it or not young people use the downhill for skateboard riding."*

The Committee advice from the meeting on 8 August 2013 in relation to the speed limit on Fraser Drive between Vintage Lakes Drive and south of Acacia Street was to remain at 80 km/h as per the following:

"That the speed limit on Fraser Drive is considered appropriate and no changes are warranted.

The existing 80km/h speed limit on Fraser Drive extends south of Botanical Circuit to north of Glen Ayr Drive, a length of approximately 1.3km. Accident data shows 2 casualty and 1 injury crash in this area and additional crashes at the intersection of Amaroo and Fraser Drive. No speed surveys are available for the area. There are only 3 houses with direct access to Fraser Drive within the area.

Traffic volumes on Fraser Drive south of Terranora Road have reduced from 5556 in 2011 to 5063 in 2013.

ADVICE TO COMMITTEE:

That the 80 km/h speed limit on Fraser Drive remain.

COMMITTEE ADVICE:

That:

1. *This item be referred to the Roads & Maritime Services for a review of the speed limit on Fraser Drive, Banora Point.*
2. *The Banora Point Residents Association be advised that a review of the speed limit on Fraser Drive (by the RMS) has been requested."*

Current Status: *(This item remain on the Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 13 February 2014).*

(That Item B1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 5 December 2013 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 7 November 2013 (Item B1).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

A1 This item was moved to Section B13 at the request of the Chairperson, please refer to Item B13 for decision on this matter.

DELEGATIONS FOR REGULATORY DEVICES

A2 [LTC] Silkwood Terrace, Tweed Heads West

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3257803; SGN13/0161; Traffic - Committee; Traffic - Safety; Signs - Traffic Issues; Silkwood Terrace

SUMMARY OF REPORT:

Request received for the removal of the 'Stop' sign at the end of Silkwood Terrace, Tweed Heads West and replaced with a 'Give Way' sign. Roadworks have recently been completed in this area and this has changed the intersection.

The site will be inspected and advice brought to the Committee meeting. Further site investigation was required to determine the RMS warrants for a "Stop" sign.

COMMITTEE ADVICE:

Subject to not meeting the RMS warrants for "Stop" signs the existing stop sign on Silkwood Terrace on the intersection of Piggabeen Road be replaced with a "Giveway" sign.

RECOMMENDATION TO COUNCIL:

That subject to not meeting the RMS warrants for "Stop" signs the existing stop sign on Silkwood Terrace on the intersection of Piggabeen Road be replaced with a "Giveway" sign.

FOR VOTE - Cr Barry Longland, Liz Smith, Justin Lavin, Geoff Provest

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Col Brooks

A3 [LTC] Mount Warning Road, Mount Warning

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3257766; Traffic - Committee; Traffic - Safety; Signs - Traffic Issues; Mount Warning Road

SUMMARY OF REPORT:

Council has recently undertaken remedial works on Mount Warning Road. The road is narrow on sections and vehicles are required to stop at passing bays.

It is suggested that the following signage be installed:

1. 'Giveaway Sign' (AS1742.2, 3.6.6.1(a)) at the passing bay for downhill traffic. See attached photo 1.
2. 'No Overtaking or Passing' (AS1742.2, 3.6.6.1 (b) at the other end of the one way section for uphill traffic. See attached photo 2.

COMMITTEE ADVICE:

That a "Giveaway" sign be installed on Mount Warning Road at the passing bay for downhill traffic and a "No Overtaking or Passing" sign be installed at the other end of the one way section for uphill traffic.

RECOMMENDATION TO COUNCIL:

That a "Giveaway" sign and associated line marking be installed on Mount Warning Road at the passing bay for downhill traffic and a "No Overtaking or Passing" sign be installed at the other end of the one way section for uphill traffic.

FOR VOTE - Cr Barry Longland, Col Brooks, Liz Smith, Justin Lavin

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Geoff Provest

A4 [LTC] Mt St Patricks Primary School - Parking Zones

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3257619; 32575652; Traffic - Committee; Traffic - School Zones; Traffic - Parking Zones; Mt St Patricks Primary School; Mooball Street; Queensland Road; Murwillumbah Street

SUMMARY OF REPORT:

Request received to modify the existing school bus zone in Mooball Street for the morning period and creation of a 'No Parking' zone off Queensland Road to enable parents to kiss and drop off as shown on the attached map layout.

"Primarily, proposed changes are:

- 1. Mooball St: current Kiss and Drop revert back to all day parking.*
- 2. Current Bus Zone along Mooball St. In the morning revert to a Kiss and Drop Zone between 8 - 9.30a.m. and in the afternoon 2.30 -0 4.00p.m. Monday to Friday.*
- 3. Queensland Rd - one way street running Parallel to Queensland Rd. Signage for a Kiss and drop zone in the morning 8.00 - 9.30a.m. and a pick up area only 2.30 - 4.00pm Monday to Friday."*

Once the signage request was confirmed by the Principal's of the High and Primary School the above signage was installed prior to the commencement of the 2014 school year. Subsequently bus operators have contacted Council with the above arrangements. Council officers will arrange meetings between the bus operators and the school principals prior to the Local Traffic Committee meeting.

