



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 23 January 2014

held at Murwillumbah Cultural and Civic Centre
commencing at 4.45pm

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 Ordinary and Confidential Council Meetings held Thursday 12 December 2013

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 12 December 2013 are attached for information and adoption by Council.

RECOMMENDATION:

That:

1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 12 December 2013 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 12 December 2013 (ECM 3246708).

Confidential Attach 2 Minutes of the Confidential Council Meeting held Thursday 12 December 2013 (ECM 3246646).

2 [CONMIN-EX] Confirmation of the Ordinary and Confidential Minutes of the Extraordinary Council Meeting held Friday 20 December 2013

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 Ordinary and Confidential minutes of the Extraordinary Council Meeting held Friday 20 December 2013 are attached for information and adoption by Council.

RECOMMENDATION:

That:

- 1. The Ordinary and Confidential minutes of the Extraordinary Council Meeting held Friday 20 December 2013 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:

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Attachment 1 Minutes of the Ordinary Council Meeting held Friday 20 December 2013 (ECM 3254006).

(Confidential) Attachment 2 Minutes of the Confidential Council Meeting held Friday 20 December 2013 (ECM 3253991).

SCHEDULE OF OUTSTANDING RESOLUTIONS

3 [SOR-CM] 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 report to be prepared.

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

5 [NOM-Cr M Armstrong] Improving Transparency of Council

633

Cr M Armstrong
Cr B Longland

RESOLVED 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.

Current Status: A review of the proposed meeting venue has been undertaken and from a logistical perspective it is proposed that the meeting be conducted at the Banora Point Community Centre.

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.

REPORTS FROM THE ACTING DIRECTOR COMMUNITY AND NATURAL RESOURCES

44 [CNR-CM] Stairs to Beach at Chinderah

753

**Cr G Bagnall
Cr K Milne**

RESOLVED that this item be deferred and a further report be brought back to Council which includes equal access options.

Current Status: Report to be prepared.

53 [CNR-CM] Consultation regarding Closure of Tyalgum Transfer Station with a view to providing a Scenic Lookout

761

**Cr M Armstrong
Cr G Bagnall**

RESOLVED that:

1. Council seeks further consultation on the proposal in relation to the options regarding the closure of the transfer station and the proposed scenic lookout.
-

2. 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).

Current Status: A report to be prepared for Council's determination at 20 February 2014 meeting following community consultation on 15 January 2014.

12 DECEMBER 2013

ORDERS OF THE DAY

8 [NOM-Cr M Armstrong] Fees Paid by Mobile Home Owners

NOTICE OF MOTION:

810

**Cr M Armstrong
Cr K Milne**

RESOLVED that:

1. Council prepares a submission to the Australian Taxation Office with respect to the draft ruling regarding the imposition of the Goods and Services tax (GST) on the rental fees paid by Mobile Home owners who rent a site on the basis that:
 - a. The Mobile Home Industry is a primary provider of affordable accommodation, particularly in the Tweed Shire, and the introduction of the GST would result in those who own their own dwelling on a rented site being subject to paying 10 percent GST;
 - b. The hardship caused by such an increase would be a significant burden on locals and would increase cost of living pressures on those least able to afford them;
 - c. The hardship caused to locals could manifest as a significant impediment to economic growth and prosperity in the Tweed Shire; and
 - d. Calls on the Australian Taxation Office to reject the imposition of the GST on the rental fees by Mobile Home residents.
2. Council writes to the Assistant Treasurer, the Hon Arthur Sinodinos, calling on the Federal Government to act to ensure that GST is not imposed on the site rents paid by those Mobile Home residents who own their own dwelling and who rent a site upon which it is situated on the basis that:
 - a. The Mobile Home Industry is a primary provider of affordable accommodation, particularly in the Tweed Shire, and the introduction of the GST would result in those who own their own dwelling on a rented site being subject to paying 10 percent GST;

- b. The hardship caused by such an increase would be a significant burden on locals and would increase cost of living pressures on those least able to afford them; and
 - c. The hardship caused to locals could manifest as a significant impediment to economic growth and prosperity in the Tweed Shire.
3. Copies of the submission be provided to the Federal Member for Richmond, the Hon Justine Elliot.

Current Status: Media release (Articular 2013/42) from the Australian Taxation Office dated 19 December 2013

No extra GST to be added to moveable homes.

The Australian Taxation Office has considered comments on its draft ruling and decided not to change the GST treatment of moveable home estates.

The draft ruling will now be withdrawn and moveable home estates will continue to be treated as commercial residential premises with the same GST rules for long-term accommodation.

'Over the past seven weeks, we have been considering a range of submissions from the community and stakeholders as part of our consultation process' said Tax Commissioner Christ Jordan.

"We have carefully considered the legal arguments and practical implications and decided that we don't need to change the existing GST treatment of these estates.

"Our preliminary view had been that moveable home estates were not sufficiently similar to caravan parks to be commercial residential premises.

"With the benefit of submissions, it is evident that while moveable home states have change, they are still similar enough to caravan parks to receive the concessional treatment in particular, both involve letting of sites separately to the building, and provide communal facilities to residents.

"Our draft ruling process encourages the community and stakeholders to put forward their views on our interpretation of tax issues. We received many comments from industry groups, residents and tax professionals during the consultation process. We thank the community for their involved"

12 [NOM-Cr K Milne] Strategic Planning Reforms Backlog

NOTICE OF MOTION:

814

Cr K Milne
Cr G Bagnall

RESOLVED that Council brings forward a report on options to clear the backlog of Strategic Planning Reforms, some dating back 10 years, particularly in light of the impacts from the imminent release of Tweed's new Standard Local Environment Plan, and the pressure from NSW Planning to fast track planning Proposals and rezoning applications.

Current Status: A report to be prepared for the February 2014 Council meeting.

13 [NOM-Cr K Milne] Part 5 Application Chinderah Pontoon - Independent Advice

NOTICE OF MOTION:

815

Cr K Milne
Cr G Bagnall

RESOLVED that the new Part 5 Application for the Chinderah Pontoon incorporates the independent advice requested in the Council resolution of 21 November 2013, Minute No 708, '*Chinderah Pontoon-Independent Advice*'.

Current Status: Dependant on Council's resolution in relation to report for consideration titled "Chinderah Pontoon - Independent Advice".

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

a27 [PR-CM] Options to Pay Developer Contributions for Not for Profit Community Organisations

819a

Cr B Longland
Cr M Armstrong

RESOLVED that officers bring forward a report outlining possible options for the proponent of the Development Application DA13/0362 to pay the developer contributions required under the consent conditions and options or a suggested policy position for like projects proposed by not for profit community organisations located on Council or Crown land.

Current Status: Report to be prepared.

22 [PR-CM] Update on Council's Animal Management Practices

824

Cr G Bagnall
Cr M Armstrong

RESOLVED that Council:

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 are fees set by legislation and do not require the 28 day advertising period.

Current Status: Report to be resubmitted to 20 March 2014 Council meeting.

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.

MAYORAL MINUTE

4 [MM-CM] Mayoral Minute for the month of December 2013

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

- Ø 4 December - Destination Tweed Board Meeting to select Board - Board Room, Gold Coast Airport.
 - Ø 5 December - Local Traffic Committee Meeting - Murwillumbah Civic Centre, Tumbulgum Road, Murwillumbah.
 - Ø 6 December - Aboriginal Advisory Committee meeting - Minjungbal Museum & Cultural Centre, Cnr Kirkwood Road & Duffy Street, Tweed Heads.
 - Ø 10 December - Australia Day Committee Meeting - Murwillumbah Civic Centre, Tumbulgum Road, Murwillumbah.
 - Ø 11 December - Tweed Coastal Committee - Cudgen Headland Surf Life Saving Club, Marine Parade, Kingscliff.
 - Ø 12 December - Destination Tweed, Board Selection Interviews - Boardroom, Tweed Ultima, 20 Stuart Street Coolangatta.
 - Ø 18 December - Destination Tweed Board Meeting - Mantra Board Room, Salt.
-

INVITATIONS:

Attended by the Mayor

- Ø 3 December - Launch of TAFEnow by The Honourable Thomas George, MP and Morning Tea - North Coast TAFE, 146 Murwillumbah Street, Murwillumbah.
- Ø 3 December - Murwillumbah Community Centre's Staff and Volunteers Christmas Lunch - House of Gabriel, Tumbulgum.
- Ø 3 December - Tweed Shire Access and Inclusion Awards - Tweed Heads Civic Centre, Corner Brett and Wharf Street, Tweed Heads - Crs Youngblutt and Byrne also advised their attendance.
- Ø 4 December - Northern NSW Local Health District Board, Annual Community and Stakeholders Meeting of the Board with the Northern NSW Local Health District Board and Executive - Lismore Workers Sports Club, 202 Oliver Avenue, Goonellabah.
- Ø 7 December - Opening of Wantok Tweed, a forum hosted by Australian South Sea Islanders (Port Jackson) Limited - South Tweed Community Hall, 3 Heffron Street, Tweed Heads South.
- Ø 8 December - Gold Coast Theatre Alliance Launch 2014 - Tweed Heads Civic centre, Corner Wharf & Brett Streets, Tweed Heads.
- Ø 10 December - Visit of Ningbo Agriculture Department Chinese Delegation hosted by Robert Quirk - Quirk's Farm, Tweed Valley Way, Duranbah.
- Ø 11 December - Murwillumbah East Primary School Presentation Assembly 2013 - Murwillumbah East Primary School Hall, Charles St, Murwillumbah.
- Ø 11 December - Destination Tweed Staff & Volunteer Christmas Party - Tumbulgum Tavern, Riverside Drive, Tumbulgum.
- Ø 13 December - Uki Public School Annual Presentation Day - 1463 Kyogle Road, Uki.
- Ø 13 December - Tweed River Museum Volunteers Christmas party - Coolamon Centre, Tumbulgum Road, Murwillumbah.
- Ø 15 December - Tweed Regional Gallery Foundation Christmas Party - Alan and Lyn McNaughton's home, Corner Marine Parade and Zephyr Street, Kingscliff (Warren Polglase also attended as Foundation President).
- Ø 16 December - Official opening of Faulks Park Playground - Faulks Park, Marine Parade, Kingscliff.
- Ø 16 December - Wollumbin High School Awards Presentation - Wollumbin High School, North Arm Road, Murwillumbah.

- Ø 17 December - Men's Shed Christmas Party - Recreation St Oval, Tweed Heads.
- Ø 18 December - Meet and Greet with Chinese Delegation hosted by Don and Lyn Beck - Murwillumbah Civic Centre, Tumbulgum Road, Murwillumbah.

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

There were no events attended by other Councillors on behalf of the Mayor during December.

Inability to Attend by or on behalf of the Mayor

- Ø 3 December - Festival of Ability Far North Coast Lismore event - Lismore Greyhound Track. Molesworth Street, Lismore.
- Ø 3 December - The Dutch Australian Festival Christmas Dinner - Murwillumbah Services Club, Wollumbin Street, Murwillumbah.
- Ø 5 December - Rising Stars Scholarship Program Thank you Function - Vice Chancellor's Residence, 8 Deloraine Road, Lismore.
- Ø 5 December - Arts Northern Rivers - Placeholder Connect 'LIVE' - Studio One29, Contemporary Music Block (D Block), Southern Cross University, Lismore.
- Ø 6 December - Northern Rivers Bio Hub Workshop Invitation - Byron Regional Sports & Cultural Complex, 249 Ewingsdale Road, Byron Bay.
- Ø 11 December - Tweed/Byron Local Area Command Community Safety Precinct Committee meeting - Pottsville Environment Centre, Centennial Drive (attended by Acting General Manager, Troy Green).
- Ø 11 December - Coolangatta Senior Citizens Centre Christmas Lunch - 2 Gerrard Street, Coolangatta.
- Ø 12 December - Real People, Real Stories hosted by The Family Centre - The Family Centre, 15-17 Rivendell Tweed Heads South.
- Ø 12 December - Murwillumbah High School Presentation Night - The Elliot Centre, Murwillumbah High School, Riverview Street, Murwillumbah.
- Ø 13 December - Arts Northern Rivers Board Meeting - Arts Northern Rivers Offices, Old Tintenbar Chambers, 2/5 Bruxner Highway, Alstonville.
- Ø 13 December - Tweed Chamber Christmas Party - Tweed Heads Bowls Club, Minjungbal Drive, Tweed Heads.
- Ø 15 December - Grand Opening of the Tabatinga Family Adventure Centre - Seagulls Club, Gollan Drive, Tweed Heads West.

REQUESTS FOR WORKSHOPS:

Date of Request	Requested by	Topic	Councillors For	Councillors Against	Proposed Workshop Date
2/12/13	Cr Armstrong	Greenstar Program environmental rating system.	Bagnall Armstrong Longland Milne	Byrne Polglase Youngblutt	To Be Advised

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

Ø 6-7 December - Executive Certificate for Elected Members (Stage 3) - Aerial UTS Function Centre, Level 7, 235 Jones St, Ultimo, Sydney - Cr Byrne attended.

Information on Conferences to be held

Ø 10-12 March - Local Government NSW Tourism Conference 2014, Harvesting the Value of Tourism - Crowne Plaza Hunter Valley, 430 Wine Country Drive, Lovedale, NSW - *Includes half day program on how to reinvigorate your Visitors' Information Centre* - Registration \$583pp Earlybird rate by 27 January, plus flights and accommodation - Refer www.lgnsw.org.au/events-training/local-government-tourism-conference

Ø 16-19 March - Planning Institute of Australia (PIA) Planning Congress, "Connecting People and Ideas" - Darling Island Wharf and Parkview, 48 Pirrama Road, Darling Harbour - *The conference focus is on the latest in innovation, technology, new ideas, cutting edge thinking, leadership and engagement in the planning arena* - Registration \$1750pp, plus \$180 additional social events, plus flights and accommodation - Refer www.piacongress.com.au

SIGNING OF DOCUMENTS BY THE MAYOR:

Ø 4 December - Transfer document - Sale of 165 Darlington Drive.

Ø 6 December - Transfer document - Sale of 1 Bakers Road.

Ø 6 December - Transfer document - Sale of 19 Piggabeen Road.

Ø 12 December - Banking Services Agreement with Commonwealth Bank.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.3.

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 December 2013 be received and noted.**
- 2. The attendance of Councillors at nominated Conferences be authorised.**

UNDER SEPARATE COVER:

Nil.

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5 [MM-CM] Mayoral Minute - Delegated Authority to the General Manager

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 process

Councillors

Following the appointment of Mr Troy Green to the position of General Manager, effective from Monday 23 December 2013, a number of procedural matters need to occur in relation to the position of General Manager. In undertaking the role of Acting General Manager, delegated authority had previously been granted to Mr Troy Green by Council and this report formalises the process required with the appointment to General Manager.

In relation to the granting of delegated authority to the General Manager, Section 377 of the Local Government Act 1993, general power of the council to delegate, prescribes:

- (1) *A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:*
 - (a) *the appointment of a general manager,*
 - (b) *the making of a rate,*
 - (c) *a determination under section 549 as to the levying of a rate,*
 - (d) *the making of a charge,*
 - (e) *the fixing of a fee,*
 - (f) *the borrowing of money,*
 - (g) *the voting of money for expenditure on its works, services or operations,*
 - (h) *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),*
 - (i) *the acceptance of tenders which are required under this Act to be invited by the council,*
 - (j) *the adoption of an operational plan under section 405,*
 - (k) *the adoption of a financial statement included in an annual financial report,*
 - (l) *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,*
 - (m) *the fixing of an amount or rate for the carrying out by the council of work on private land,*
 - (n) *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,*

- (o) *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#) ,*
 - (p) *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,*
 - (q) *a decision under section 356 to contribute money or otherwise grant financial assistance to persons,*
 - (r) *a decision under section 234 to grant leave of absence to the holder of a civic office,*
 - (s) *the making of an application, or the giving of a notice, to the Governor or Minister,*
 - (t) *this power of delegation,*
 - (u) *any function under this or any other Act that is expressly required to be exercised by resolution of the council.*
- (2) *A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council.*

As prescribed within this section of the legislation, this report and resolution confirm the delegated authority conferred on General Manager, Mr Troy Green, which became effective as at the commencement of the Employment Contract on 23 December 2013, and these delegations as extracted from the Delegations Register are included as an attachment to this minute.

COUNCIL IMPLICATIONS:

a. Policy:

Council Policy not applicable, but in accordance with Section 377 of the Local Government Act 1993.

b. Budget/Long Term Financial Plan:

Appropriate allowance is made within the current budget and long term financial plan to cater for the granting of these delegations.

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

RECOMMENDATION:

That in accordance with Section 377 of the Local Government Act 1993, the delegated authority granted to General Manager Troy Green effective from 23 December 2013, be approved and confirmed.