The Committee requested that the "No Parking" zone to be removed on Mooball Street be monitored to ensure that buses leaving the bus bay are not impeded by parked vehicles.

COMMITTEE ADVICE:

That:-

1. The existing "No Parking" adjacent to the school be removed on Mooball Street.
2. The current Bus Zone along Mooball Street - In the morning revert to a "No Parking" zone between 8 - 9.30am and in the afternoon revert to a "Bus" zone 2.30 - 4.00pm school days".
3. The off road bus bay on Queensland Road be sign posted as a "Bus" zone 8am to 9.30am and a "No Parking" zone 2.30 - 4pm school days.

RECOMMENDATION TO COUNCIL:

That:-

1. The existing "No Parking" adjacent to the school be removed on Mooball Street.
2. The current Bus Zone along Mooball Street - In the morning revert to a "No Parking" zone between 8 - 9.30am and in the afternoon revert to a "Bus" zone 2.30 - 4.00pm school days".
3. The off road bus bay on Queensland Road be sign posted as a "Bus" zone 8am to 9.30am and a "No Parking" zone 2.30 - 4pm school days.

FOR VOTE - Cr Barry Longland, Col Brooks, Liz Smith, Justin Lavin

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Geoff Provest

A5 [LTC] Cane Road and Racecourse Road, Tyngalga

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 77669748; Traffic - Committee; Traffic - Safety; Traffic - General; Traffic - Local Area Traffic Management; Cane Road; Racecourse Road

SUMMARY OF REPORT:

An audit has been undertaken at the intersection of Cane Road and Racecourse Road, Tyngalga. It is suggested that a number of signs need replacing, with the recommendation being that the 'Give Way' signage on Racecourse Road be replaced with a 'Stop' sign.

COMMITTEE ADVICE:

That the "Giveaway" sign on Racecourse Road (northbound) at the intersection of Cane Road be replaced with a "Stop" sign and the associated line marking.

RECOMMENDATION TO COUNCIL:

That the "Giveaway" sign on Racecourse Road (northbound) at the intersection of Cane Road be replaced with a "Stop" sign and the associated line marking.

FOR VOTE - Cr Barry Longland, Col Brooks, Liz Smith, Justin Lavin

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Geoff Provest

A6 [LTC-LATE] Wharf Street Murwillumbah

ORIGIN:
Planning & Infrastructure

FILE NO: ECM3286087; Traffic Committee, Parking Zones; Wharf Street; Footpath Dining; Equal Access

SUMMARY OF REPORT:

An application has been received requesting the use of an on road parking space for the purposes of an outdoor dining area.

This item is brought to the Committee in relation to proposed changes to parking designation on Wharf Street.

The existing disabled space adjacent to the Commonwealth Bank is to be relocated and that space retrofitted for an outdoor dining area. It is also proposed to remove the current "No Parking" section which has very low levels of compliance and replace this with the standard 2 hour parking during business hours.

It was noted by the Committee that the existing and proposed disabled space does not comply to disabled parking standard AS2890.6 as compliance to the standard would reduce the footpath area to 1.6 metres which would not be acceptable.

COMMITTEE ADVICE:

That subject to an approved Development Application for the installation of an outdoor dining area on Wharf Street:-

1. The existing two "No Parking" spaces on Wharf Street Murwillumbah adjacent to the barber shop be signposted as 2 hour during the normal business operating hours.
2. The existing disabled parking space on Wharf Street Murwillumbah adjacent to the Commonwealth Bank be relocated one space to the west.
3. Council's Equal Access Advisory Committee's comments be sought on the disabled space's relocation.

RECOMMENDATION TO COUNCIL:

That subject to an approved Development Application for the installation of an outdoor dining area on Wharf Street:-

1. The existing two "No Parking" spaces on Wharf Street Murwillumbah adjacent to the barber shop be signposted as 2 hour during the normal business operating hours.
2. The existing disabled parking space on Wharf Street Murwillumbah adjacent to the Commonwealth Bank be relocated one space to the west.
3. Council's Equal Access Advisory Committee's comments be sought on the disabled space's relocation.

FOR VOTE - Cr Barry Longland, Col Brooks, Liz Smith, Justin Lavin

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Geoff Provest

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] Numinbah Road, Crystal Creek

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3284426; Traffic - Committee; Traffic - Safety; Bridges - General;
Numinbah Road, Crystal Creek

SUMMARY OF REPORT:

A crash has been reported on Korn's Bridge on Numinbah Road at Crystal Creek. Advice has been received that the at fault vehicle did not give way as required. The customer reports that there is very low levels of compliance with the "Giveaway" sign.

Local Traffic Committee advice is sought for the existing give way sign to be replaced with a stop sign.

An inspection was undertaken of the site. The "Giveaway" sign on the Crystal Creek approach side to the bridge which is appropriate as this approach has the better sight distance. Warning signs are also in place and clearly visible. Crash data indicates only one crash reported in the five years of data available (rear end) 200 metres east of the bridge. Traffic volumes are approximately 1000 vpd in this location.

Signage at the one lane bridge is considered to be compliant with appropriate standards and the installation of a "Stop" sign is unlikely to change driver behaviour in this instance.

A request has been made to Council's Maintenance for that area to remove shrubs/grass on the bridge approaches.

COMMITTEE ADVICE:

That installation of a "Stop" sign on Numinbah Road at Korn's Bridge is not supported.

B2 [LTC] Kingscliff Running Festival 1 May 2014

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3283134; Traffic - Committee; Road Closures - Temporary; Traffic - Control; Festivals/Events - Other

SUMMARY OF REPORT:

Request received for permission to host a running festival in Kingscliff on 1 June 2014.

"Attached is a preliminary (draft) Application for Major Community Events document, as well as the proposed course for the longest event, the Half Marathon event. The Start/Finish Area will remain the same for all the events proposed. As this is a draft document, I welcome the opportunity to be guided by yourself and your colleagues as to the detailed planning for the event. Our company has a long and well-established track-record in hosting running events in QLD. For instance, we own and manage the only marathon event in Brisbane, accredited by the prestigious AIMS organisation. We have been running this event for 23 years now.

Furthermore, with your guidance, I would welcome the opportunity to liaise with other key stakeholders as soon as possible, including local Councillors, the Police, and relevant Council officers."

The request includes closures off Marine Parade, Murphys Road; McKissock Drive, Moss Street, Sutherland Street, Casuarina Way and the road to Sutherland Point. The event will involve a half marathon 21.1kms, 10kms. 5klms and a 1km kids run. It is expected that the bump in and bump out at the event will be from 3am to 3pm. It is considered that the event will have a significant impact on traffic movements in and out of Kingscliff similar that experienced with the biannual triathlon.

This application has been withdrawn.

COMMITTEE ADVICE:

The Committee noted that this application has been withdrawn and no further action required at this stage.

B3 [LTC] ANZAC Day Service - Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3281232; Traffic - Committee; - Ceremonies; ANZAC; Road Closures - Temporary; Traffic - Control; Murwillumbah Street; Brisbane Street; Wharf Street, Tumbulgum Road; Queen Street; Commercial Road; Proudfoots Lane; Old Ferry Road

SUMMARY OF REPORT:

Request received for temporary road closures for the Murwillumbah RSL Sub Branch ANZAC Day March and Memorial Service on 25 April 2014.

1. Forming Up Place - Brisbane Street, Murwillumbah Street.
2. March Route. Brisbane Street, Murwillumbah Street, Wharf Street, Tumbulgum Road then into lane left off Tumbulgum Road to War Memorial. Form up in front of War Memorial for service.
3. Road Closure Sign locations:
 1. Murwillumbah Street, Queensland Road
 2. Brisbane Street, Proudfoots Lane
 3. Murwillumbah Street, Queen Street
 4. Commercial Road, Proudfoots Lane
 5. Tumbulgum Road, Old Ferry Road
4. Timings
 - Form up 1000 hrs
 - March commence 1030 hrs
 - March completed 1100 hrs
 - Service commence 1110 hrs
 - Service completed 1230 hrs

COMMITTEE ADVICE:

That Council has no objections to the temporary closure of roads at Murwillumbah Street and Queensland Road, Brisbane Street, Proudfoots Lane, Queen Street, Commercial Road, Tumbulgum Road and Old Ferry Road in the Murwillumbah CBD associated with the ANZAC Day ceremony Friday 25 April 2014 subject to Police approval and standard conditions.

B4 [LTC] Tyalgum Road, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3282718; Traffic - Committee; Traffic - Speed Zones; Traffic - Safety; Bus - Stops; Bus - Routes; Tyalgum Road; Old Lismore Road; Kyogle Road

SUMMARY OF REPORT:

Request received for a reduction in the speed limit on Tyalgum Road, Murwillumbah.

"...I would like I strongly believe it is a matter of pedestrian and motorists safety. I also asked that this limit be reduced as young children are regularly waiting for their school bus on this road next to an electric fence and waterway having to keep safe from traffic travelling at 100klms per hour and are also having to cross this road. This road directly passes a residential estate and street facing houses. Another concern is the location of a childrens park which is not much more than 100metres away from this road. From this estate there is no path for pedestrians to walk along if wishing to access local shops meaning that pedestrians have to walk along a 100 klm per hour road. There is also no public bus that comes through this estate, only bus available is on Tyalgum road. I have spoken to bus company requesting they pick up school children on Sovereign heights estate, they say this is not possible as there is nowhere to turn and the only other road they can exit Sovereign Heights estate is Old Lismore Road which is even more dangerous as not only does it come out onto Tyalgum Road (100klm per hour road) but at this point there is no visibility for the bus to safely pull out. I have spoken to other residents who would also like the road speed reduced from the Old Lismore Road to the Tyalgum/Kyogle road intersection, reasons being for pedestrian safety, their childrens safety, motorists safety. I do not believe that a reduction in speed to a residential area speed should affect motorists speed in which they get to their destination as it is only an area of less than 1klm. On this stretch of road if travelling from Old Lismore road to Tyalgum/Kyogle road intersection you have to slow down towards the intersection so I don't believe it will delay travellers by more than 1 minute, but the safety to me far out ways how fast someone gets to work, home or to the shops. Perhaps drivers should allow 1 extra minute in their daily drive along this road."