UNDER SEPARATE COVER:

Attachment 1. Delegated Authority granted to General Manager (ECM 3258273)

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ORDERS OF THE DAY



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*

- 6 [NOR-Crs M Armstrong, G Bagnall and K Milne] Development Application DA13/0124 for Seven Townhouses at Lot 4 DP 801038 No 18-20 Cupania Court, Tweed Heads West**

NOTICE OF RESCISSION:

Councillor M Armstrong, G Bagnall and K Milne move that the resolution at Item 30 Minute Number 832 being:

"... that Development Application DA13/0124 for seven townhouses at Lot 4 DP 801038 No. 18-20 Cupania Court, Tweed Heads West be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

1. *The '8 semi detached townhouses' plans prepared by Planit Consulting dated September 2013 are to be amended, and provided to Council for endorsement, to incorporate the following changes prior to the consent being operational, namely:*
 - (a) *Delete all references to proposed Residence 8;*
 - (b) *Relocate the eastern turn-around car-parking facility to take the position of former Residence 8. The eastern fire truck turning area shall immediately adjoin Residence 7; and*

- (c) *The area extending to the eastern boundary from the north-south aligned boundary of Residence 7 and including the area made available from the deletion of Residence 8 and repositioned fire truck turning area shall be described as 'Environmental Covenant Area - A' to be rehabilitated and managed as a natural area for conservation purposes in perpetuity.*
2. *The applicant shall amend the Geotechnical Report being Report on Slope Stability Analysis & Retention Wall Modelling Rev. 0 dated 10 September 2013 prepared by Douglas Partners as follows:*
 - (a) *Remove all structures necessary to manage slope stability hazard from the area identified as 'Environmental Covenant Area A' pursuant to deferred layout amendment conditions detailed above; and*
 - (b) *Provide engineering certification that the amended geotechnical structure design, made necessary to avoid disturbance within 'Environmental Covenant Area A', meets all engineering design standards and requirements.*
3. *The applicant shall amend the Bushfire Management Plan being Bushfire Assessment Report 100B Rev. A Lot 4 DP801038 dated 13 December 2012 prepared by Peter Thornton as follows:*
 - (a) *The plan shall contemplate long term restoration of the area described as 'Environmental Covenant Area - A' to re-establish the pre-clearing vegetation community and provide recommendations necessary to ensure bushfire risks are appropriately managed during the long-term operational phase of development without compromising restoration effort nor requiring any vegetation management works to occur within the 'Environmental Covenant Area - A'; and*
 - (b) *Demonstrate that required landscape planting will not be impacted by measures necessary to manage bushfire during the long-term operational phase of the development.*
4. *The applicant shall amend the Statement of Landscape Intent, Sheets 1 to 4, 18 Cupania Court Tweed Heads West dated February 2013 prepared by Planit Consulting to show a single row of 'Advanced' 45 Litre local rainforest buffer trees installed at a minimum spacing of three metres along the entire length of the northern site boundary.*

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. *The development shall be completed in accordance with the Statement of Environmental Effects and Approved Plans under Schedule A of this consent, except where varied by the conditions of this consent.*

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

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

[GEN0135]

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

[GEN0265]
5. *The owner is to ensure that the proposed buildings are constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.*

[GEN0300]
6. *The proposed development is to be undertaken in accordance with the recommendations contained within the approved Bushfire Threat Assessment Report, prepared by a suitably accredited bushfire consultant.*
7. *The development's internal driveway must comply with section 4.1.3.(2) of 'Planning for Bush Fire Protection 2006'. The access is to be adequately sign posted, clearly stating that no parking is permitted within the Reversing Bay.*

[GENNS01]
8. *Earthworks and regrading:*
 - (a) *Any regrading or reshaping of the site must comply with Council's Design Specification D6 - Site Regrading.*
 - (b) *The southern retaining wall must be located a minimum of 900mm from the southern property boundary and cannot exceed a height of 1.5m at any point.*
 - (c) *The development must at no time result in additional runoff or ponding occurring within neighbouring properties.*
 - (d) *All 'uncontrolled' filling over the site shall be removed and where required for site regrading, the filling will be re-compacted under Level 1 supervision.*

[GENNS02]
9. *Stormwater Management shall be in general accordance with the Site Based Stormwater Management Plan prepared by Terrane Engineering Civil Consultants dated March 2013, except where varied by the following and the conditions of this consent.*
 - (a) *The cut off drain above the southern retaining wall shall be sized to capture the associated Q100 ARI storm event, generally in accordance Drawing No. 1649-SK31 Rev A, prepared by Terrane Engineering Civil Consultants dated 12.09.13.*
 - (b) *The required On Site Detention (OSD) must include a Discharge Control Pit (DCP) compliant with the standards of the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook". Note, Permissible Site Discharge (PSD) and Site Storage Requirements (SSR) as referenced in the handbook are not supported by Tweed Shire Council.*
 - (c) *All roof-water and overflow from rainwater tanks must discharge into the OSD Tank.*
 - (d) *The OSD tank is to be utilised for detention purposes only.*
 - (e) *Where physically achievable, stormwater shall be treated in accordance with Council's Design Specification D7 - Stormwater Quality, prior to discharge into the OSD Tank to minimise the potential for blockages. Stormwater must however be treated prior to discharge into the public realm.*

All connecting drainage systems, including guttering, down pipes, rainwater tank overflows and driveway inlet pits, shall be sized to capture and convey the 100 ARI year storm. Details are to be submitted with the S68 stormwater application.

[GENNS03]

10. *Erosion and Sediment Control shall be designed, installed and maintained in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".*
11. *In the event of any future subdivision of the proposed development, any external living areas which are within 4 metres of a side boundary are to be suitably screened to the written satisfaction of Councils General Manager or delegate prior to the issue of a subdivision certificate.*

[GENNS04]

12. *The 'Environmental Covenant Area - A' must be the subject of an ecological restoration program undertaken in accordance with an approved Habitat Restoration Plan and managed as a natural area for conservation purposes in perpetuity.*
13. *The approved development shall not result in any clearing of native vegetation within the areas identified as 'Environmental Covenant Area - A' as described in this consent, without prior approval from Council's General Manager or delegate.*
14. *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 Habitat Restoration Plan (HRP) works. Reports of this monitoring must provide the basis for the person issuing certification for the bond or bank guarantee 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 HRP must be undertaken once the need is identified.*

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

15. *The developer shall provide 2 parking spaces per unit plus 2 Visitor Parking Spaces in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.*

The Visitor Parking Spaces must be appropriately sign-posted and line marked in accordance with Council's Construction Specification C261.

[PCC0065]

16. *In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable). Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.*

[PCC0285]

17. *Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17° (1:3.27) or steeper, such slopes shall be densely planted in accordance with a detailed Landscaping Plan endorsed by Council. This Plan shall accompany the Construction Certificate application.*

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.*
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.*
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.*
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.*

[PCC0455]

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

[PCC0465]

- 19. The Construction Certificate Application shall include a certificate of adequacy of design in accordance with AS 4678 and Council's Development Design and Construction Specifications, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.*

Please note timber retaining walls are not permitted.

[PCC0475]

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

[PCC0585]

- 21. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Council's Development Design and Construction Specifications for the following (but not limited to) required works:*

- Construction of a Tweed Shire Council compliant access off Cupania Court.*

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 (as applicable)

[PCC0895]

22. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils Development Design Specification D7 - Stormwater Quality.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) It is encouraged that the stormwater and site works incorporate Water Sensitive Design Principles and where practical, integrated water cycle management, as proposed by "Water By Design", an initiative for best practice by the South East Queensland Healthy Waterways Partnership.
- (d) Specific Requirements to be detailed within the Construction Certificate application include:
 - (i) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any site works being undertaken.
 - (ii) Runoff from all hardstand areas, (including driveway and hardstand landscaping areas and excluding roof areas) must be treated to remove oils, sediments and gross pollutants prior to discharge to the public realm. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 - Stormwater Quality, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
 - (iii) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.

[PCC1105]

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

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

[PCC1185]

24. Prior to the issue of a Construction Certificate, applications shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire

Council under Section 68 of the Local Government Act for the following works (as applicable, but not limited to);

- a. *water,*
 - *Provision of a Bulk meter. The meter is to be installed by Council at the Developer's expense,*
- b. *sewerage, including;*
 - *Provision of a compliant house connection,*
- c. *drainage works, including;*
 - *the connection of a private stormwater drain to a public stormwater drain,*
 - *the installation of stormwater quality control devices,*
 - *erosion and sediment control works.*

[PCC1195]

25. *If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.*

The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

[PCC1325]

26. *Prior to the issue of a Construction Certificate, the Applicant must submit to (and receive approval from) the PCA, a detailed report from a suitably qualified Geotechnical/Structural Engineering confirming that the proposed development (including the protective wall along the northern property boundary):*

- (a) *will provide geotechnical stability to the proposed development,*
- (b) *will prevent any upslope advancement of any down-slope (off-site) slip failures and detail amelioration measure should a down-slope failure occur (including access requirements),*
- (c) *will not jeopardise the geotechnical stability or structural integrity of neighbouring property, including the existing Boulder Retaining Wall to the south,*
- (d) *complies with applicable Australian Standards (AS 4678-2002) and the provisions of Council's Design Specification D6 - Site Regrading.*

[PCCNS01]

27. *A Habitat Restoration Plan is required to be prepared by a person qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in local vegetation community (e.g. rainforest) for the area described as 'Environmental Covenant Area - A' on the approved plans. The restoration plan shall be submitted and approved by Council's General Manager or delegate prior to issue of any construction certificate and shall include:*

- (a) *An appraisal of the present condition of remnant vegetation;*
- (b) *A plan overlaying an aerial photograph of the site which divides the area into zones for regeneration and zones for planting, including connections between existing vegetation where appropriate;*

- (c) *A management strategy for each of the zones, including the approach, methods and techniques to be used for vegetation restoration;*
 - (d) *Schedule of local native plant species to be used for planting (if appropriate);*
 - (e) *Program of works to be undertaken to remove invasive weed species;*
 - (f) *Schedule of timing of proposed works;*
 - (g) *Maintenance, monitoring and reporting schedule with developer commitment for a period not less than five (5) years and;*
 - (h) *An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the Council's General Manager or delegate for such change.*
28. *Prior to the issue of a Construction Certificate an ecological report, prepared by a suitably qualified person, is to be submitted for the written approval of Council's General manager or delegate demonstrating that development works proposed as part of this application, including soldier piling geotechnical works, will not impact on any vegetation (including root systems) on adjoining properties.*
29. *Prior to the issue of a Construction Certificate, amended plans are to be submitted to Council for the written approval of the General Manager or delegate demonstrating visual treatment to the exposed sealed blockwork proposed to the sites western elevation.*

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

30. *The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the PCA advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.*
- [PCW0005]
31. *The erection of a building in accordance with a development consent must not be commenced until:*
- (a) *a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and*
 - (b) *the person having the benefit of the development consent has:*
 - (i) *appointed a principal certifying authority for the building work, and*
 - (ii) *notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and*
 - (c) *the principal certifying authority has, no later than 2 days before the building work commences:*
 - (i) *notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and*
 - (ii) *notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and*

- (d) *the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:*
 - (i) *appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and*
 - (ii) *notified the principal certifying authority of any such appointment, and*
 - (iii) *unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.*

[PCW0215]

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

[PCW0225]

33. *Residential building work:*

- (a) *Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:*
 - (i) *in the case of work for which a principal contractor is required to be appointed:*
 - * *in the name and licence number of the principal contractor, and*
 - * *the name of the insurer by which the work is insured under Part 6 of that Act,*
 - (ii) *in the case of work to be done by an owner-builder:*
 - * *the name of the owner-builder, and*
 - * *if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.*
- (b) *If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.*

[PCW0235]

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

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

[PCW0245]

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

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

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

[PCW0255]

36. *Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.*

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

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

[PCW0985]

37. *Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of a new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.*

[PCW1170]

DURING CONSTRUCTION

38. *All proposed works are to be carried out in accordance with the conditions of development consent, approved Management Plans, approved Construction Certificate, approved Bushfire Threat Assessment Report, drawings and specifications.*

[DUR0005]

39. *Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:*

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

41. *All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia*

(as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

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

[DUR0395]

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

[DUR0405]

44. *It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.*

[DUR0415]

45. *The finished floor level of the building should finish not less than 225mm above finished ground level.*

[DUR0445]

46. *Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".*

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a Level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

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

[DUR0815]

48. *All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.*

Please note timber retaining walls are not permitted.

[DUR0835]

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

[DUR0905]

50. *No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.*

[DUR0985]

51. *The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove*

material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.

[DUR0995]

52. *All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:*

- . Noise, water or air pollution.*
- . Dust during filling operations and also from construction vehicles.*
- . Material removed from the site by wind.*

[DUR1005]

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

[DUR1015]

54. *Landscaping of the site shall be carried out in accordance with the approved Landscaping Plan.*

[DUR1045]

55. *All operations must comply with the fauna and flora protection measures as outlined in the section titled Vegetation Management Plan in Attachment F - Vegetation Assessment dated 11 September prepared by Planit Consulting and as amended by conditions of this consent. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or the Department of Environment and Climate Change. No further site clearing will take place until the Plan(s) of Management is/are approved.*

[DUR1215]

56. *Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.*

[DUR1795]

57. *Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to any use or occupation of the buildings.*

[DUR1875]

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

[DUR1905]

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

[DUR1925]

59. *No portion of the structure may be erected over any existing sillage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains, unless approved otherwise by Council.*

[DUR1945]

60. *The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction to ensure no material is capable of being washed or blow from the site.*

[DUR2185]

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

[DUR2205]

62. *During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.*

[DUR2445]

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

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

[DUR2485]

64. *Plumbing*

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.*
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.*

[DUR2495]

65. *An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.*

[DUR2505]

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

[DUR2545]

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

- * 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and*

* 50°C in all other classes of buildings.

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

[DUR2555]

68. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

69. Air conditioning units, heat pump water systems and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.

[DUR2835]

70. Works are to be undertaken in accordance with the recommendations of the endorsed Geotechnical Engineering's report.

[DURNS01]

71. The following activities are not permitted within the area described as 'Environmental Covenant Area - A' on the approved plan/s:

- (a) Storage and mixing of materials;
- (b) Vehicle parking;
- (c) Liquid disposal;
- (d) Machinery repairs and /or refuelling;
- (e) Construction of site office or shed;
- (f) Combustion of any material;
- (g) Stockpiling of soil, rubble or debris;
- (h) Any filling or excavation including trenching, topsoil skimming and/or surface excavation, unless otherwise approved by Council's General Manager or delegate; and
- (i) Unauthorised application of pesticides, herbicides or chemicals.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

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

[POC0205]

74. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and

- (b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
- (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

75. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

[POC0355]

76. Section 94 Contributions

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

Prior to the occupation of the building or issue of any Interim or Final Occupation Certificate (whichever comes first), all Section 94 Contributions must have been paid in full and the Certifying Authority must have sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

(a) Tweed Road Contribution Plan:

20.8 Trips @ \$2937 per Trips \$61090

(\$2836 base rate + \$101 indexation)

S94 Plan No. 4

Sector4_4

(b) Open Space (Casual):

6 ET @ \$543 per ET \$3258

(\$502 base rate + \$41 indexation)

S94 Plan No. 5

(c) Open Space (Structured):

6 ET @ \$622 per ET \$3732

(\$575 base rate + \$47 indexation)

S94 Plan No. 5

- (d) *Shirewide Library Facilities:*
6 ET @ \$838 per ET \$5028
(*\$792 base rate + \$46 indexation*)
S94 Plan No. 11
- (e) *Bus Shelters:*
6 ET @ \$64 per ET \$384
(*\$60 base rate + \$4 indexation*)
S94 Plan No. 12
- (f) *Eviron Cemetery:*
6 ET @ \$123 per ET \$738
(*\$101 base rate + \$22 indexation*)
S94 Plan No. 13
- (g) *Community Facilities (Tweed Coast - North)*
6 ET @ \$1389 per ET \$8334
(*\$1305.6 base rate + \$83.4 indexation*)
S94 Plan No. 15
- (h) *Extensions to Council Administration Offices
& Technical Support Facilities*
6 ET @ \$1860.31 per ET \$11161.86
(*\$1759.9 base rate + \$100.41 indexation*)
S94 Plan No. 18
- (i) *Cycleways:*
6 ET @ \$473 per ET \$2838
(*\$447 base rate + \$26 indexation*)
S94 Plan No. 22
- (j) *Regional Open Space (Casual)*
6 ET @ \$1091 per ET \$6546
(*\$1031 base rate + \$60 indexation*)
S94 Plan No. 26
- (k) *Regional Open Space (Structured):*
6 ET @ \$3830 per ET \$22980
(*\$3619 base rate + \$211 indexation*)
S94 Plan No. 26

[POC0395]

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

[POC0435]

78. 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 (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:

Water DSP3:	4.4 ET @ \$12575 per ET	\$55330
Sewer Banora:	6 ET @ \$6042 per ET	\$36252

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]

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

[POC0745]

80. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of all retaining structures.

[POC0805]

81. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act.

[POC0860]

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

[POC0985]

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

[POC1045]

84. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm that a Transferring Grant has been completed to include Tweed Shire Council as the benefiting party to the existing easement to drain sewage 2 wide and variable, over the subject site, which currently only benefits Lot 5 & 6.

[POCNS01]

85. *All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation Certificate.*

[POCNS02]

86. *Prior to the issue of an Occupation Certificate a certificate prepared by a qualified Geotechnical Engineer is to be provided to the PCA confirming that works have been undertaken in accordance with the recommendations of the endorsed Geotechnical Engineering's report and that the development is geotechnically stable and does not jeopardise the geotechnical stability or structural integrity of any neighbouring property.*

[POCNS03]

87. *Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan prior to issue of the occupation certificate and shall be maintained at all times in accordance with the approved Plan.*

88. *The following restrictions as to use of the land under Section 88B of the Conveyancing Act are to be created to Council's satisfaction:*

a. *Restriction as to user regarding 'Environmental Covenant Area - A' - this area must be subject to an approved ecological restoration program (undertaken in accordance with an approved habitat restoration plan) and managed as a natural area for conservation purposes in perpetuity.*

Burden: Part Lot 4 DP 801038. Benefit: Tweed Shire Council

b. *Restriction as to user regarding 'Environmental Covenant Area - A'. The following activities are not permitted within this area.*

i. *Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this approval;*

ii. *Erection of any fixtures or improvements, including buildings or structures;*

iii. *Construction of any trails or paths;*

iv. *Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area;*

v. *Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the Covenant Area; and*

vi. *Performance of any other acts which may have detrimental impact on the values of the Covenant Area. The area must be managed in accordance with the approved habitat restoration plan for the life of the development and the use of the premises.*

Burden: Part Lot 4 DP 801038 Benefit: Tweed Shire Council

89. *A cash bond or bank guarantee to ensure that the approved Habitat Restoration Plan ('HRP') is implemented and completed must be lodged with Council prior to the issue of occupation certificate unless all ecological restoration works have been completed in accordance with the approved HRP to the satisfaction of Council's General Manager or delegate. 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 HRP. In this regard, two (2) written quotes from suitably experienced and qualified bush regenerators (to the satisfaction of Council's General Manager or his delegate) must be submitted to Council which detail the cost of all works associated*

with the HRP. The amount of the bond will be equivalent to 130% of the estimated cost of works

The bond or bank guarantee will be released five (5) years after the initiation of works on submission of certification by a suitably experienced and qualified bush regenerator stating that the HRP has been satisfactorily completed, unless otherwise approved by Council's General Manager or delegate.