Sovereign Heights Estate is a comparatively new subdivision where access off Tyalgum Road has been constructed to the appropriate standard for a 100kph road. Sight distance for motorists exiting the estate is approximately 200 metres to the west. It is not unusual for children to wait for a bus on rural roads, however this is a decision for parents and bus operators. Reducing the speed limit on Tyalgum Road in this vicinity is unlikely to result in a change in driver operating speeds unless the reduced speed limit is heavily enforced.

A number of driveways directly access Tyalgum Road west of Sovereign Way. Speed surveys should be undertaken in this vicinity and forwarded to the RMS for speed zone reviews.

COMMITTEE ADVICE:

That the speed limit on Tyalgum Road be considered for a review by the Roads and Maritime Services according to the speed zoning guidelines.

B5 [LTC] Tweed Coast Road, Pottsville (Pottsville Bridge)

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3280594; Traffic - Committee; Bridges - General; Traffic - Safety; Tweed Coast Road

SUMMARY OF REPORT:

Following an injury crash involving a young pedestrian in January 2014 who was crossing from one side to the other it is requested that the LTC consider safety alternatives at Pottsville Bridge on Tweed Coast Road.

A review of the crash data indicates that there are no other reported crashes in this vicinity. Whilst pedestrian fencing could be considered for conclusion in the PAMP Study that is currently being undertaken, it is considered that an advisory yellow kerb edge line would increase the delineation of the footpath edge.

COMMITTEE ADVICE:

That an advisory white kerb edge line be installed on the footpath of the Pottsville Bridge on Wooyung Road.

B6 [LTC] Cooly Rocks On Festival 30 May to 9 June 2014

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3235559; Traffic - Committee; Festivals - Cooly Rocks On

SUMMARY OF REPORT:

Request received for Cooly Rocks On Festival from 30 May to 9 June 2014:

"Please find attached our Traffic Management plan for Cooly Rocks On 2014. It is almost identical to this year's TMP except we would like to continue with the barrier tape from the end of Marine Pde through to the intersection of Coral and Boundary Sts. Only on the East bound lane of Boundary St. My reasoning for this is, this year the crowd was continuous all the way around to that area from Marine Pde, unbeknown to me until after the parade, therefore in the interest of safety it makes sense to do this.

Also there was an issue with getting the semi trailers to complete the right turn into Coral from Boundary which caused some problems with through traffic. Since the parade we have had a couple of semi's do the exact same right as is required for the parade into Coral St without a hic-up. The problem on the day of the parade was there were cars parked on the left side of Boundary St where the semi's needed to swing into to make the turn. So, if in the process of approving the TMP (assuming your office does approve it of course) you could also approve the indicated existing parking area as a no parking zone from the midnight before and for the duration of the parade please?"

COMMITTEE ADVICE:

That the temporary road closures associated with the 2014 Cooly Rocks On Festival be approved subject to standard conditions, Police approval, a satisfactory Traffic Control Plan, specifically showing how larger vehicles can manoeuvre through the parade route, and a Consultation Plan provided to address access for local residents and bus service providers.

B7 [LTC] Kingscliff Street, Kingscliff

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 76936075; Traffic - Committee; Traffic - Speed Zones; Traffic - Safety; Traffic - Local Area Traffic Management; Traffic - Weight of Vehicles; Traffic - Roundabouts; Pedestrian Safety

SUMMARY OF REPORT:

Request received in relation to the speed of vehicles using Kingscliff Street, Kingscliff.

"We are writing to raise our concerns regarding the safety of pedestrians on Kingscliff Street. Kingscliff. Kingscliff Street is, as you know a residential street with school children and people needing to cross it, amongst other things, to reach the bus stops and visit the beach.

Whilst the street is appropriately designated a 50km speed zone in recognition of its residential status it is clear that many vehicles currently travelling along it are exceeding this limit and that the traffic load includes large transport trucks such as the very large Woolworths' truck.

The excessive speed and the number of large trucks create not only safety issues, but also excessive wear and tear on the street and a significant noise hazard for local residents.

We would appreciate it if the Council would consider implementing traffic calming options such as constructing more roundabouts along Kingscliff Street or build traffic island similar to those on the northern end of Marine Parade. We would also appreciate the Council seriously considering imposing a weight restriction on Kingscliff Street to ensure that all trucks (excluding of course Council/construction trucks and the

local buses) use the Turnock/Cudgen Road/Tweed Coast Road route through to the Highway."

Kingscliff Street is a major urban distributor road and installation of traffic calming devices on these types of roads is not considered appropriate. Limiting heavy vehicle usage on this street would lead to amenity and safety issues on local roads.

COMMITTEE ADVICE:

That the installation of weight limit or traffic calming devices is not supported on Kingscliff Street due to its function as a major urban distributor road.

B8 [LTC] Wharf Street, Tweed Heads - Regatta Car Park

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 76934985; 77861242; Traffic - Committee; Traffic - Parking Zones; Car Parks - Tweed Heads; Wharf Street; Pty 33792

SUMMARY OF REPORT:

Request received for timed parking of the marked car spaces at Regatta Steak & Seafood and opposite Wake 'n Surf to 2 hour parking 9.00am to 5.00pm Monday to Friday.

"We are one of three businesses that rely on having these conveniently located parking spaces available to our customers. The other two businesses are:

- Surf City Motors

Wake 'n Surf - water sports

The problem with parking has become an issue for all three business for some time now with an increase in vehicles parking in these marked car spaces for the entire business day - all unrelated to our businesses. Our customers are complaining they are having to park further and further away."

Businesses are required to supply customer parking on site for their own customer needs.

COMMITTEE ADVICE:

That the time limiting of public parking in the vicinity of the Regatta Car Park is not supported as customer parking should be provided by individual businesses.

B9 [LTC] Fraser Drive and Acacia Street, Tweed Heads South

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3241392; Traffic - Committee; Traffic - Stay Safe Joint Standing Committee; Traffic - Control; Traffic - Safety; Traffic - School Zones; Traffic - Speed Zones; School - Pacific Coast Christian School; Acacia Street, Fraser Drive

SUMMARY OF REPORT:

Request received from Pacific Coast Christian School via NSW School Zone Flashing Lights Program Rollout School Nomination Form forwarded from NSW Roads & Maritime Services:

"Reason for nomination:

- . High density housing east side of Fraser Drive.*
- . Pedestrian/bike path terminating on east side of Fraser Drive at this intersection.*
- . M1 interchange being built to this intersection.*
- . Service station being built on this intersection.*
- . Bus stop on Acacia Street.*
- . School being used in part as an interchange for other school students, by Surfside Buses.*

Comments/other information:

- . This intersection will increase markedly in the future, so the inclusion of a section of Fraser Drive in our school zone, will help tremendously."*

Access to this school is via Acacia Street with no direct access to Fraser Drive. Any development on Fraser Drive in the vicinity of Acacia Street will be conditioned accordingly to cater for pedestrian movements. Observations were conducted at the site at the end of the school day and found that there were very limited pedestrian activity on Fraser Drive at the intersection of Acacia Street.

COMMITTEE ADVICE:

That the Committee supports the installation of flashing school zone lights on Acacia Street to supplement the existing school zone.

B10 [LTC] Marine Parade, Kingscliff

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3243780; Traffic - Committee; Traffic - Parking Zones; Marine Parade, Kingscliff

SUMMARY OF REPORT:

Request received for changes to parking zone timings on Marine Parade, Kingscliff:

"The Executive Committee of the Kingscliff & District Chamber of Commerce have requested that I write to you in relation to an apparent inconsistency of the timed parking along Marine Parade and the 2 large car parking areas in Marine Parade. The Executive Committee have asked that you forward to the Traffic Committee for their recommendation to the Councillors the following suggestions:

Marine Parade Timed Parking –whatever Times are set, it is imperative that there is regular patrolling and surveillance to ensure that the parking spaces are turned over.

There was consensus that on the “shop side” of Marine Parade that 30 minute parking was preferred. It is suggested that outside the Chemists & Doctors’ Surgeries at #40 and also #84 Marine Parade there be 1x Disability space to cater for patients and patrons collecting prescriptions.

There was consensus that for kerb-side parking on the “beach side” of Marine Parade that 2 hour parking was preferred. It is suggested that for the larger “Car Parking Areas” near the Kingscliff Holiday Park and near the Lions Park there be a consistent time limit in both areas of 2 hours.

I hope that this information will assist you, the Traffic Committee and the Councillors with decision making on these issues and await your notification of the outcomes."

Parking on Marine Parade has recently been reconfigured along with the "One Way" designation. Reduction of the all day time limitations on the southern car park adjacent to the surf club is not appropriate given the mixed use of this car park by beach goers, shop staff and other road users. Council's Rangers have requested that the front in only parking limitations to the off street car park adjacent to the caravan park be removed as compliance is low. An assessment will be conducted of the wheel stop locations and possible intrusion by vehicles onto the shared user path.

COMMITTEE ADVICE:

That the timed parking in Marine Parade on road and off road remains as existing. Additional signage advising motorists that parking in the off road parking area on Marine Parade adjacent to the caravan park is "Front in Only".

B11 [LTC] Minjungbal Drive and Blundell Boulevard intersection, Tweed Heads South

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3241434; Traffic - Committee; Pedestrian Safety; Traffic - Lights; Minjungbal Drive, Blundell Boulevard

SUMMARY OF REPORT:

Request received for installation of a right turn arrow from Blundell Boulevard onto Minjungbal Drive, Tweed Heads South:

"In recent weeks several concerned residents have visited my office after witnessing close shaves on the pedestrian crossing at the Minjungbal Drive / Blundell Bvde intersection.