90. *All approved landscaping requirements must be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a final occupation certificate. Landscaping must be maintained at all times to the satisfaction of Council's General Manager or delegate.*

[POCNS04]

USE

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

[USE0125]

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

[USE0175]

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

[USE0225]

94. *Air conditioning units, heat pump water systems and the like shall not be operated if it can be heard in a habitable room of a residence during restricted hours or at other times should the noise from the article be deemed to be offensive as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.*

[USE1510]"

be rescinded.

7 [NOM-Cr K Milne] Development Application DA13/0124 for Seven Townhouses at Lot 4 DP801038 No 18-20 Cupania Court, Tweed Heads West

NOTICE OF MOTION:

Councillor K Milne moves that Development Application DA13/0124 for seven townhouses at Lot 4 DP 801038 No. 18-20 Cupania Court, Tweed Heads West be refused for the following reasons:

1. The application fails to satisfy the principal aim of the Tweed Local Environmental Plan 2000 (Clause 4) which is to ensure "*The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced.*" The proposed development fails to adequately consider the sites' sensitive ecological environment and would result in a development which does not adequately respond to the existing ecological values or ecological functioning of the area.
2. The development as proposed is not considered to have adequate regard for the Ecologically Sustainable Development provisions as outlined in Clause 5 the Tweed Local Environmental Plan 2000.
3. The proposed development in its current form does not meet the requirements of Part 5A of the *EP&A Act* as the extent of vegetation removal proposed to accommodate the development, manage bushfire and slope stability hazard will likely result in unacceptable adverse impact on the EEC.
4. Due to the narrow width of the vegetation corridor any further loss of vegetation to accommodate the proposed development would be expected to have an adverse impact on the ecological functionality of the tract by increasing edge effects and essentially limiting/restricting fauna movement/refuge. This impact on ecological function combined with the removal of what is considered to be an EEC further intensifies impacts on the local biodiversity that would be seen to be in conflict with the intent/objective of Clause 7.8 Terrestrial Biodiversity of the *TLEP 2013* and these impacts are considered to be unacceptable
5. The size of the development footprint and resultant inadequate buffers to Endangered Ecological Communities (EEC), results in an overdevelopment of such a sensitive and significant site.
6. There is significant uncertainty as to the extent and level of cumulative impact on threatened species and Endangered Ecological Communities and the corridor values of the site.
7. The development does not satisfy the provisions of DCP Section A5 - Subdivision Manual having regard to environmental constraints, buffers, lot layout, landscape character and natural landform.

8. Accordingly, the development application is not considered to be in the public interest.
-

8 [NOM-Cr B Longland] Future of Lot 1 DP 1117599 (Lot 490) Kingscliff

NOTICE OF MOTION:

Councillor B Longland moves that Council:

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.
-

9 [NOM-Cr M Armstrong] Tweed Education Industry Forum (TEIF)

NOTICE OF MOTION:

Councillor M Armstrong moves that Council officers be requested to table a report which outlines the core objectives of the Tweed Education Industry Forum (TEIF), its members, how often they meet and the role or tasks assigned to Council to champion.

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

NOTICE OF MOTION:

Councillor K Milne moves that:

1. Council notes the new data on climate change recently reported by the UNSW highlighting that temperatures are on course to rise at least 4 degrees by the end of the century.
 2. Council adopts a New Year's resolution to focus with greater commitment than ever to reduce carbon emissions, and to educate the local community, businesses and developers on the imperative of achieving sustainability across all sectors.
 3. Council brings forward a report on the potential for retrofitting Council's Civic Centres for sustainability purposes, and the opportunity of making a significant, visible, public demonstration to model and inspire sustainable leadership in the Shire.
-

4. Council brings forward a report on further investing in solar panels for Council Civic Centres and other Council buildings, including predicted pay back periods, options for levels of investment, and potential funding sources.
5. Council brings forward a report on developing a strategy to counteract the Urban Heat Island effects for the Shire's main towns and villages, including but not limited, to retrofitting stormwater drains to establish open space networks of lush green waterway corridors, maximising shade with tree plantings and covered car parks, green rooves and living walls etc.

Background

"Temperatures are on course to rise at least 4 degrees by the end of the century, according to recent research that finds earlier climate models projecting smaller increases are likely to be wrong.

The research, by a team led by the University of NSW, says a 4-degree rise in temperature would be potentially catastrophic for agriculture in warm regions of the world, including Australia.

Current models estimate a doubling of carbon dioxide in the atmosphere - a level that may be reached by mid-century - will result in temperature rises of between 1.5 degrees and 5 degrees. Instead, the likely range will be 3-5 degrees for twice the amount of CO2, the study found".

<http://www.smh.com.au/environment/climate-change/climate-change-planet-to-warm-by-4-degrees-by-2100-20131231-304nw.html#ixzz2pnlC43XL>

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

NOTICE OF MOTION:

Councillor G Bagnall moves that:

1. Council consider 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."

2. Staff prepares an estimate of costs for preparation of the plan of management above to inform consideration of this item in the 2014/15 budget
 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.
-

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

NOTICE OF MOTION:

Councillor G Bagnall moves that 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.

13 [NOM-Cr G Bagnall] Budd Park

NOTICE OF MOTION:

Councillor G Bagnall moves that Council prepares a brief report on the feasibility of adding swings to the newly redeveloped Budd Park.

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QUESTIONS ON NOTICE

14 [QoN-Cr W Polglase] Sinc Solutions Report

QUESTION ON NOTICE:

Councillor W Polglase asked:

Could the General Manager advise what meetings have been held with Leda and outcomes of those meetings since the adoption of the Sinc Report?

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RECEIPT OF PETITIONS

15 [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 2.3, *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 2.3:

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 2.3.

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 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.

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

SUBMITTED BY: Director



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:

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

RECOMMENDATION:

That Council notes the December 2013 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

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

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

DA No.	DA13/0024
Description of Development:	40 lot subdivision, construction of internal road and associated infrastructure
Property Address:	Lot 1 DP 407094 Cudgen Road, Cudgen & Lot 1 DP 598073 No. 17 Collier Street, Cudgen
Date Granted:	18/12/2013
Development Standard to be Varied:	Clause 20(2)(a) - Minimum Lot Size 40ha
Zoning:	1(a) Rural, 1(b1) Agricultural Protection, 1(b2) Agricultural Protection, 2(a) Low Density Residential
Justification:	<p>The objection is in respect of the planning standard identified within Clause 20(2)(a) of the Tweed Local Environmental Plan 2000, specifically seeking variance to the 40 hectare minimum lot size development standard for the 1(b2) Agricultural Protection zone. Council can assume concurrence to vary the standard applying to the 1(b1) Agricultural Protection zone of 10 hectares, as the variation is less than 10%.</p> <p>The SEPP No. 1 objection relates to the portion of the combined Lots 38 and 39 which is located within the 1(b2) zone. This equates to a total area of approximately 5.2382ha within the proposed lot which is under the 40ha minimum.</p> <p>The SEPP No. 1 objection was accepted as follows:</p> <ol style="list-style-type: none"> 1. No issues of state or regional significance are raised; 2. Creation of the residue lot is an administrative matter; and 3. Creation of the lot for stormwater drainage reserve is of minor significance.
Extent:	The objection is in respect of the planning standard identified within Clause 20(2)(a) of the Tweed Local Environmental Plan 2000, specifically seeking variance to the 40 hectare minimum lot size development standard for the 1(b2) Agricultural Protection zone. Council can assume concurrence to vary the standard applying to the 1(b1) Agricultural Protection zone of 10 hectares, as the variation is less than 10%.
Authority:	Tweed Shire Council under assumed concurrence.

DA No.	DA13/0328
Description of Development:	Creation of staged storage units (112 units) and conversion of existing light industrial building to storage units (24) with associated site filling and earthworks in addition to existing lawful development (light industry)
Property Address:	Lot 201 DP 1002166 Pottsville Road, Sleepy Hollow
Date Granted:	18/12/2013
Development Standard to be Varied:	Clause 24 - setbacks to designated roads

Zoning:	1(a) Rural
Justification:	The SEPP 1 objection is required because a portion of existing Building F does not comply with the 30m development standard contained within Clause 24. The masonry office component of Building F is located 25.701m from Pottsville Mooball Road which represents a 14.33% or 4.299m variation to the development standard.
Extent:	The SEPP 1 objection is required because a portion of existing Building F does not comply with the 30m development standard contained within Clause 24. The masonry office component of Building F is located 25.701m from Pottsville Mooball Road which represents a 14.33% or 4.299m variation to the development standard.
Authority:	Tweed Shire Council under assumed concurrence

DA No.	DA13/0513
Description of Development:	Dwelling alterations, additions and gatehouse (staged)
Property Address:	Lot 6 DP 1066506 No. 42 North Point Avenue, Kingscliff
Date Granted:	17/12/2013
Development Standard to be Varied:	Clause 32B(4)(b) - overshadowing
Zoning:	2(f) Tourism
Justification:	Area of the coastal reserve affected comprises a grassed area and coastal dune vegetation. The shadow will have minimal impact on any areas used by the public for formal recreational activities and Council has approved many dwellings along the Tweed Coast that have similar minor overshadowing encroachments.
Extent:	Shadow diagrams show the development will overshadow the adjacent foreshore reserve to the east. A SEPP 1 objection was submitted with the application.
Authority:	Tweed Shire Council under assumed concurrence

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

- 17 [PR-CM] Development Application DA13/0175 for an 83 Lot Residential Subdivision in Four Stages Comprising 79 Residential Lots with Dedication of Two Lots as Drainage Reserves, One Lot as Public Reserve and One Lot as Sewer Pump Station Site at Lot 332 DP1158142 Silkpod Avenue, Murwillumbah

SUBMITTED BY: Development Assessment

FILE REFERENCE: DA13/0175 Pt3



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:

This development application is being reported to Council as it is a subdivision that creates more than 50 lots. The development application was lodged on 17 April 2013.

A number of formal and informal amendments to the application have been made during the assessment process in response to Council's consolidated requests for further information. Council officers have provided ongoing, detailed advice (prior to lodgement and during assessment), extensions for the provision of further information and have met with the applicant when requested for discussions in an attempt to resolve matters of concern. However, subsequent modifications to the proposal have consistently failed to adequately address outstanding issues to Council's satisfaction.

The applicant has been given the option to withdraw the application and re-lodge an amended proposal once acceptable design solutions have been identified. This process is expected to be lengthy in consideration of the constraints of the land. The applicant has opted not to withdraw the application. As such, given lengthy delays in the submission of further information and the sub-standard content of the applicant's final submission on 21 November 2013, the application is now recommended for refusal.

Main areas of concern (and grounds for refusal) relate to:

- Failure of the applicant to satisfactorily resolve stormwater drainage issues for the outlet from Frangella Park (within proposed Lot 604);
- Inability for Council to accept dedication of Lot 604 without appropriate drainage improvements;
- An unacceptable impact on, and unwarranted risk to an identified threatened species (Grey-headed Flying Fox colony and associated habitat); and

- The cumulative effect of Council accepting multiple less-than-ideal elements of the proposal that result in substantial financial and maintenance responsibilities into the future.

Elements of the proposal that remain less than satisfactory include:

- Open drainage channel design, grades, construction materials and revegetation;
- Bio-retention basin design;
- MUSIC modelling: pollution reduction target;
- Sewer design: minimum grades/self cleansing velocity requirements;
- Pedestrian access to Frangella Park;
- Upgrade/embellishment of Frangella Park;
- Revegetation plant species/design for Rous River riparian buffer; and
- Impact of construction noise/haul routes.

It is intended that infrastructure will be handed over to Council once the subdivision is created which will be Council's responsibility to maintain into the future. Should the development application be approved in its current form, the ongoing cost of maintaining this infrastructure will be prohibitive and a burden to ratepayers. This is clearly not in the public interest.

The proposal was required to be notified to adjoining owners for a period of 30 days. One submission was received during the notification period objecting to the proposal. Issues raised have been resolved.

Having regard to relevant statutory controls and an assessment against Clauses 4, 5 and 8 in particular, of the Tweed Local Environmental Plan 2000, the proposed 83 lot residential subdivision in four stages with dedication of two lots as drainage reserves, one lot as public reserve and one lot as sewer pump station site is not considered suitable for the subject site and therefore the proposed development is recommended for refusal.

RECOMMENDATION:

That Development Application DA13/0175 for an 83 lot residential subdivision in four stages with dedication of two lots as drainage reserves, one lot as public reserve and one lot as sewer pump station site at Lot 332 DP 1158142 Silkpod Avenue, Murwillumbah be refused for the following reasons:

- 1. Pursuant to Section 5 Objects of the Environmental Planning & Assessment Act 1979 (as amended), the proposed development cannot be determined to satisfy sub section (a)(i), the orderly and economic use and development of the land.**

It is Council's view that the proposal has the ability to impact negatively upon the subject site and adjacent land; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning & Assessment Act 1979.

- 2. Pursuant to Section 5 Objects of the Environmental Planning & Assessment Act 1979 (as amended), the proposed development cannot be determined to satisfy sub section (a)(vi), the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats.**

It is Council's view that the proposal has the ability to impact upon the protection and conservation of native animals and plants; accordingly the proposal is not identified as satisfying the Objects of the Environmental Planning & Assessment Act 1979.

3. In accordance with Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be compliant with Environmental Planning Instruments.

It is Council's view that the proposed development is inconsistent with the aims of:

State Environmental Planning Policies:

- North Coast Regional Environmental Plan: Clauses 15 and 43

It is Council's view that the proposed development does not satisfy the provisions contained within:

The Tweed Local Environmental Plan 2000:

- Clause 4: Aims of this plan
- Clause 5: Ecologically sustainable development
- Clause 8(1): Consent Considerations
- Clause 31: Development adjoining waterbodies

5. Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

It is Council's view that the design and proximity of the residential development to Frangella Park is considered unacceptable due to its impact upon the habitat of a threatened species, in particular that of the grey headed flying fox.

6. In accordance with Section 79C (1) (e) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed development is not considered to be in the public interest.

It is Council's view that it is in the broader general public interest to enforce the standards contained within the Tweed Local Environmental Plan 2000 specifically as it relates to the aims of the plan, unacceptable cumulative impact and the ongoing economic burden on the Shire as a whole.

REPORT:

Applicant: Barnby Developments Pty Ltd
Owner: Ms Catharina LA Bayliss
Location: Lot 332 DP 1158142 Silkpod Avenue, Murwillumbah
Zoning: 2(c) Urban Expansion; 2(a) Low Density Residential
Cost: \$5,000,000

Background:

History

On 10 August 2012, Tweed Local Environmental Plan Amendment No. 90 rezoned the subject land to 2(a) Low Density Residential in preparation for further stages of the Riva Vue residential development.

Council's Development Assessment Panel met with the applicant to discuss the future subdivision proposal on 22 August 2012. Council officers provided formal advice with regard to the concept plan. Stormwater Management requirements were highlighted. In particular, the applicant was advised as follows:

"Proposed dedication of lot 501 to Council will not be supported by Council unless significant drainage improvements are undertaken to the site (including an investigation of the current leaching problem). This area will not meet the Casual Open Space requirements for this site and alternative arrangements for Open Space will need to be negotiated (embellishment of and connectivity to existing facilities may be considered or a contribution under Section 94). Verification of appropriate compaction and filling will be required."

The Subject Site

The subject site (as amended) is composed of one parcel of land. The residential subdivision and drainage channel will be contained on Lot 332 DP 1158142 which has an area of approximately 9.948 hectares. The site has been partly filled.

The majority of the site is managed grassland. However, there is a small stand of remnant vegetation to the west of Rous River Way. The site has historically been utilised for the production of sugar cane.

The Proposed Development

The application has been amended three times during the course of assessment. The proposal is identified as integrated development as it is located within 40m of a waterbody. Accordingly, this necessitated an integrated referral to the NSW Office of Water.

Original proposal (88 lot subdivision in two stages – 4 & 5)

- § Creation of 85 residential lots with areas ranging from 569m² to 966m² – Lots 401 to 437 (37 lots) and Lots 502 to 549 (48 lots)
- § Dedication of proposed Lot 550 as a drainage reserve
- § Dedication of proposed Lot 501 as a drainage reserve
- § Construction and dedication of the proposed streets
- § Construction of stormwater drainage infrastructure including water quality infrastructure and a stormwater drainage channel outfall to the Rous River within Lot 22 DP 1080322

- § Provision of an underground water supply, reticulated sewer, power and telephone including NBN compatible services; and
- § Creation of proposed Lot 551 on the western side of the site. This lot will be consolidated with Lot 22 DP 1080322 to provide improved access to that lot from the proposed extension of Joshua Street.



Figure 1: excerpt of original subdivision plan 19291 B Sheet 1 (14 August 2012)

Amendment 1 (received as informal modification on 6 June 2013)

The revised plan introduces additional staging (Stages 6 and 7) in order to reduce the amount of contributions payable at the time of release of the Subdivision Certificate for each relevant stage.

It also amends the subdivision layout at the western end of the site adjacent to Joshua Street.

The amended layout was intended to resolve issues raised by the Lessee of the Child Care Centre on adjacent Lot 22 DP 1080322 with regard to car park access.

The applicant also considered it "*uneconomic*" to pipe overland flow from the intersection of Joshua Street and Rous River Way to Lot 545 (Lot 713 on the amended Layout Plan), to the extent that it would "*render the project commercially unviable*".



Figure 2: excerpt of amended subdivision plan 19291 B Sheet 1 Revision A (31 May 2013)

Amendment 2 (received 27 September 2013)

The formal amendment reduces the number of residential lots from 85 to 80 and increases the number of drainage reserves from two to four – Lots 627, 628, 629 and 630.

Amended drainage deleted the requirement for a new outfall to the Rous River adjacent to Lot 630. As such, drainage works on Lot 22 DP 1080322 are no longer included in the application and the application is contained wholly within Lot 332 DP 1158142.



Figure 3: excerpt of amended subdivision plan 19291 B Sheet 1 Revision D (26 September 2013)

Amendment 3 (received 21 November 2013)

The final amendment is an 83 lot residential subdivision over four stages with (residential) lot areas ranging from 574.7m² to 1157m²:

- § Stage 4 contains Lots 401 to 423 (23 lots);
- § Stage 5 contains Lots 501 to 514 (14 lots);
- § Stage 6 contains Lots 601 to 629 (29 lots); and
- § Stage 7 contains Lots 701 to 717 (17 lots).

It includes a total of 79 residential lots, two drainage reserves, one public reserve (riparian buffer) and one sewer pump station site along with:

- § Dedication of drainage reserves (Lots 604 and 627);
- § Dedication of public reserve (Lot 628);
- § Dedication of sewer pump station site (Lot 629);
- § Construction and dedication of the proposed streets;
- § Construction of stormwater drainage infrastructure including water quality infrastructure and a stormwater drainage channel outfall to the Rous River within Lot 332 DP 11158142; and
- § Provision of an underground water supply, reticulated sewer, power and telephone including NBN compatible services.

The amended proposal incorporates a revised layout adjacent to Frangella Park (Lots 601, 602 and 603), renumbering of allotments and other consequential amendments.

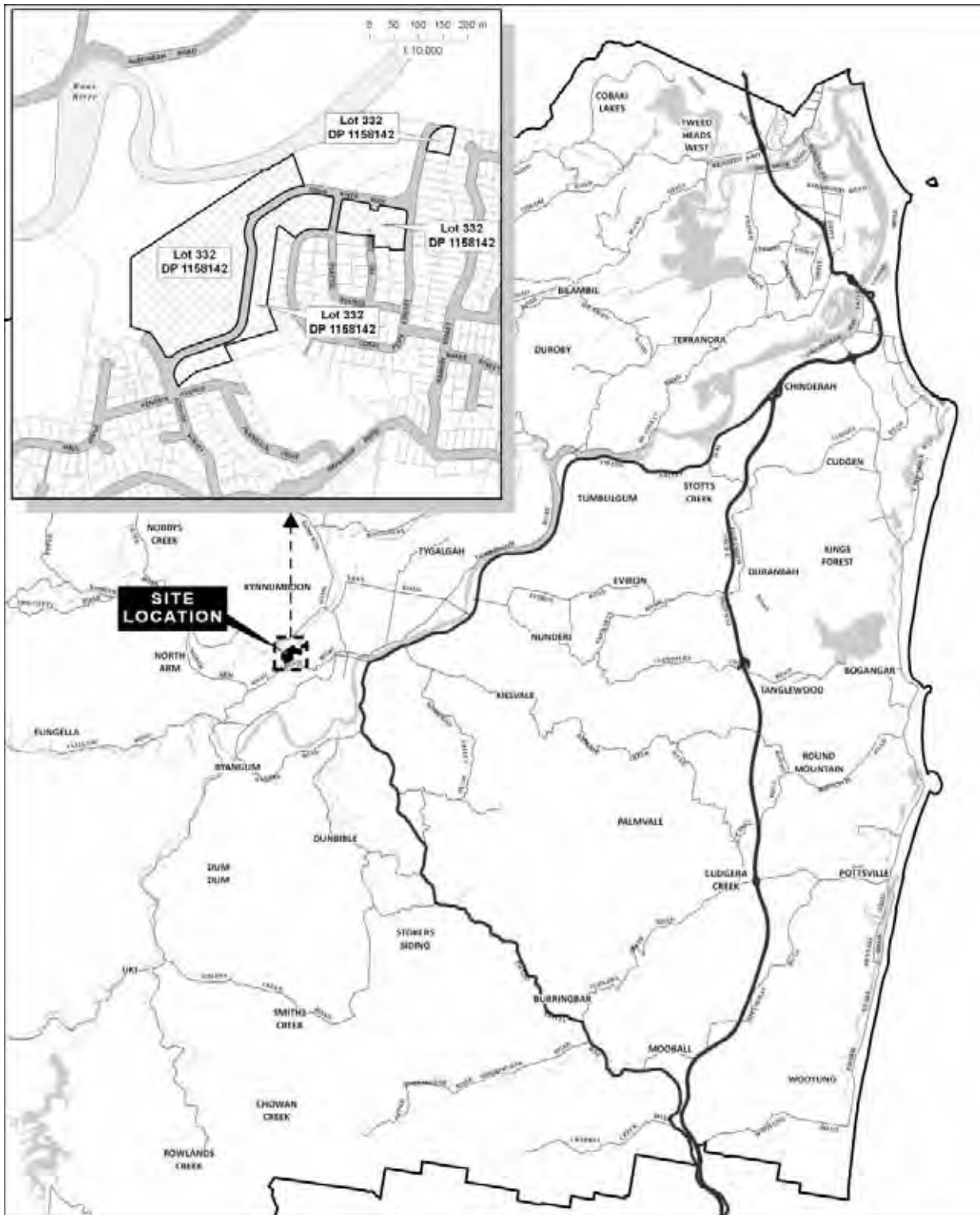


Figure 4: excerpt of final subdivision plan 19291 B Sheet 1 Revision E (19 November 2013)

Summary

Having regard to relevant statutory controls and an assessment against Clauses 4, 5 and 8 in particular, of the Tweed Local Environmental Plan 2000, the proposed 83 lot residential subdivision in four stages with dedication of two lots as drainage reserves, one lot as public reserve and one lot as sewer pump station site is not considered suitable for the subject site and therefore the proposed development is recommended for refusal.

SITE DIAGRAM:



Locality Plan
 Lot 332 DP 1158142
 Silkpod Avenue, Murwillumbah

<p>Consent: This site plan is submitted to the Council for its approval. Council approval does not constitute a guarantee of any kind. The Council is not responsible for any errors or omissions in this site plan. The Council is not responsible for any damage or loss resulting from the use of this site plan. The Council is not responsible for any damage or loss resulting from the use of this site plan. The Council is not responsible for any damage or loss resulting from the use of this site plan.</p>	<p>Cartographic Information 1074 © Land and Property Management Authority (LPMA) © Twinkl Maps Control Boundaries shown on this map are for information only.</p>	<p>1:100,000 @ A4 Format 107 011 111 1071 0111 111</p> <p>City of Tweed Council Centre 3 Tumbuloom Road Murwillumbah NSW 2484 PO Box 616 Murwillumbah NSW 2484 T: (02) 4475 2449 F: (02) 252 872 M: (02) 2479 2423 E: planning@twec.nsw.gov.au</p> 
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Considerations under Section 79c of the Environmental Planning and Assessment Act 1979:

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 4 - Aims of the Plan

One of the aims of the plan is:

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

The provision of infrastructure and open space in association with the current subdivision plan is not economically viable, nor sustainable. The applicant has opted for a reduced functionality of stormwater drainage/infrastructure possibly due to economic constraints. The current design differs considerably from the original (and satisfactory) master plan presented during the rezoning process. In addition, design solutions do not cater for the retention and protection of a key habitat for a threatened species located in Frangella Park.

As such, it is put forth that the proposed development does not sustain economic development of the area and indeed, compromises the area's environmental qualities. Residential amenity in general will suffer as a consequence and Council will need to maintain a less than adequate system at an unknown cost into the future.

As such, the proposed development does not meet the objectives of Clause 4.

Clause 5 - Ecologically Sustainable Development

Clause 5 aims to promote development that is consistent with the four principles of ecologically sustainable development, being the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms.

As stated previously, the provision of less than adequate infrastructure to a large subdivision will result in expensive and ongoing maintenance costs, problematic operational/functional anomalies and potentially serious impacts upon the environmental features upon and adjacent to the site, inclusive of the Rous River which in itself is a key fish habitat and the colony of grey headed flying fox within Frangella Park, a threatened species community.

The precautionary principle should be activated in this case. There is a threat of irreversible environmental damage should Council's expectations for this residential subdivision not be met. As such, impacts upon inter-generational equity, conservation of biological diversity and ecological integrity have not been resolved.

The proposed development does not meet the objectives of Clause 5.

Clause 8 - Consent Considerations

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

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

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

Although consistent with the relevant 2(a) zone, the cumulative impact of residential development serviced by the proposed infrastructure is of concern.

The applicant has reduced functionality of the provision of services, the negative impact of which is difficult to predict but may place a significant financial burden on Council and ratepayers. It is also not certain at this stage whether the applicant can comply with the required standard for the provision of reticulated sewer.

In this instance, it is imperative that hand over of infrastructure to Council from the developer will not result in the handing over of problematic services and substantial future maintenance and corrective costs.

In addition, drainage solutions need to be in place that preserve and support the established ecological community within Frangella Park. This has not been demonstrated.

Loss of important biodiversity in this locality and financial responsibility for less than adequate infrastructure constitutes an unacceptable cumulative impact on the community.

As such, the proposed development does not meet the provisions of Clause 8.

Clause 11 - Zone Objectives

Subdivision (and associated earthworks) within the 2(a) and 2(c) zones is permissible with consent with a minimum allotment size of 450m². The location of future dwellings is permissible with consent on a minimum lot size of 450m².

Clause 15 - Essential Services

Council's reticulated potable water supply and piped effluent disposal infrastructure is available within the area for connection. Electricity services are currently provided to the area via Country Energy infrastructure. Telecommunications services are currently provided to the area via Telstra infrastructure.

Clause 16 - Height of Building

There are no buildings proposed.

Clause 17 - Social Impact Assessment

As the subdivision entails creation of 50 or more lots, a socio-economic impact statement in accordance with Development Control Plan A13 is required. The applicant has provided such a statement.

It is agreed that the development represents a positive social and economic outcome by creating employment, providing new housing options and creating public space adjacent to the Rous River. However, the negative economic impacts on the locality and the Shire as a whole resulting from unsatisfactory drainage design on the site has not been addressed.

It is considered that the subdivision, as finally amended, is contrary to Council's expectations for the site and will represent an unacceptable financial burden to

ratepayers and the Shire in general. Approval cannot be recommended on this basis.

Clause 35 - Acid Sulfate Soils

An Acid Sulfate Soils Assessment and Management Plan was submitted for Stages 1 to 3 dated October 2004. The applicant submits that the existing assessment accurately reflects the soil conditions in the vicinity of Stages 4 to 7 of the proposed development and excavation, treatment and storage of these materials should be conducted in accordance with the approved Management Plan dated October 2004. This Management Plan was not approved.

Whilst it is accepted that the applicant could reasonably draw conclusions based on the investigations carried out to date, a number of variations have been introduced into the design since the 2004 report. These include a bio-retention basin and drainage channel to the north of the development within the lower areas of the allotment and in close proximity to the Rous River.

It is therefore considered that a further site specific Management Plan is required for Stages 4 to 7 to ensure the adequate management of any Acid Sulfate Soils encountered and protection of the environment.

Whilst Council's Environmental Health Unit has been able to condition provision of a Management Plan prior to the issue of a construction certificate, it is clear that the applicant had not supplied sufficient information upon lodgement with regard to the presence and adequate management of Acid Sulfate Soils over the site.

Other Specific Clauses

Clause 19 – Subdivision (General)

This clause allows subdivision to take place on the subject land with development consent.

Clause 31: Development Adjoining Waterbodies

The clause applies to land that adjoins the Mean High Water Mark of a waterbody.

The objectives of this clause include:

- Protection and enhancement of scenic quality, water quality, aquatic ecosystems, bio-diversity and wildlife habitat and corridors;
- Provision of adequate public access to waterways, and
- Minimisation of the impact on development from known biting midge and mosquito breeding areas.

Acceptance of the infrastructure proposed in association with the subdivision development does not preclude negative impact upon the Rous River, the waterbody located adjacent to proposed Lot 628.

As such, the proposed development does not meet the objectives of Clause 31.

Clause 34 – Flooding

Clause 34 of the TLEP refers to flood liable land and requires Council to ensure that appropriate development occurs in order to minimise future flood damage on the local community.

The design flood level for this area is RL 4.7m AHD to RL 4.9m AHD with a probable maximum flood level of RL 9.2m AHD. Part of the site is located below the design flood level. As such, part of the site is proposed to be filled to RL 5.03m AHD which has been accepted by Council's flooding engineers.

Clause 39 – Remediation of Contaminated Land

This clause requires contaminated land to be remediated adequately prior to development occurring in accordance with SEPP 55.

A Preliminary Contamination Assessment has been submitted.

The report concluded “based on the available historical site information it is concluded that no potentially contaminating activities are apparent, except for cropping of sugar cane...” and further “on the basis of our historical desktop review and subsequent site investigations, no contamination has been identified within the investigation area. The historical land use and recent site activity associated with residential development has not resulted in any detectable contamination of the site. As such, the area investigated is considered suitable for the proposed residential land use.”

The report was prepared by a suitably qualified person and appears to have been prepared in accordance with the NSW EPA Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites, Nov 1997. As such, no further action is warranted.

Clause 54 – Tree Preservation Order

The objective of this clause is to enable the protection of vegetation for reasons of amenity or ecology. In effect, the TPO's prohibit clearing of vegetation without development consent.

The subject site is affected by the 1990 Tree Preservation Order (TPO). The 1990 TPO affects a small portion of existing Lot 332. No vegetation is proposed to be removed within this portion. As such, the proposal is consistent with this clause.

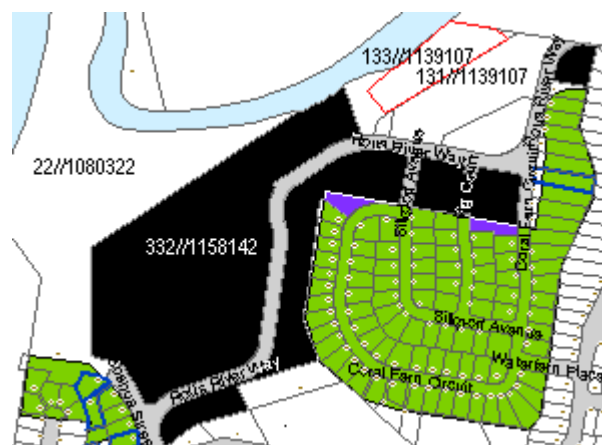


Figure 5: land affected by 1990 TPO (purple area denotes TPO within Lot 332)

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 15: Wetlands or Fishery Habitats

The area of land adjacent to the Rous River (where the drainage channel is to be located) and the river itself is considered to contain key fish habitat.

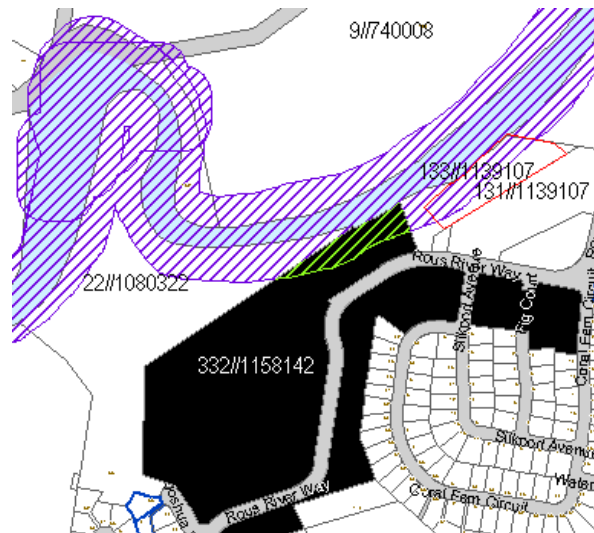


Figure 6: land/waterbody affected by Key Fish Habitat

Unsatisfactory provision of drainage management within this area is likely to reduce the quality of the existing habitat. At the very least, Council must ensure that native vegetation surrounding the fishery habitat area is conserved.

With regard to the interface between the proposed constructed drainage channel and the existing channel, the applicant has not given consideration to existing conditions such as bed or bank profile/hydraulic capacity, nor the occurrence and likely impact on a cove of riparian vegetation associated with the existing channel.

As such, the proposed development does not meet the objectives of Clause 15.

Clause 43: Residential development

The issue here is whether the proposed development (and density) upon Lots 601, 602 and 603 adversely affects 'the environmental features of the land' via the lack of required separation distances between the Grey Headed Flying Fox camp and proposed residential lots to the north east.

In order to meet the required separation distances from the camp (taken from the line of existing vegetation and between 35 and 50m to any proposed lot boundary), Lot 603 requires deletion. Lots 601 and 602 require reconfiguration/amalgamation in order to achieve adequate setbacks.

An unacceptable negative ecological impact will result should the current layout of the residential development proceed without regard for required setbacks from the threatened species and its habitat.

As such, the proposed development does not meet the objectives of Clause 43.

Clause 81: Development adjacent to the ocean or a waterway

Proposed Lot 628 is adjacent to Rous River and is a proposed public reserve.