The problem arises because the traffic turning right (heading south) from Blundell Bvde turns across the pedestrian crossing whilst the green pedestrian indicator is lit. Drivers are impatient and do not allow time for pedestrians to complete the crossing before accelerating through the turn.

Members of my staff have also experienced near misses as well as witnessing driver impatience and abuse directed at slower pedestrians.

This crossing is heavily used. Bus stops on both sides of the roadway, the location of Centrelink, employment agencies, Community Housing, DoCS, the St Josephs' aged care facility and both State and Federal members' offices make this a very busy crossing, particularly with the number of older pedestrians using mobility aids.

The time given to cross by the lights is sufficient for most pedestrians, it is the motorists turning right from Blundell Bvde that are causing the problem. Because the traffic lights are green, they do not seem to appreciate that they must give way to people on the crossing.

A solution would be to install a right turn arrow that did not allow traffic to turn until pedestrians were given sufficient time to cross. I believe this would be similar to the situation at the Machinery Drive intersection but the volume of traffic turning right would be substantially less.

Could we add this to the agenda of the next Traffic Committee meeting please?"

There is no history of pedestrian crashes for the particular traffic movement under review.

Further information on pedestrian and vehicle movements could be provided to the RMS to determine if warrants are met for dedicated right turn phase.

COMMITTEE ADVICE:

The Committee noted that drivers are required to give way to pedestrians at traffic signals and no further action is required for signal phasing. Further traffic and pedestrian movement counts are to be provided to the RMS for consideration.

B12 [LTC] George Street, Murwillumbah

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3237834; Traffic - Committee; Traffic - Safety; Pedestrian Safety; George Street, Murwillumbah

SUMMARY OF REPORT:

Request received for traffic calmers and "Stop" sign on George Street, Murwillumbah:

"We at the Murwillumbah Ratepayers and Residents Association think that more should be done in Murwillumbah George Street's narrow section at Peter Street.

Residents in George Street have expressed their concerns regarding the constant speeding experienced at this location. Despite Council speed surveys confirming the extent of the problem, Council has not been successful in slowing vehicles down. Speed surveys shows that more than 55% of vehicles are exceeding the posted speed limit of 50km/hour and 15A% are travelling at 60km/hour or higher. The number of vehicles using the road each day is 600-700, with speeds up to 90km/hour being observed. The residents, who live in the immediate vicinity of Peter Street, and George St, have access safety issues with the narrowness, and vision is obscured due to the terrain.

The high hazard rating of the location being schools at either end of the road, no footpaths, no safety fencing on the embankment, and confusing signage, we request some kind of strategy to slow the dangerous drivers.

We would like to suggest traffic calmers as found in Proudfoots Lane, also a Stop sign at the end of Peter Street Included are four letters of support from local residents of the area."

This issue has been considered by the Committee several times previously and no new information is provided in this correspondence. Council officers have previously met residents on site along with the Local Member.

COMMITTEE ADVICE:

That Council's advisory radar be placed when available on George Street in the vicinity of Peter Street and Police be encouraged to enforce the speed limit as resources permit.

B13 [LTC] Alma Street, South Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3277348; Traffic - Committee; Transport - Bus Services - Stops; Parks - Budd Park; Alma Street

SUMMARY OF REPORT:

Request received from Recreation Services Unit to modify the use of the bus stop on Alma Street to enable cars towing caravans to park:

"We have received reports of cars with caravans driving into the bitumen car park between Budd Park and the Visitor Information Cr (sic) in M'bah (sic). It seems they drive in and can't turn round to get out. There is a sign saying no caravans at the start of the one way road at the end of the carpark, but not at the carpark entry. We will investigate suitable signage for the carpark entry.

There does seem to be an issue with caravan parking around the VIC (sic). We discussed the option of creating a caravan space by shortening the bust (sic) stop in Alma St. The VIC staff also however said the small pull off area in Tweed Valley way just before northern approach to the roundabout is one frequently mentioned by caravaners (sic) as being desirable to have some sort of sign saying something like 'caravans park here'."

The existing bus zone adjacent to the Information Centre on Alma Street could be reduced in length to accommodate the parking of vehicles with caravans. The site will be inspected and brought to the Committee for consideration.

This item has been moved from Section A to Section B of the Minutes.

COMMITTEE ADVICE:

That the Committee does not support changes to the existing bus zone on Alma Street adjacent to the Tourist Information Centre due to concerns relating to safe access and frequency of use by bus operators.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held Thursday 13 March 2014 in the Mt Warning Meeting Room commencing at 10.00am.

There being no further business the Meeting terminated at 12.40pm.

EXECUTIVE TEAM MANAGEMENT RECOMMENDATIONS:

A2. Silkwood Terrace, Tweed Heads West

That subject to not meeting the RMS warrants for "Stop" signs the existing stop sign on Silkwood Terrace on the intersection of Piggabeen Road be replaced with a "Giveaway" sign.

A3. Mount Warning Road, Mount Warning

That a "Giveaway" sign and associated line marking be installed on Mount Warning Road at the passing bay for downhill traffic and a "No Overtaking or Passing" sign be installed at the other end of the one way section for uphill traffic.