The proposal does not contradict the objectives of this Clause as there is nominated foreshore open space that is accessible and open to the public within the vicinity of the proposed residential subdivision.

SEPP (Rural Lands) 2008

This SEPP introduces rural planning principles to facilitate the orderly and economic use and development of rural lands for rural and related purposes. It

provides controls for rural subdivisions and identifies State significant agricultural land. It also implements measures designed to reduce land use conflicts.

A Rural Land Assessment Report has been submitted.

The assessment has addressed requirements of, and criteria within the *SEPP (Rural Lands) 2008, Living and working in rural areas: a handbook for managing land use conflict issues on the NSW North Coast*, NSW DPI as well as Development Control Plan (DCP) Section A5.

The assessment concludes that land use conflicts are considered minimal and will be managed by an average width buffer of 150m (125m at minimum point) in accordance with Council's DCP Section A5 which requires incorporation of a riparian buffer of 50m width, including a 'biological buffer' with a minimum width of 30m.

The report advises that a detailed plan showing the biological buffer will be prepared and submitted to Council prior to the issuing of a construction certificate for the relevant stage of the subdivision.

Whilst the Environmental Health Unit has considered the report acceptable with the outcomes of the report to be incorporated into any consent issued, Council's Natural Resource Management Unit has requested these details in advance of determination. Assessment in this regard is discussed elsewhere in this report.

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

The Draft Tweed Local Environmental Plan 2012 (draft LEP) was placed on exhibition in late 2012/early 2013. The post exhibition version of the draft LEP with amendments as resolved by Council on 31 May 2013 has been forwarded to Parliamentary Counsel via the Department of Planning and Infrastructure.

As such, the draft LEP is considered to be "certain and imminent" in terms of previous legal precedent and as such has determining weight.

Current and draft zoning for the subject site is as follows:

Current Zone	Min. Lot Size	Draft Zone	Min. Lot Size
2(a)	450m ²	R2	450m ²
2(c)	450m ²	R2	450m ²

None of the proposed allotments are less than 450m² which is consistent with the draft zoning.

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

Tweed Development Control Plan

A3 - Development of Flood Liable Land

The design flood level for this area is RL 4.7m AHD to RL 4.9m AHD with a probable maximum flood level of RL 9.2m AHD. Part of the site is located below the design flood level. As such, part of the site is proposed to be filled to RL 5.03m AHD which has been accepted by Council's flooding engineers.

A5 - Subdivision Manual

Part A5 of the Tweed Consolidated DCP provides various guidelines for the subdivision of land and aims to facilitate "best practice" subdivision development in line with the policies of Council and the State.

The application generally complies with the provisions of the DCP with regard to general lot layout. However, it is uncertain whether adequate infrastructure can be provided to satisfy sewer and drainage requirements.

A13-Socio-Economic Impact Assessment

As the subdivision entails creation of 50 or more lots, a socio-economic impact statement in accordance with Development Control Plan A13 is required. The applicant has provided such a statement.

It is agreed that the development represents a positive social and economic outcome by creating employment, providing new housing options and creating public space adjacent to the Rous River. However, the negative economic impacts on the locality and the Shire as a whole resulting from unsatisfactory drainage design on the site has not been addressed.

It is considered that the subdivision, as finally amended, is contrary to Council's expectations for the site and will represent an unacceptable financial burden to ratepayers and the Shire in general. Approval cannot be recommended on this basis.

A15 – Waste Minimisation and Management

A Waste Management Plan has been submitted and is considered acceptable.

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

Clause 92(a) Government Coastal Policy

The subject land is not located within the coastal policy area affected by the *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The subject site is not located on the coastal foreshore and is not affected by coastal hazards.

Tweed Coast Estuaries Management Plan 2004

The proposed development is not within Cudgen, Cudgera or Mooball Creeks. This Plan is therefore not relevant to the application.

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

The subject site is not located within the Cobaki or Terranorra Broadwater (within the Tweed Estuary), with this Plan therefore not relevant to the proposed development.

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

Surrounding Land Uses/Development

Stages 1 to 3 of Riva Vue Estate comprising low density residential development lay to the east of the subject site and existing similar residential development lay to the south west.

The Murwillumbah Sewerage Treatment Plan is located to the north east and to the north lay rural properties separated from the subject land by the Rous River.

To the west of the site on a small portion of Lot 22 DP 1080322 (otherwise vacant grazing land) is a child care centre.

Contamination

A Preliminary Contamination Assessment has been submitted.

The report concluded *“based on the available historical site information it is concluded that no potentially contaminating activities are apparent, except for cropping of sugar cane...”* and further *“on the basis of our historical desktop review and subsequent site investigations, no contamination has been identified within the investigation area. The historical land use and recent site activity associated with residential development has not resulted in any detectable contamination of the site. As such, the area investigated is considered suitable for the proposed residential land use.”*

The report was prepared by a suitably qualified person and appears to have been prepared in accordance with the NSW EPA Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites, Nov 1997. As such, no further action is warranted.

Odour Issues (proximity to Sewage Treatment Plant)

An Odour Assessment Report has been submitted with regard to the Sewage Treatment Plant (STP).

The report presented findings of odour dispersion modelling from potential odour sources within the STP. These results were compared to the criteria within the *Approved Methods for the Modelling and Assessment of Air Pollutants in NSW* (NSW Office of Environment and Heritage, 2005). It concluded that *“the results of the modelling indicate that the plant is likely to comply with the relevant NSW odour criteria (C99 1sec = 2 ou) on the northern most edges of the proposed development site. This does not mean that no odour will be detected, but during most of the year odour levels will be low under normal operating conditions.”*

DCP Section A5 provides guidance for buffers to STPs: *400 metres between any current or proposed primary and secondary process units of any Sewerage Treatment Plan and the nearest boundary of any allotment created for tourism, rural housing, urban housing (including caravan parks) and community facilities (eg, halls, schools etc).*

There are three proposed allotments within a small separate area (Lots 401, 402 and 403) of Stage 4 that adjoins land zoned 5(a) Sewerage Treatment, the current location of the Murwillumbah STP.

The nearest proposed allotment is approximately 80m to the western effluent storage pond, 190m to the extended aeration area, 270m to the sludge drying area and 265m to the sludge lagoons. There are also a further 22 allotments within the 400m buffer guideline.

Based on the information provided within the Odour Assessment Report it should be considered that as these three allotments will likely experience some odour emissions during the year that a Section 88B restriction be placed over them.

As the DCP buffer is a guiding criteria only further comment was sought from the Water Unit.

Council's Water Unit advised that they would accept a reduced buffer zone given that odour modelling indicating minimal odour impact had been conducted and agreed that a Section 88B restriction be placed over Lots 401, 402 and 403.

Road Traffic Noise

Based on the information submitted within the Traffic Impact Assessment, it is not considered there will be a potential for a significant increase of road traffic noise due to the proposed development and a traffic noise impact assessment is not required.

Construction Noise

Cut and fill earthworks totalling approximately 48,000 cubic metres and the placement 35,000 cubic metres of imported structural fill material will be required to deliver the necessary finished surface levels of the residential subdivision.

No construction detail was submitted with the application. It is considered the importation of 35,000 cubic metres will significantly impact the amenity of surrounding residents and residents along haul routes.

Construction noise onsite has also not been addressed. Although reasonable to require a construction management plan prior to issue of a construction certificate for bulk earthworks, this is another aspect of the proposal that the applicant has not discussed in application documentation.

Stormwater/Drainage

History

A major issue that has remained outstanding from the original development of the 'Riva Vue' estate has been to rectify and address the drainage problem that exists downstream of Frangella Park.

This problem resulted from altering the previous stormwater regime for this locality by filling in a former 'cane drain' that was located approximately 130m east of the current open drain, re-routing and lengthening the open channel.

The immediate downstream open drain from Frangella Park (with a silted concrete invert) is boggy, overgrown and the source of multiple complaints from the adjoining long-time residents on the south side. Complaints have ranged from the generally swampy nature of the resultant grounds, overgrown vegetation and the vermin it could attract (including snakes), health concerns re: mosquitoes, odour and general lowering of overall amenity due to the unsightly appearance and now non-accessible poorly draining area.

Further downstream of this and the culvert under Rous River Way, the channel beside Joshua Street is continually 'slumping' and unable to retain its formed shape, which creates further problems for this already flatly graded channel. The overall gradient of this open channel, from Frangella Park to Rous River, is extremely flat.

The above-mentioned drainage concerns have been consistently raised with the applicant from the Planning Proposal stage (and all correspondences since) as being a necessity for prompt resolution with any further development of the site. The Planning Proposal provided opportunity to also provide connectivity with Frangella Park as part of the rectification process.

Summary

Council's Planning and Infrastructure Unit reviewed the proposal with regard to stormwater and drainage. In summary, the applicant has failed to address the existing drainage problems in Lot 604 and Frangella Park.

In addition, the cumulative effect of reluctantly accepting multiple less-than-ideal elements makes this proposal a poor overall outcome for Council. It is recommended that the subject application is refused for these reasons.

Existing drainage problem in proposed Lot 604 (formerly Lot 501) and Frangella Park.

Historically, Lot 604 and Frangella Park areas drained via an agricultural drain approximately 125m to the east of the current culverts under Rous River Way. The Stage 6 and 7 area including Rous River Way has been filled by the applicant in association with works on Stages 1 to 3 of the Riva Vue development.

This filling 'dammed off' the Lot 604/Frangella Park area, changing drainage characteristics and resulting in the wet, boggy, swamp conditions that are currently present.

Council has consistently held the position that the applicant must incorporate a solution to the drainage problem in Frangella Park and Lot 604 into any proposal to develop Stage 6 and 7 areas. This is evident in pre-lodgement documents (DAP minutes of 22 August 2012) and correspondence to the applicant during assessment.

The original Planning Proposal concept provided to Council showed the existing culvert removed and replaced to the east, providing greater opportunity to improve the drainage of upstream areas. Plans submitted with DA13/0175 have changed to a layout utilising existing culverts, thus restricting opportunities to improve upstream drainage.

This issue has been complicated by the presence of a Grey-Headed Flying Fox colony whose habitat is located in the copse of trees at the northern end of Frangella Park. Protection of this vulnerable listed species requires that their habitat is not disturbed, meaning no filling is acceptable in the area closest to the colony.

The solution proposed by the applicant involves some minor filling in Frangella Park and installation of a concrete lined low flow channel in Lot 604. It is highly unlikely that the works proposed will resolve the existing drainage issue. The applicant's solution to the problem in proposed Lot 604 and Frangella Park is not acceptable.

Open channel design

Original plans submitted with the application showed an open drain with 1 in 2 side slopes. Development Design Specification D5 - Stormwater Drainage Design section D5.13.5 states that *maximum side slopes on grass lined open*

channels shall be 1 in 4, with a preference given to 1 in 6 side slopes. The purpose of this clause is to allow safe access for maintenance (mowing) and also to provide easy egress for any persons caught in the stormwater drain during a storm event.

Following the first request for further information and a round of informal comments, the applicant supplied a revised set of plans that extensively utilised retaining walls in the formation of the open drainage channel. This was not acceptable to Council due to:

- The maintenance burden of the retaining walls on Council;
- Maintenance plant access restriction;
- Safety issues associated with restricted egress opportunities for any persons caught in the drain during a storm event; and
- Safety concerns related to the layout of channel combined with its proximity to the nearby child care facility and residential areas (existing and proposed).

Following a meeting with the applicant's consultants on 7 November 2013, a further revised set of plans was provided. Use of retaining walls had been reduced and in some cases moved into private land. The current amended plans are an improvement. However, the design is still unclear and in need of amendment to satisfy Council's requirements.

The current layout of the open drainage channel is not an ideal outcome for Council.

Longitudinal grade of the open drainage channel and proposed concrete-lined low flow channel

The original application plans outlined a trunk drainage system which piped flows from the existing culvert under Rous River Way to adjacent proposed Lot 713 (formerly Lot 545) where flows were then conveyed in an open channel with a gradient of 0.064%. No treatment of the invert was proposed. The channel was to be grassed.

The applicant then amended the staging, lot layout, and trunk drainage to delete the pipe infrastructure and extend the open channel back to the Rous River Way culverts.

Open drains with grassed inverts (or swales) require a certain grade to avoid water ponding in them and creating boggy, undesirable conditions. Water by Design's Technical Design Guidelines recommend a minimum gradient of 1% for swales. Development Design Specification D5 - Stormwater Drainage Design section D5.13.9 states that concrete inverts are required where *channel slope is less than or equal to 0.5%*.

Development Design Specification D5 - Stormwater Drainage Design section D5.13.6 provides further commentary of low flow provisions in open channels.

This was flagged to the applicant in correspondence dated 16 July 2013. Revised plans incorporated a concrete invert in the open drainage channel. Subsoil drainage was represented on the revised drawings. However, it is unclear where it drains to. Transverse subsoil drainage may be more feasible. Some further refining of the concrete invert cross-section may be required to allow maintenance plant to track upon it.

The grade and current invert cross-section of the open drainage channel is not an ideal outcome for Council.

Bio-retention basin design

The original Stormwater Management Plan proposed treatment measures involving rainwater tanks and a large bio-retention basin. The bio-retention basin was 90m long by 7m wide which is outside the recommendations of Water by Design's Bio-retention Technical Design Guidelines (BTDG) which advise a maximum length of 40m to avoid flow distribution and other associated issues.

Following a request for further information, the applicant amended the bio-retention basin layout to approximately 57m by 10.5m, which was an improvement, but still outside the abovementioned guidelines.

The bio-retention basin layout is not an ideal outcome for Council.

MUSIC modelling

The MUSIC modelling submitted with the application failed to meet the required pollution reduction target and instead stated that a coarse sediment forebay, not included in the model, would make up the difference.

This is not acceptable as a coarse sediment forebay does not provide additional treatment over the bio-retention basin. A coarse sediment forebay only stores sediment in a maintenance accessible area and avoids clogging of the bio-retention filter media. This is not an acceptable outcome for Council.

Sewer

The pipe design provided for sewer lengths 106, 107, 109 & 114 does not meet Sewerage Code of Australia WSA 02-2002 design standards Section 4.5.7:

- Minimum grades for self-cleansing is required as per WSA02-2002 Section 4.5.7.1 "Self cleansing of grit and debris shall be based on achieving a wetted cross section average velocity of 0.7 m/s at PDWF + GWI), and Section 4.5.7.2 "Reticulation sewers shall be graded to achieve self-cleansing at least once per day in accordance with the Water Agency's Requirements".

The applicant was required to submit plans and, if necessary, design calculations that demonstrate that self-cleansing of the sewer can be achieved. However, the applicant was not able to satisfy Council's request.

In addition to self cleansing velocity requirements, the design does not meet the following requirements:

- Table 4.7 regarding permanent upstream ends of sewers in residential area with EP \leq 20.
- Table 4.6 regarding absolute minimum grades as constructed (ie: the design grade must meet Table 23.1 construction tolerances of 10%. For example, the minimum grade for a 150mm diameter pipe will be 1:165.)

In order to meet the self cleansing velocities within the design, Council require that Table 1 in Appendix A of the PWD Manual of Practise, Sewer Design, January 1987, is adopted for design in any future amendments.

This manual uses a 4 EP = 1 ET which should be converted to the Council D12 figures of 2.8 EP = 1 ET. This table (below) is included in the Council update of the D12 specification.

Pipe Size(mm)	150	225	300
Grade	Tenements	Tenements	Tenements
k (in mm)	1.5	1.5	1.5
80	1		
90	4		
100	9	16	
110	13	21	
120	19	29	40
130	26	36	47
140	33	44	54
150	43	51	61
160	50	59	70
180	69	74	87
200		94	109
220		119	131
250		161	171
300		266	263
350			384
400			556

Table 1- Minimum Sewer Grading Table

Although the Water Unit have reluctantly agreed to condition these requirements prior to the issue of a construction certificate, there is no certainty that these criteria will be achieved.

Development Assessment Engineering

In summary, it is recommended that the proposed development not be supported by Council and refusal is recommended.

The applicant has failed to satisfactorily address various stormwater-based issues of concern (refer stormwater comment above).

The prime concern is the inability to satisfactorily resolve the stormwater drainage issue for the outlet from Frangella Park (within Lot 604), rectification of which is unfortunately hindered by the recent habitation of the area by a Flying Fox colony. Dedication of Lot 604 without appropriate drainage improvements cannot be accepted.

Appropriate rectification could likely have been attained by filling and clearing works within the park, which can no longer be undertaken to the extent as proposed, due to the need to avoid disturbance of their habitat (refer flora/fauna comment below). Although given the opportunity, the applicant has not pursued investigation of alternatives.

Public Open Space

In summary, matters regarding the amount of, and access to, embellished casual open space should have been able to be resolved by the applicant during the assessment of the proposal through application of thoughtful design. However, this has not occurred.

A more difficult matter to resolve surrounds drainage issues on Lot 604. This problem has been raised with the developers repeatedly since the problem was created via the construction of Rous River Way. In short, Council cannot accept the maintenance burden this land parcel represents.

Frangella Park

The final lot layout allows an area for an access path from Rous River Way to Frangella Park. The Statement of Landscaping Intent (SLI) indicates an access path.

However, the SLI does not:

- Indicate how the path will deal with slope issues - cross sections provided are not adequate;
- Improve the visibility of Frangella Park;
- Address drainage issues on Lot 604 or attempt to utilise this parcel to improve access to, and visibility of Frangella Park; and
- Address the impediment to accessing Frangella Park created by Rous River Way.

Landscaping concepts / detail for upgraded park embellishment

The SLI proposes one shelter shed and an access path as an upgrade to Frangella Park. This is not considered a reasonable level of embellishment.