A4. Mt St Patrick's Primary School - Parking Zones

That:-

- 1. The existing "No Parking" adjacent to the school be removed on Mooball Street.***
- 2. The current Bus Zone along Mooball Street - In the morning revert to a "No Parking" zone between 8 - 9.30am and in the afternoon revert to a "Bus" zone 2.30 - 4.00pm school days".***
- 3. The off road bus bay on Queensland Road be sign posted as a "Bus" zone 8am to 9.30am and a "No Parking" zone 2.30 - 4pm school days.***

A5. Cane Road and Racecourse Road, Tyngalga

That the "Giveaway" sign on Racecourse Road (northbound) at the intersection of Cane Road be replaced with a "Stop" sign and the associated line marking.

A6. Wharf Street, Murwillumbah

That subject to an approved Development Application for the installation of an outdoor dining area on Wharf Street:-

- 1. The existing two "No Parking" spaces on Wharf Street Murwillumbah adjacent to the barber shop be signposted as 2 hour during the normal business operating hours.*
- 2. The existing disabled parking space on Wharf Street Murwillumbah adjacent to the Commonwealth Bank be relocated one space to the west.*
- 3. Council's Equal Access Advisory Committee's comments be sought on the disabled space's relocation.*

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Reviewed 21 August 2013

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

47 [SUB-TRMAC] Minutes of the Tweed Regional Museum Advisory Committee Meeting held Thursday 20 February 2014

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
 - 2.1.3 Provide opportunities for residents to enjoy access to the arts, festivals, sporting activities, recreation, community and cultural facilities
-

SUMMARY OF REPORT:

The Minutes of the Tweed Regional Museum Advisory Committee Meeting held Thursday 20 February 2014 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Regional Museum Advisory Committee Meeting held Thursday 20 February 2014 be received and noted.

REPORT:

The Minutes of the Tweed Regional Museum Advisory Committee Meeting held Thursday 20 February 2014 are reproduced as follows for the information of Councillors.

Venue:

Coolamon Centre

Time:

2.05pm

Present:

David Oxenham (Director Community & Natural Resources); Robyn Grigg (Manager Community & Cultural Services); Judy Kean (Museum Director); Gary Fidler (Community); Sandra Flannery (Community); Fay O'Keeffe (Community); Janet Swift (Community); Peter Budd (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); Max Boyd (Murwillumbah Historical Society); Beverley Lee (Murwillumbah Historical Society).

Apologies:

Cr Michael Armstrong.

Minutes of Previous Meeting:

Moved: Gary Fidler

Seconded: Peter Budd

RESOLVED that the Minutes of the Tweed Regional Museum Advisory Committee meeting held Thursday 21 November 2013 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Nil

Agenda Items:

1. Museum Director's Report

Museum redevelopment

Construction finish date is now late February. Restoration of the 1915 building is nearing completion. Fit out of the Murwillumbah Historical Society Research Centre, staff office and storage areas will commence during March.

Discussions have begun with members of the Murwillumbah Historical Society Committee about the process and schedule for relocation from Bray Park back to the Museum.

Museum exhibition designer Lucy Bannyan of Bannyan Wood is working on display furniture, 2D design (signage, labels etc) and providing advice on exhibition design and will present concepts at the 20 February MAC meeting.

A Communication Plan detailing events and promotional opportunities in the lead up to opening has been approved by Director Community and Natural Resources. Highlights include:

Late February	Site handover, certification, testing
March	Opportunities for 'behind the scenes' tours for School teachers, Historical Society and Friends members, CBD business owners, FOH volunteers, Council management and Councillors as appropriate.
April (date tbc)	Community open day, antique road show event, focus on 1915 heritage building refurbishment
From May	Site will be closed to allow display installation and preparation
June (tbc)	Murwillumbah Historical Society relocation back into Museum
July	Opening

Collection Store, Collection Management

Large items previously stored off site in containers at Council's Buchanan Street depot are now all at the Store.

Work has commenced on assessment and preparation of items for display. This work is being undertaken at the Store and a number of volunteers previously involved with the assessment and relocation project are assisting.

Tweed Heads Historical Society members are working with Museum staff to make final corrections to object data uploaded to eHive.

TRM Tweed Heads

A building report has identified significant ongoing repair and maintenance issues associated with the RSL Hall. A temporary fix has been implemented for the most urgent of these in the kitchen area.

Tweed Heads Historical Society Committee has written to Council to outline concerns with Vernon CMS and a desire to retain all information on Filemaker Pro databases. This issue is being discussed with Council IT staff and management.

TRM Uki

Museum staff and Uki Historical Society volunteers have identified a range of issues relating to data and record storage and retrieval that impact on research activities at Uki. In March Uki volunteers and Museum staff will begin discussion about how to support Uki research needs and consolidate information into Museum records.

Museum programs

Front of house volunteers

More than fifty new volunteers have registered for the Front of House program at Murwillumbah. Induction sessions are planned for 26 February and 26 March (tbc).

MA Far North Coast Chapter meeting and workshop

The Museums Australia Far North Coast Chapter will hold its annual meeting and workshop in Murwillumbah on Friday 7 March 2014, hosted by the Museum. The workshop component will focus on showcasing the Museum assessment and relocation project, the

collection store and redevelopment of the Tweed Regional Museum Murwillumbah. Invitations are being issued directly by the Chapter executive.

Tweed Regional Museum Strategic Plan 2014-2017, Tweed Regional Museum Deductible Gift Recipient Policy and Procedure

The Strategic Plan was adopted by Council at the December 2013 meeting. The *TRM Deductible Gift Recipient Policy* was adopted by Council at the January 2014 meeting. Council's Executive Management Team has approved the *TRM Deductible Gift Recipient Procedure*.

Accessions

Photographs of construction of the new Ambulance building (flagged at last meeting but overlooked)

A range of modern and historic photographs assembled by Jan and Ray Duke (flagged at last meeting but overlooked)

A small number of donated items.

De-accessions

An extensive list of de-accessions has been prepared. This list has resulted mainly from unpacking and assessment of the research library at Murwillumbah. All items in the library had been given accession numbers at some time in the past. Proposed de-accessions fall within three broad categories. These are identified in the table.

In summary, there are items to be retained as objects as they have historical significance; these will be removed from the library collection and cared for in appropriate conditions. The majority of items have been retained as library books. It is proposed that they be de-accessioned as objects, and then catalogued as library items. It is proposed that the 90 day cooling off period be waived so that these items can be catalogued as soon as possible.

Some items do not meet the criteria of the Collection Policy as either objects or library items. These items are proposed for de-accession and disposal, and will be offered to the donor in the first instance.

Staff

Ms Robyn Grigg has been appointed to the position of Manager Community and Cultural Services and commenced in the role on Monday 3 February.

Moved: Denise Garrick

Seconded: Janet Swift

RESOLVED that the proposed acquisitions be approved by the Committee.

Moved: Beverley Lee

Seconded: Joan Smith

RESOLVED that the proposed de-accessions be approved by the Committee, with the amendment that the disposal method for MUS2001.137.4 *The Country Party: a political & social history of the party in NSW* be changed from disposal to retention for the library.

Moved: Helena Duckworth

Seconded: Sandra Flannery

RESOLVED that the Museum Director's Report be accepted by the Committee.

Moved: Denise Garrick

Seconded: Mary Lee Connery

RESOLVED that the 90 day cooling off period for de-accessioned items being retained in the library be waived so that these items can be catalogued immediately.

2. Historical Societies and Friends Reports

Tweed Heads Historical Society Report:

Report was read to the Committee.

Denise Garrick added that she had witnessed an incident where a tourist boat operator was using the tap on the rear of the Courthouse building to wash down the boat. This boat was also using the jetty at Boyd's Shed, which is not permitted.

Max Boyd recommended that Council advise the tour operator that these activities are not permitted.

David Oxenham advised that he will contact the tour boat operators and inform them of alternative boat cleaning and pumping facilities at Tweed Heads.

Moved: Joan Smith

Seconded: Denise Garrick

RESOLVED that the Tweed Heads Historical Society Report be noted by the Committee.

Friends of Tweed Regional Museum Report:

President, Gary Fidler, advised that the Committee had previously agreed that all Reports would not be read out at the meeting as they were circulated with the Agenda.

The Committee agreed that this was the case, and that only additions to the Reports and questions regarding content would be covered at the meeting.

Uki & South Arm Historical Society Report:

President, Helena Duckworth, advised the Committee of additions to her Report:

The Military display will be on Sunday 20 April 2014.

27 July 2014 is the anniversary of the outbreak of WWI, not the Anglican Church centenary as stated in the report.

Centenary of Uki Post Office is 14 September 2014, not 21 September as stated in the report.

Moved: Janet Swift

Seconded: Sandra Flannery

RESOLVED that the Historical Societies and Friends Reports be noted by the Committee.

3. Proposed meeting schedule for 2014.

The committee accepted the following 2014 meeting schedule:

Thursday 8 May

Thursday 14 August

Thursday 13 November

It was agreed that any late items that are not included in the Reports or business arising from the Reports be notified to the Museum Director prior to the meeting for inclusion on the Agenda. If necessary, a new Agenda will be issued on the meeting day.

General Business:

4. Tours of the redeveloped TRM Murwillumbah.

Max Boyd requested tours of the redeveloped building at Murwillumbah for people involved in the project who are elderly.

Judy will suggest a schedule of dates and Max can circulate this to interested people as quickly as possible.

Next Meeting:

The next meeting of the Tweed Regional Museum Advisory Committee will be held Thursday 8 May 2014 at 2.00pm.

The meeting closed at 2.40pm.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - reviewed 21 August 2012 (ECM3283132).

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-CM] Prosecution of Unauthorised Works at Site 199, Hacienda Caravan Park, Lot 2 DP 535174 Chinderah Bay Drive, Chinderah

REASON FOR CONFIDENTIALITY:

This report has been made Confidential so as not to prejudice any future legal proceedings.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.3 Delivering the objectives of this plan
 - 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
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