Council's Subdivision Manual (DCP Section A5) specifies 95% of residents are to be located within 400m walking distance of a local park, with embellishment to include items listed in Table A5-8.2.1. While the embellishment guidelines may require some sensible interpretation (eg. paving for ball games is not always required), it is reasonable to expect more park embellishment than is proposed.

It appears that significantly less than 95% of residences in Stages 4,5,6 & 7 will be within 400m walking distance of the nearest embellished park, being 'Rous River Way Park' on Lot 132 DP 1139107

Drainage Issues adjacent to Frangella Park

The SLI does not attempt to address this matter. It also confuses a reference to cross sections B-B and C-C.

Council's Biodiversity Planning Officer indicates that filling and vegetation clearing proposed for Council owned Lot 3 cannot be supported due to impacts on flora and fauna.

Council's Infrastructure Engineer and Development Engineer both indicate the civil works proposed within Lot 604 will not address the drainage issues created by previous works, particularly construction of Rous River Way.

The drainage issues are significant and the parcel cannot be accepted by Council without resolution of these significant issues being satisfactorily addressed.

Flora and Fauna

The following comments have been supplied by Council's Natural Resource Management Unit. In short, refusal is recommended.

Based on the current layout and uncertainty regarding the scope of earthworks that may be necessary to satisfy engineering requirements, Council officers

cannot be confident that the proposed development could proceed without unacceptable negative ecological impact on the identified Grey-headed Flying Fox colony occupying Frangella Park immediately adjacent to the subject site.

It is not considered that the threat to threatened species could adequately be managed or impacts mitigated through conditions of approval. As such, components of the application that may have an impact on Grey-headed Flying Fox and associated habitat cannot be supported and subsequently it is recommended that the application be refused on this basis.

Council officers strongly advise against any proposal to substantially modify the habitat of this threatened species.

Impact of filling/vegetation removal on Grey-headed Flying Fox (GhFF) occupying Frangella Park and inadequate separation distances between the GhFF camp and proposed lots.

The applicant submitted a Revised Assessment of Significance (7-Part Test) Version 5.0 Lot 332 on DP1158142 Stages 4 and 5 Riva Vue Estate Murwillumbah dated 20 November 2013 and prepared by JWA Ecological Consultants. Of particular interest is the evaluation of the impact of filling within Frangella Park for drainage purposes on a Grey-headed Flying Fox camp.

The filling was previously not shown on the engineering drawings when the 'Version 4.0 7-Part Test report' was prepared, however it was noted that the report included the recommendation '*Filling for the purposes of improved drainage should avoid disturbance to individuals or trees within the camp*'.

The contemporary 'Version 5.0 7-Part Test' report now specifically contemplates filling within the reserve consistent with the updated engineering drawings where an area of approximately 700m² is to be removed and filled to a depth of 300mm. Figure 8 of the report shows the GhFF camp to be outside the immediate earthworks footprint and as such no further consideration for the management of GhFF has been provided.

Upon review of Figure 8 and recommendations provided in the report, it is not accepted that impact on the colony would be avoided particularly given that the animals are mobile and highly likely to use the entire contiguous unit of vegetation rather than the small area shown as the camp on Figure 8.

The extent of vegetation to be removed is likely to be greater than that shown on the plans provided (access, long term impacts associated with root disturbance), whilst the applicant has made no attempt to consider the impact of filling on the broader unit of vegetation as a result of site conditions being modified (soil moisture levels).

Furthermore no consideration has been given to management of the animals during any such construction activity (spotter catcher, noise, timing etc) or remediation of the site following works. The report is considered to be poorly conceived and has clearly not adequately taken into account both direct and indirect impacts. An assessment cannot provide confidence that the proposed development could proceed without unacceptable negative impact on the local GhFF population and associated wetland area.

The applicant provided an amended layout plan to address separation distance between the GhFF camp and proposed lots to the north-east. The revised layout still does not satisfy setback requirements specifically detailed in the 'Table of

Outstanding Matters' and reiterated to the ecological consultant via phone (contrary to the statement detailed on pp.26 Point 2 of the Ver.5, 7 Part Test).

The 'Extent of Grey Headed Flying Fox Camp' as shown on the *Ver. 5.0 7 Part Test Figure 8 and Dwg. YC0390-SK4-11 Rev. A prepared by Yeats Consulting* is not accepted. Any separation distances shall be taken from the line of existing vegetation and be maximised where possible to between 35m and 50m to any proposed lot boundary. This essentially results in the deletion of Lot 603, potential deletion of Lot 602 or amalgamation/reconfiguration of Lot 601 and part Lot 602 to achieve adequate setbacks.

Design of Constructed Drainage Channel

The applicant was requested to provide further information regarding the design of the constructed channel to ensure the function of the corridor/buffer to the Rous River would not be compromised.

Issues with the revised plans include:

- A concrete invert remains as part of the design as shown on *Dwg. No. YC0390-C5-411 Sheet 1 of 2 Rev. C* depicted as Typical Section D - Drainage Channel D where the channel traverses part of the riparian buffer. It would be preferable that alternative 'natural' materials (rip rap) be used in this section of the channel to enable establishment of sedges and improve habitat value during low flow conditions.
- The interface between the constructed channel and the existing channel on *Dwg. No. YC0390-C5-411* is shown as 'Join Neatly to Existing Flow Path'. It does not appear consideration has been given to the existing conditions such as bed or bank profile/hydraulic capacity, nor the occurrence and likely impact on a cove of riparian vegetation associated with the existing channel.
- It is unclear whether future revegetation of the bed and banks of the constructed channel has been factored into the stormwater modelling (i.e roughness co-efficient) to ensure revegetation effort would not be restricted in order to satisfactorily convey flows. It is noted that the Statement of Landscape Intent indicates that the drainage channel will be turfed.
- Downstream scour protection/armouring at the confluence point with the Rous River channel is absent from the plans. The necessity for bed/bank protection at this location needs to be further investigated.

These matters remain unresolved.

Statement of Landscape Intent (SLI)

The applicant submitted a revised SLI being *Landscape Statement of Intent and Visual Concepts Riva Vue Estate Issue C dated 19 November 2013 prepared by Boyds Bay Landscape Planning* whereby the location of the Rous River channel is inaccurately depicted in the position of the riparian buffer.

Consequently no treatment is shown for the Rous River buffer, whilst a note is made to an area further landward that appears to align with the existing sewer easement indicating 'Riparian plantings to be as per JWA report'. Any such planting schedule in any of the previously submitted JWA reports for the site could not be located. A number of the plant species that were recommended for revegetation (area not specified) are inappropriate.

The landscape plans showing stages remain inconsistent with the latest subdivision plans. Other issues in respect to landscaping/rehabilitation previously raised have clearly not been addressed.

(c) Suitability of the site for the development

For all of the above reasons, the site is considered unsuitable for the development and should be refused. Apart from the stated planning reasons for refusal, it is considered that insufficient ecological survey and assessment has been provided to support the conclusion that there will not be a significant impact upon threatened species, populations or ecological communities. Given the protected status of the Grey Headed Flying Fox, it is considered that the development represents an unwarranted risk to the species.

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

Public Authority Submissions Comment

The application was referred to the NSW Office of Water (NOW) as the proposed drainage channel works into the Rous River require a Controlled Activity Approval (CAA) under the *Water Management Act 2000*.

A response was received from NOW on 15 May 2013 supplying General Terms of Approval (GTA's) to be placed on any development consent should it be issued. A CAA must be obtained from NOW by the applicant prior to the issue of a construction certificate.

Public Submissions Comment

The proposal was required to be advertised in the Tweed Link and notified to adjoining owners for a period of 30 days from Wednesday 1 May to Friday 31 May 2013. One submission was received during the exhibition period.

The submission raised issues with regard to the impact of the proposed development upon the existing child care centre located on a small portion of Lot 22 DP 1080322.

The original subdivision plan indicated the creation of a roadway and footpath traversing the leased property area for the child care centre negatively impacting upon egress of vehicles from the premises.

The applicant's response to the submission involved deleting works within Lot 22 DP 1080322 and reconfiguring the lot layout to be wholly within Lot 332 DP 1158142.

As such, the matter was resolved satisfactorily.

(e) Public interest

The issues considered in the assessment of the proposal are considered valid and contribute to the reasons for refusal. Approval of the proposed development could potentially set an unwarranted precedent for the location of residential development adjacent to fragile ecosystems and result in hand-over of sub-standard infrastructure to Council to maintain into the future at an undetermined cost. Therefore it is in the public interest for this application to be refused.

OPTIONS:

1. Refuse this application in accordance with the reasons supplied.

2. Grant in-principle support for the application and a report to be brought back to a further Council meeting with recommended conditions of consent for Council to determine.

CONCLUSION:

The application submitted is deficient in detail. However, sufficient information has been submitted to determine that the nature of the proposal is unsuitable for the site. This unsuitability is reflected in the proposal's non compliance with the statutory and strategic framework applicable to the application.

Having regard to relevant statutory controls and an assessment against Clauses 4, 5 and 8 in particular, of the TLEP 2000, the proposed 83 lot residential subdivision in four stages with dedication of two lots as drainage reserves, one lot as public reserve and one lot as sewer pump station site is not considered suitable for the intended site and therefore the proposed development is recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Should the applicant be dissatisfied with the determination they have the right to appeal the decision in the NSW Land & Environment Court.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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18 [PR-CM] Development Application DA13/0201 for a Telecommunications Facility at Lot 1 DP 397082 No. 80 Depot Road, Kings Forest

SUBMITTED BY: Development Assessment

FILE REFERENCE: DA13/0201 Pt2



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

At its meeting of 12 December 2013, Council resolved the following in respect of this matter:

"RESOLVED that Development Application DA13/0201 for a telecommunications facility at Lot 1 DP 397082 No. 80 Depot Road, Kings Forest receives in principle support and that conditions of consent be brought forward for consideration at the January 2014 meeting and that the conditions of consent be provided to the Department of Education for their comment.

If Council wishes to approve the development draft conditions of consent are provided in the 'Options' section of this report.

Original Report

The subject application seeks consent for the construction of a 'NextG' Telstra Mobile Telecommunications Base Station inclusive of a 30m high monopole, triangular headframe, two panel antennas, equipment shelter and 2.4m high chain-link security fence with double access gates within the former garbage depot site on Depot Road, Kings Forest.

The telecommunications facility is proposed adjacent to 'Precinct 3' (Community Facilities/Education) of the Kings Forest Residential Township. Concept Plan approval for MP06_0318 was issued by the Department of Planning and Infrastructure on 11 August 2013 as consent for Kings Forest Project Application No. 1 (MP08_0194). The approved Concept Plan nominates the site for a State School.

A formal submission was received from the Department of Education and Communities on 5 November 2013. The Department does not support the proposal for a telecommunications facility. The submission requests that Council adopt a precautionary approach, in line with the Department's policy, in order to avoid a community sensitive location.

The Department has a preference for a distance of at least 500 metres from the boundary of the property known as 'Precinct 3'. The proposed location for the telecommunications facility is approximately 20 metres from the boundary with Lot 1 DP 781633, 86 Melaleuca Road, Kings Forest which contains 'Precinct 3'. Further, a 500 metre buffer from the

boundary of the property known as 'Precinct 3' excludes the location of a telecommunications facility on any portion of the subject site.

The location of telecommunications facilities rely on compliance with the provisions of SEPP (Infrastructure) 2007. The proposal generally complies with the provisions of Clause 115(3) of the SEPP. However, the proposal conflicts with the approved Concept Plan for the Kings Forest Residential Township and stands to render the future government school site unsuitable.

Two written submissions were lodged objecting to the proposal within the two-week exhibition period in May 2013.

Notwithstanding the resolution of Council at the December 2013 meeting, it still remains the recommendation of Council officers that the application be refused.

RECOMMENDATION:

That Council determines Development Application DA13/0201 for a telecommunications facility at Lot 1 DP 397082 No. 80 Depot Road, Kings Forest.

REPORT:

Applicant: Service Stream Mobile Communications
Owner: Tweed Shire Council
Location: Lot 1 DP 397082 No. 80 Depot Road, Kings Forest
Zoning: 5(a) Garbage Depot
Cost: \$250,000

Background:

The subject site is legally described as Lot 1 DP 397082 located at 80 Depot Road, Kings Forest. The site has an area of 8.094 hectares, is zoned 5(a) Special Uses (Garbage Depot) and is bounded by land zoned 2(c) Urban Expansion. The site is adjacent to the Kings Forest Residential Township development, west of Casuarina.

History

At its meeting of 24 January 2012, Council resolved to enter into a lease with Telstra Corporation Limited for an area of approximately 33m² at the subject site.

Council correspondence granting owner's consent for the applicant to lodge a development application was issued on 24 September 2012.

Upon lodgement of the application, preliminary assessment revealed a substantial increase in the proposed lease area.

At its meeting of 20 June 2013, Council resolved to rectify an error and increase the lease area to 80m² (consistent with the subject application), thereby re-issuing owner's consent for the application to be lodged and allowing further consideration of the proposal.

Sports fields, an associated access road, carparking, lighting, amenities building/clubhouse and sewer rising main were approved on the same site by way of DA09/0836 on 9 September 2011.

DA09/0186 approved the placement of approximately 50,000m³ of clean fill on the subject site on 26 June 2009 in order to achieve levels required for the abovementioned future sports fields.

In June 2013 during assessment of the subject application, an alternative site was offered to the applicant for the location of the telecommunications facility within the Kings Forest development at the north western tip of Precinct 9 (residential). As far as Council is aware, the applicant has not accepted the offer.

The Subject Site

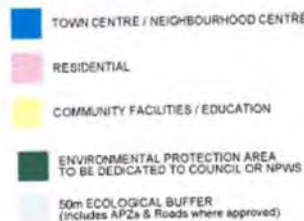
The site is accessed via Depot Road, Cudgen and has an approximate land area of 8.094 hectares. The site is bounded by residential, agricultural protection and environmental protection land.

A wetland system borders the site to the west and south and is identified as SEPP 14 Coastal Wetlands. The site is identified as a subregional fauna corridor and is adjacent to a regional fauna corridor to the east.

A large scale residential subdivision known as 'Kings Forest Residential Township' is planned to the east, south and west of the site. Of note is the location of Precinct 3, a community facilities/education precinct adjoining the proposed site to the east.



Figure 1: Kings Forest Precincts adjacent subject site



The area of the site upon which the telecommunications facility is proposed is identified as contaminated land (asbestos) on Council's GIS mapping system, as highlighted in red below.



Figure 2: Contaminated area of site

No Aboriginal heritage sites are recorded or have been declared in or near the subject site.

The Proposed Development

The subject application was lodged in May 2013 and seeks consent for the construction of monopole (telecommunications facility) and associated infrastructure to provide improved NextG capacity in the Kings Forest locality and surrounding rural/residential areas. The Telstra proposal comprises the following:

- One 30m high monopole (maximum height including antennas is 31.6m/RL 41.6m AHD);

- Two Telstra panel antennas (2.63m and 2.09m long) mounted on a triangular headframe at Centre Line 30.0m (with the capacity to increase the number of antennas to 6 in the future at 29.3m, 30.0m and 30.9m);
- Equipment Shelter on elevated concrete piers;
- 2.4m high chain link security fencing around the proposed compound;
- 3m wide double access gates;
- 3m wide access track; and
- Minimal clearing for the access track and lease area.

The construction phase (approximately five weeks) will require three to six workers on site and an average of four to six vehicle movements. Operational visits to the site will be minimal and approximately only 4 to 6 times a year for maintenance purposes.

The complex will take up a lease area of approximately 10.0m x 8.0m (80m²).

The primary purpose of this proposal is to provide coverage for future residential development at Kings Forest. Of 10 sites investigated in Duranbah and Kings Forest, only two owners were willing to lease land for the location of the facility. One of two possible sites was considered unsuitable (zoning, visual impact, radio frequency objectives) and the preferred option was Council owned land at 80 Depot Road, Kings Forest.

Existing telecommunications facilities are located at Kingscliff (Telstra – approximately 3.3kms from the proposed site), Mantra Resort (Optus – approximately 2.5kms from the proposed site) and Casuarina (Telstra – approximately 2.2km from the proposed site).

The applicant states that there were no viable co-location opportunities in the area deemed appropriate or in a location to provide sufficient network coverage capacity.

Prior to lodgement of the development application, the applicant undertook community consultation as follows:

- Four-page A5 flyer dated 9 November 2012 distributed by door knock and letter drop to approximately 45 residences offering the opportunity to provide comment or questions no later than Friday 23 November 2012. One comment and one objection was received.
- Ad in the Tweed Border Mail (7 and 14 November 2012), Tweed Gold Coast Sun (8 and 15 November 2012), Tweed Link (6 and 13 November 2012) summarising the proposal and inviting written submissions by 23 November 2012.

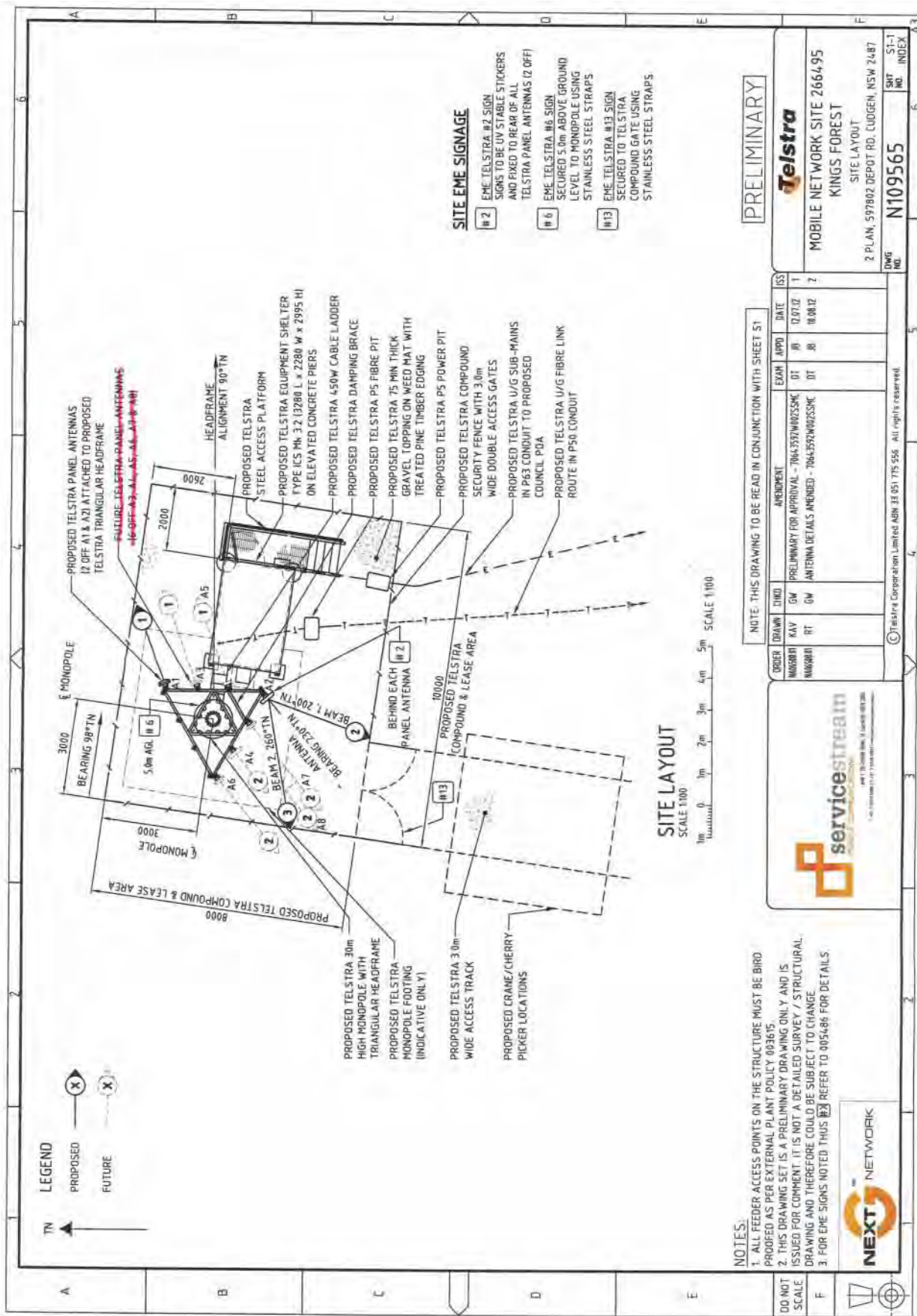
Maximum estimated RF EME levels at 1.5m above ground level and within a 136.96m distance from the two (2) proposed antennas at 80 Depot Road in 360 degree circular bands is 0.27%. No figures were given to estimate RF EME levels with an additional six panel antennas installed in the future as proposed.

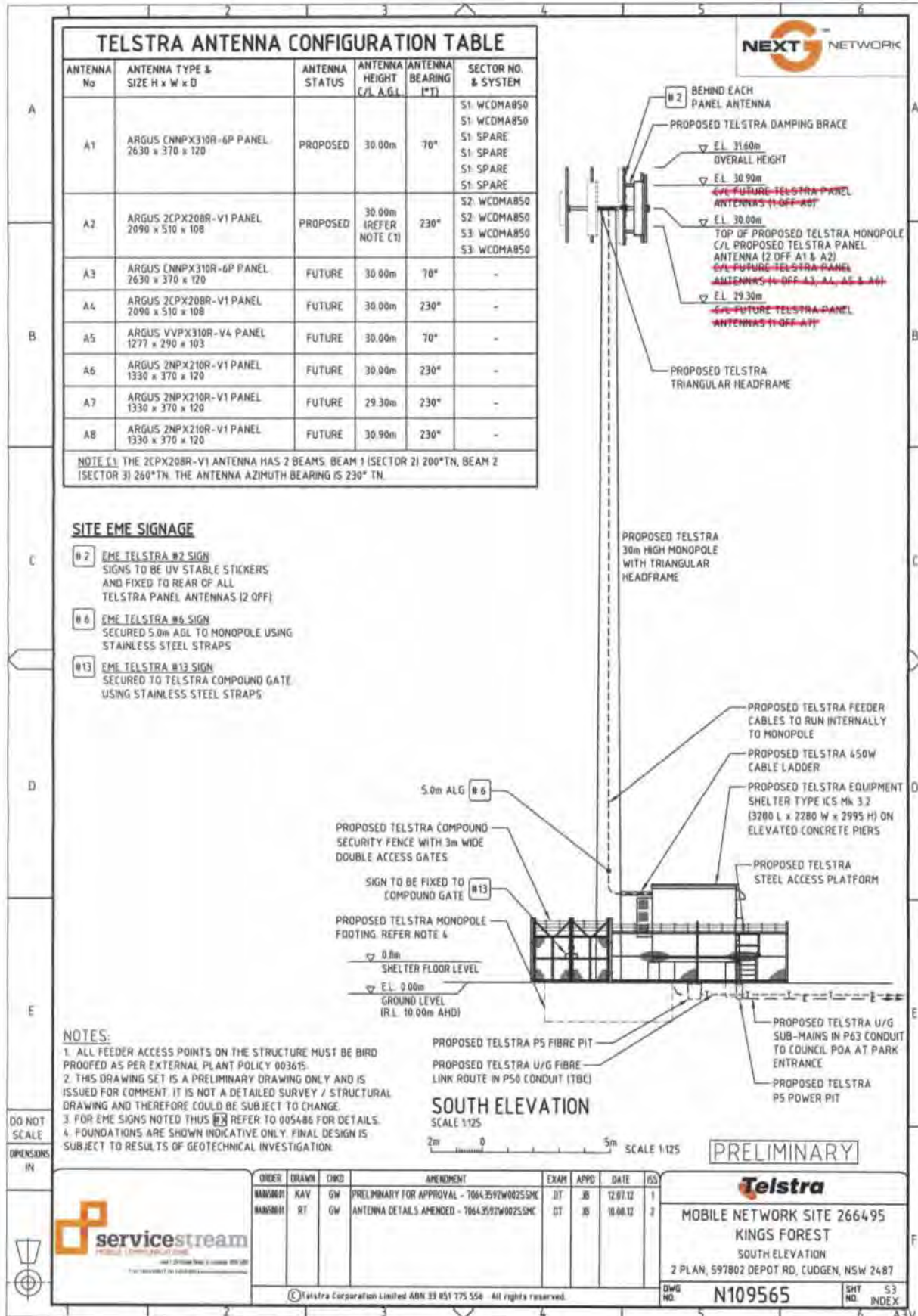
SITE DIAGRAM:



Locality Plan
 Lot 1 DP 397082
 No. 80 Depot Road, Kings Forest

<p>Disclaimer: This site plan is provided to assist the accuracy of the data. It is not intended to be a representation or warranty of any kind, including but not limited to, the accuracy, reliability, completeness or suitability for any particular purpose and the user assumes all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including without limitation, damages) and costs (which may be incurred as a result of data being incorrect or any loss) and for any reason. This information is provided for the general guidance and is to be used as a guide only. It is not intended to be used for any other purpose. It should not be used for any other purpose and you should seek professional advice. A "Not a Site Plan" stamp is used for all sites. The information contained on this document remains valid for 12 months from the date of supply.</p>	<p>Cadastral 23/10/2013 © Land and Property Information (LPI) & Tweed Shire Council Boundaries shown should be considered approximate only.</p>	<p>Scale: 1:75,000 A4 Portrait GDA 1984 datum GDA 1984 datum GDA 1984 datum</p>	<p>Shire and Cultural Centre 2 Tombrigg Road Murumbidgee NSW 2434 PO Box 816 Murumbidgee NSW 2434 T (02) 6070 2400 / 1300 200 870 F (02) 6070 2479 W www.tweed-shire.nsw.gov.au E planning@tweed-shire.nsw.gov.au</p> 
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Considerations under Section 79c of the Environmental Planning and Assessment Act 1979:

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 4 - Aims of the Plan

The main objective of Clause 4 is:

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

The proposal is incompatible with an approved future use of adjacent land for community facility/education purposes. As such, the proposal will have a detrimental impact on sustainable future economic development of the area and warrants refusal.

Clause 5 - Ecologically Sustainable Development

The objective of the TLEP 2000 is to promote development that is consistent with the four principles of ecological sustainable development as follows:

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

The subject site and surrounding locality is recognised for its high conservation and biodiversity value. Council’s Natural Resource Management (NRM) Unit has advised that the development should not be refused on an ecological basis.

Therefore on the basis of the submitted information it is considered that the proposal would be consistent with the objective of this clause.

Clause 8 - Consent Considerations

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

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

In this instance, the subject site is zoned 5(a) Special Uses (Garbage Depot), the primary objective of which is to:

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

The proposed telecommunications facility is considered consistent with the primary objective of the zone in that the land is to be utilised for a telecommunications utility facility.

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

The development is considered to have an unacceptable cumulative impact on the community, locality or catchment (Kings Forest Residential Township). Future use of 'Precinct 3' (Community Facilities / Education) will be affected by its being carried out which will impact upon the area of Tweed as a whole.

Clause 11 - Zone Objectives

The subject site is located within the 5(a) Special Uses (Garbage Depot) zone.



Figure 3: Tweed LEP 2000 zoning

The primary objective of that zone and consistency of the proposal with that objective has been outlined above. The secondary objective provides flexibility in the development of the land, particularly if it is not yet or is no longer required for the relevant special use.

The site is no longer utilised for the relevant special purpose and is intended to be utilised in the future for the purpose of public recreation (sports fields).

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

Regardless of permissibility within the 5(a) or adjacent zone(s), telecommunications facilities are assessed for compliance against the provisions of SEPP (Infrastructure) 2007 and not local zoning.

Clause 15 - Essential Services

The proposed development does not require the provision of water or sewerage. An electricity supply is available via an underground route from the nearest source.

Clause 16 - Height of Building

The site is identified on Council's Building Heights Map as being affected by a three storey height limit. The proposed structure has a total height of 31.6 metres

(note: as per definition pursuant to TLEP 2000, the structure cannot be measured by storeys as there is no space between two floors). Therefore, the proposal complies with Clause 16 of the TLEP 2000.

Clause 17 - Social Impact Assessment

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

The proposal did receive submissions objecting to the proposal in the proposed location. Issues raised in submissions are addressed elsewhere in this report.

Clause 34 – Flooding

The subject site is affected by the Probable Maximum Flood level (PMF). There are no requirements for the creation of a refuge or an evacuation route for this type of development. As such, this clause is satisfied.

Clause 35 - Acid Sulfate Soils

The land is classified as Class 3 on the Acid Sulfate Soil Planning Maps. The applicant did not address construction requirements, any potential disturbance of ASS or likely dewatering requirement.

Council requested provision of a preliminary assessment in July 2013 which was not supplied.

Clause 39 – Remediation of Contaminated Land

Council requested provision of a contaminated land investigation report in July 2013 addressing matters such as landfill activities, soil contamination, dewatering activities, cap disturbance and gas ingress/migration of buildings and utility trenches.

The applicant submitted a Report on Preliminary Site Investigation (Project 80360.00) prepared by Douglas Partners dated October 2013.

The report concluded that the proposed development is not within the area of and would not compromise the landfill cap.

The report indicated groundwater was intercepted during investigations but did not address whether dewatering activities were required as per Council's request.

The report identified that materials at depth are contaminated and therefore any excavated soil is required to be appropriately managed.

The report indicates that methane is present in the soil gas at the site as a result of the migration of buried landfill material. Whilst the current proposal for the equipment shelter will be placed on piers eliminating the potential for gas accumulation in the enclosed structures, service pits will need to be suitably vented to prevent the potential accumulation of landfill gas. The report also recommends that additional work, health and safety measures will need to be considered during construction.

Clause 39A – Bushfire Protection

The subject site is identified as being prone to bushfire.



Figure 4: location of proposed site within 30-100m buffer to Category 1 vegetation

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

Council has previously received comments from the NSW RFS in Sydney in relation to other telecommunications facilities that have been assessed, noting the following:

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

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

In this case the equipment shelter.

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

Clause 54 – Tree Preservation Order (TPO)

The 1990 and 2011 TPO (Koala Habitat) apply to the site. The 2004 TPO applies to the adjacent site to the north.

The proposal does not require removal of koala habitat trees but does propose removal of several slash pines. This has been included in the proposal and there are no concerns raised regarding the removal of such vegetation. As such, this clause is satisfied.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

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

SEPP No. 14 - Coastal Wetlands

The subject site is mapped on Councils GIS systems as being affected by the 100m buffer to SEPP 14 wetlands which occur to the west and north of the site, as hatched in blue below. Assessment of the proposal with regard to SEPP 14 is not required and the development application is not identified as designated development.



Figure 5: location of proposed site within 100m buffer to coastal wetlands

Therefore SEPP 14 is not applicable and the development application is not considered to be designated development.

SEPP No. 44 - Koala Habitat Protection

SEPP 44 aims to encourage the conservation and management of natural vegetation areas that provide core or potential habitat for koalas to ensure permanent free-living populations will be maintained over their present range.

Core koala habitat refers to an area of land with a resident population of koalas, evidence attributes such as breeding females and recent sightings of and historical records of a population.

Potential koala habitat refers to areas of native vegetation where the trees of the types listed in Schedule 2 of SEPP 44 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

The site itself has been cleared of vegetation but is adjacent to primary and secondary habitat land. A SEPP 44 assessment was required to be provided as part of a Flora and Fauna assessment.



Figure 6: proximity of primary (orange) and secondary (green) koala habitat to proposed site

Potential koala habitat in proximity to the proposed development was surveyed for use by koalas. Three sites at or greater than 500m from the proposed base station on the northern and eastern periphery of the study area indicated use by koalas, with results reflecting existing knowledge about the distribution of core koala habitat in the area.

No core koala habitat exists in the immediate vicinity of the proposed base station. The report indicates that any tree removal will be restricted to exotic species and given the mobile nature of the species, the proposed development was not considered to be a concern for this species.

As such, the proposal is consistent with SEPP 44 and there is no requirement for a plan of management.

SEPP No 55 – Remediation of Land

In order to comply with this legislation and in addition to matters discussed previously in this report (Clause 39 – Remediation of Contaminated Land), the applicant would need to submit a Remediation Action Plan (RAP), a revised Construction Management Plan and an Environmental Management Plan for approval prior to any operation of the facility.

SEPP No 71 – Coastal Protection

The subject land is identified as being within the SEPP 71 boundary. Part of the southern portion of the site is a sensitive coastal location.

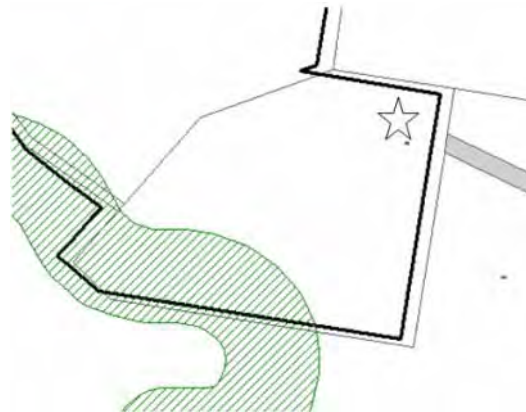


Figure 7: sensitive coastal location in south west portion of site

The site does not adjoin and will not restrict public access to the coastal foreshore. The development is generally consistent with the zone objectives of TLEP 2000, the requirements of relevant Council DCPs and consistent with ESD principles and objectives. It is therefore considered that the proposal satisfies the matters for consideration under SEPP 71.

SEPP (Major Development / Major Projects)

In November 2006, the Kings Forest site was designated as a State Significant Site as an amendment to the Major Projects SEPP.

Following the State Significant Site declaration and the inclusion of Kings Forest in Schedule 3 of the Major Projects SEPP, the Minister was requested to authorise lodgement of a Concept Plan for the urban and recreational development of the site.

On 9 January 2007, the Minister authorised a Concept Plan for the Kings Forest site and the Director-General's Environmental Assessment Requirements (DGRs) were issued in August 2007.

The Department of Planning accepted the Environmental Assessment (EA) prepared for the Concept Plan and placed the EAR on exhibition from 17 December 2008 until 19 February 2009.

The subject site was included within the Kings Forest State Significant Site area and was identified as a future sports field.

The proposed secondary use for the site as a mobile phone base station conflicts with implementation of the approved Concept Plan for Precinct 3 of the Kings Forest Residential Township and State Significant Site.

SEPP (Infrastructure) 2007

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

115 Development permitted with consent

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

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

NSW Telecommunications Facilities Guideline Including Broadband

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

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

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

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

Principle 1 (Visual Impact)

- (d) *Ancillary facilities associated with the telecommunications facility should be screened or housed, using the same colour as the prevailing background to*

reduce its visibility, including the use of existing vegetation where available, or new landscaping where possible and practical.

- (e) *A telecommunications facility should be located and designed to respond appropriately to its rural landscape setting.*
- (h) *The relevant local government authority must be consulted where the pruning, lopping or removal of any tree or other vegetation would contravene a Tree Preservation Order applying to the land or where a permit or development consent is required.*

Although the proposed location is adjacent to existing vegetation, the proposed facility (being a total of 31.6m in height) will be visible above the tree line. The applicant states that the facility will be 'mostly screened from the surrounding residential areas'.



Figure 8: Photomontage from SEE taken from the intersection of Depot Road and Secret Lane

Little information was provided upon application with regard to the impact upon vegetation and fauna. A report provided 4 September 2013 states that several slash pines are to be removed to make way for the proposal. Removal of vegetation has been assessed as part of the application.

The proposal is generally consistent with Principle 1 of the NSW Telecommunications Facilities Guidelines.

Principle 2 (Co-location)

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

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

The applicant has stated that co-location on other communications towers had been considered. No existing facilities or structures in the local area were deemed appropriate or in a location to provide sufficient network coverage capacity. Therefore, the proposed development is considered to be consistent with Principle 2 of the Guidelines.

Principle 3 (Health Standards)

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

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

Principle 4 (Minimise disturbance)

- (k) *Disturbance to flora and fauna should be minimised and the land is to be restored to a condition that is similar to its condition before the work was carried out.*
- (l) *The likelihood of impacting on threatened species and communities should be identified in consultation with relevant state or local government authorities and disturbance to identified species and communities avoided wherever possible.*

Additional information has been provided in the form of a Flora and Fauna Survey report by ecological consultants Biolink Pty Ltd on work carried out over a 10-day period in August 2013. Survey work focused on an area within a 500m radius of the proposed base station and was supported by a search of the NSW Wildlife Atlas database for threatened species records within 5km of the site.

The report identified three hollow-bearing Scribbly Gum *Eucalyptus racemosa* within the study area, which were targeted during microchiropteran call detection surveys. 22.5 hours of survey effort recorded at least five species of microchiropteran bat including confident identifications of two threatened species, Little Bent-wing Bat *Miniopterus australis* and Yellow-bellied Sheath-tail Bat *Saccolaimus flaviventris*, with nine and two passes recorded, respectively.

Overall, microchiropteran activity was low, and the levels of activity recorded in the vicinity of the hollow-bearing trees indicated that local, resident populations do not currently utilise the site. Whilst it is acknowledged that some localised impact may occur in the form of avoidance behaviour by microchiropterans, any such impact is likely to be non-significant for purposes of s5A of the EP&A Act.

As discussed earlier in this report, potential koala habitat in proximity to the proposed development was surveyed for use by koalas. Three sites at or greater than 500m from the proposed base station on the northern and eastern periphery of the study area indicated use by koalas, with results reflecting existing knowledge about the distribution of core koala habitat in the area.

No core koala habitat exists in the immediate vicinity of the proposed base station. The report indicates that any tree removal will be restricted to exotic species, and given the mobile nature of the species, the proposed development was not considered to be a concern for this species.

A similar conclusion was made regarding the threatened Grey-headed Flying Fox *Pteropus poliocephalus*, Spotted Harrier *Circus assimilis* and Grass Owl *Tyto longimembris* which were either recorded during this assessment or known to occur adjacent to the site.

Whilst not considered significant, the report does raise some concern for potential indirect and long-term effects of EME on the smaller organisms such as the Wallum Froglet (recorded by this study and known to occur in lands to the south) and insect communities (food source for microbats and birds).

In this regard, it is noted that the applicant's additional information presents no further examination of alternative sites in the locality.

It is possible that locating the tower on a different site in the Kings Forest vicinity may further reduce concerns surrounding any residual ecological impact. It is noted that recent correspondence from an objector considers Kings Forest Precinct 9 as containing a suitable alternative location.

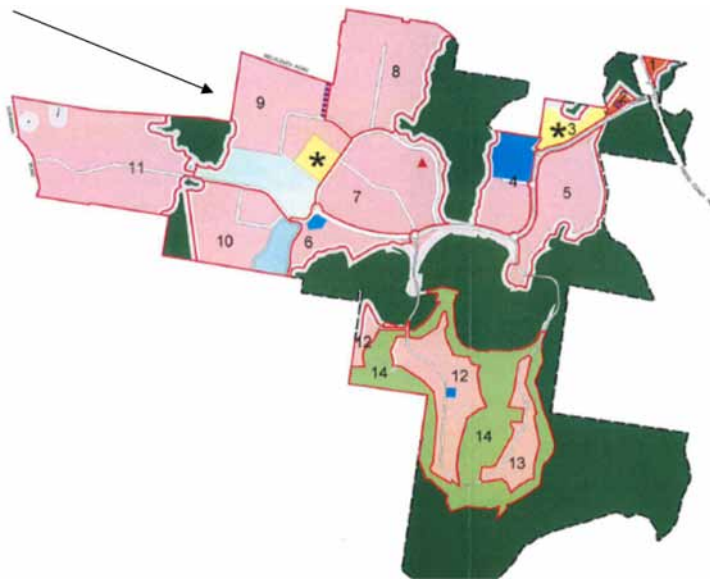


Figure 9: Kings Forest Precinct Plan (21 August 2012)

Conclusion:

The proposed development is considered to be *generally* consistent with the four principles set out in the NSW Telecommunications Facilities Guidelines. Therefore, the proposal *generally* complies with the provisions of Clause 115(3) of the Infrastructure SEPP.

Telecommunications Act 1997

As detailed within the previous assessment, Part 1 of Schedule 3 of the Telecommunications Act authorises a carrier to enter on land and exercise any of the following powers:

- Inspect the land
- Install a facility

- Maintain a facility

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

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

The proponent (Telstra) does not hold a Facility Installation Permit and the proposed development is not a temporary facility for use by a defence organisation or for defence purposes. Further, as the proposal involves the installation of a 30m monopole it does not constitute a low-impact facility under the *Telecommunications (Low-Impact Facilities) Determination 1997* (as amended).

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

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

The Draft Tweed Local Environmental Plan 2012 (DLEP) was placed on exhibition in late 2012/early 2013. The post exhibition version of the DLEP 2012 with amendments as resolved by Council on 31 May 2013 has been forwarded to Parliamentary Counsel via the Department of Planning and Infrastructure.

As such, the Draft Tweed Local Environmental Plan is considered to be "certain and imminent" in terms of previous legal precedent and as such has determining weight.

The subject site is proposed to be zoned RE1 – Public Recreation in the Draft Tweed Local Environmental Plan 2012.

The proposed telecommunication facility is prohibited in this zone. Any telecommunications facility would have to rely on compliance with the provisions of the Infrastructure SEPP in order to be permissible in this zone.



Figure 10: Draft Tweed LEP 2012 zoning

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The proposed land use (telecommunications facility) is not identified within the policy, therefore a strict development standard is not available to use. The applicant states that *the facility will be unmanned and remotely operated on a day to day basis and only visited for maintenance 2-6 times per year.*

It is apparent from the proposed plans that the site could accommodate adequate onsite parking in front of the compound.

A3-Development of Flood Liable Land

The site is identified as Probable Maximum Flood affected. To overcome any possible flood concerns, the equipment shelter has been raised on concrete piers. As the proposal is not for residential development, there are no further concerns.

A11-Public Notification of Development Proposals

The development proposal was advertised in accordance with this section. The proposal was advertised and notified to adjoining owners for 14 days from 15 May to 29 May 2013. Two submissions were received as a result of this process which are discussed elsewhere in this report.

B9-Tweed Coast Strategy

The Plan sets objectives for future development concentrating on public services and design principals whilst protecting the essential values of the coast. This application does not represent an integrated approach to providing community facilities and public infrastructure as highlighted by the plan in order to meet the requirements of future communities.

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

Clause 92(a) Government Coastal Policy

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. It is not considered that the proposed telecommunications facility contradicts the objectives of the Government Coastal Policy.

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

The proposal does not impact upon coastal zone management plans.

Tweed Shire Coastline Management Plan 2005

The proposal does not impact upon coastline management strategies.

Tweed Coast Estuaries Management Plan 2004

The proposal does not impact upon estuaries management strategies.

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

The proposal does not impact upon coastal zone management strategies for Cobaki and Terranora Broadwater.

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

Public Health and Safety

The applicant submitted an EME Environmental Report as required by the Guideline. It shows the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the ACMA and the Electromagnetic Radiation Standard. The Report is formatted in compliance with the Industry Code C564:2011 Mobile Phone Base Station Deployment (Mobile Phone Networks Code).

Neither the SEE nor the EME Environmental Report discussed the requirement for a specific buffer surrounding the facility. Clarification of buffer requirements was requested of the applicant, specifically whether a 200m buffer to any school building is or is not required, as this was raised in a submission objecting to the development.

The applicant stated that "the proposed facility is approximately 90m away from the proposed location of the school boundary". Scaled from submitted plans, the distance between the 80m² facility site and the boundary with adjacent land is approximately 20m.

Documentation provided by the applicant indicates:

"Regulations are in place to limit the strength and level of the radio frequency signals in the environment from all radio transmitters including Telstra's mobile network base stations. They are not based on distance, or creating exclusion zones for residential or other sensitive areas. That is why from a public health perspective telecommunications facilities are permissible in any environment, including on apartment buildings and hospitals, and even within school grounds.

and:

The concept of "exclusion zones" for schools and residential areas is not supported by the WHO (World Health Organisation) or ARPANSA (Australian Radiation Protection and Nuclear Safety Agency) as an effective precautionary measure to reduce the general public's exposure to radiofrequency EME."

Fact sheets dated March 2008 and published by the Mobile Carriers Forum were provided by the applicant. Information on the fact sheet *Do Exclusion Zones actually work?* does not include any recommendation for buffer zones from mobile phone base stations and states that "there is no science-based reason to set up exclusion zones around such areas".

It is noted that both submissions object to the lack of buffer distance from the proposed facility to Precinct 3.

The Department of Education and Communities provided a formal submission to Council regarding the proposal on 5 November 2013. Lack of support for the proposal is based on implementation of a precautionary approach, based on departmental policy (similar to the *Industry Code – Mobile Phone Base Station Deployment*), that avoids location of mobile phone base stations within proximity to community sensitive land uses.

The Department has a preference for a distance of at least 500 metres from the boundary of the property known as 'Precinct 3'. Further, a 500 metre buffer from the boundary of the property known as 'Precinct 3' excludes the location of a telecommunications facility on any portion of the subject site.

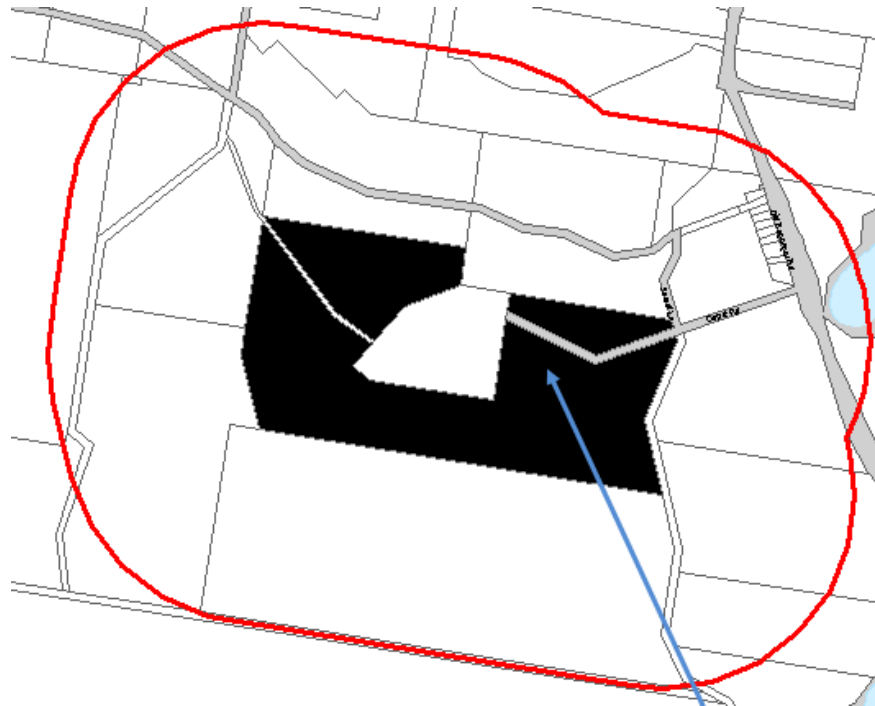


Figure 11: 500m buffer around Lot 1 DP 781633 and 'Precinct 3'

As such, the proposal is not consistent with State government policy intended to ensure student / staff public health and safety is protected / maintained via adequate separation of special and sensitive land uses.

Amenity

The nominated construction period is from four to six weeks. Operation of the premises will not require day to day attendance of staff. However an air-conditioning unit is proposed to be installed and operational to service the equipment shelter. Issues include future potential noise and light spill nuisance.

Visual Impact

The proposed monopole is 30m in height and located on generally flat ground. Some level of screening is afforded to the development from existing mature tree species that are currently located to the north of the proposed site.

The proponents have advised that there would be 'minimal potential visual impact' as a result of the proposed development, however it is expected that any impact could be addressed by the incorporation of specific measures into the design of the facility such as slim-line form, neutral colour and landscaping.

A certain level of visual impact will arise as a result of the proposed development.

(c) Suitability of the site for the development

Contamination

The site history includes use as a landfill. The bulk of the site has been capped and future intended use is as a sports ground. A report prepared for Tweed Shire Council, Assessment of Remediation Options and Remediation Action Plan

prepared by Coffey dated 30 June 2003 indicates a cap of 0.5m thickness exists within the subject area.

The report states:

“protection of gas ingress and/or ventilation will be required for any buildings and other facilities that may be located on or adjacent to the site in the future, due to the potential for ingress and accumulation of landfill gas. Additionally, there is a need to minimise the opportunities for gas to ingress and migrate offsite via subsurface utility trenches and pipes. The provision of gas management measures to buildings and services constructed on land immediately adjacent to the landfill should be a development approval condition of any future development.”

As discussed elsewhere in this report, the applicant has addressed contamination issues in a report provided to Council 18 October 2013. Council's Environmental Health Unit has reviewed the information provided as satisfactory.

Proximity to Precinct 3 of Kings Forest

As discussed elsewhere in this report, proximity of the telecommunications facility to Precinct 3 (Community Facilities / Education) within the approved Kings Forest Residential Township Concept Plan will compromise future development of the land for the purposes of a government state school as the site will then not comply with the following Department of Community and Education policies:

- Mobile Telecommunications Facilities

While the Department cannot state a specific separation distance between a proposed mobile telecommunications facility and a school or TAFE campus, the Department has a preference for a distance of at least 500 metres from the boundary of the property.

Figure 12: excerpt from DEC Mobile Telecommunications Facilities policy

- Advisory Notes for Developers and Consent Authority for Master Planning New Education Facility Sites

Land use	Not located within or immediately adjacent to:
	<ol style="list-style-type: none">1. In close proximity to special uses such as: airports, correction centre, electricity substations, mobile phone towers, contaminated lands, sewage treatment plants, sewage systems, electrical transmission lines, waste disposal facility, waste, treatment or resource management facilities, waste or resource transfer station, water recycling facility, water supply system, wind farms and the like (preferable to be 500m to 2km away).2. Inappropriate retail and commercial development such as: bottle shops, brothels, home occupation (sex services), methadone clinics, pubs, registered clubs, restricted premises, sex service premises or the like3. Development with potential undesirable impacts or risks such as: heavy industry, airport flight paths, bulky goods premises, crematorium, depots, freight transport facility, hazardous or offensive development, hostel, hotel or motel accommodation, intensive agriculture, mining and extraction industries, tourist and visitor accommodation, vehicle repair workshops or the like
	<i>Reason: Ensure student and staff/personnel security and health are protected and maintained. Ensure no rezoning.</i>

Figure 13: excerpt from DEC Advisory Notes (highlighted)

Co-location with Sports Field Use

Council's Recreational Services Unit stated no objection to the co-location of the telecommunications facility use with the sports field use (primary land use). The telecommunications facility is identified as a secondary use.

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

The proposal was advertised and notified to adjoining properties in accordance with DCP A11 – Public Notification of Development Proposals for a period of 14 days from Wednesday 15 May to Wednesday 29 May 2013. During this time, two submissions were received.

Concerns were also raised before the application was advertised and after the applicant had supplied further information to support the proposal.



Issues raised include the following:

- Contamination
- Koala Habitat
- Visual Impact
- Human health
- Required buffer distance
- Environmental value / health
- Noise
- Premature development
- Conflict of interest
- Alternative sites available

Although forwarded copies of the submissions on 3 July, 2013, the applicant chose not to respond directly to the matters raised.

Objection	Response
A geotechnical survey needs to be carried out to assess risk as the site is classified as contaminated land. Siting of the monopole is adjacent a dam. Stormwater from the site travels via dams straight into wetlands on our property. Saturation of the ground poses an environmental threat to adjacent land.	Geotechnical report provided to Council 18 October 2013 and assessed by the Environmental Health Unit as satisfactory.
Koala habitat trees are planned to be planted just north of the lease area via the Koala Connection Program.	Existing screening vegetation will be removed in association with this project. Impact upon future koala population not determined.
The proposal does not respond appropriately to its rural landscape setting. Screening trees (mature pines) in the supplied photomontage are planned to be removed and replaced with Koala food trees. The structure is	A landscaping plan was not supplied by applicant.

Objection	Response
<p>in full view from all other angles. Replanting will take into account species best for Koalas, not for screening value. Essential Energy also has restrictions on vegetation height within proximity to power lines.</p>	
<p>The monopole will be highly visible from about 70% of our property including present house site and planned future house site.</p>	<p>Visibility issues addressed elsewhere in this report.</p>
<p>Health concerns from electromagnetic energy generated from the facility.</p>	<p>Council's Environmental Health Unit has assessed the proposed development in terms of EME requirements.</p> <p>The Department of Education and Communities does not support the proposal because it does not meet the required minimum 500m buffer from a future educational facility.</p>
<p>The close proximity of the sports fields and the planned educational facilities should be taken into account with regard to Electromagnetic Field Radiation. The existing power line should be calculated into total EMF radiation levels.</p>	<p>As above.</p>
<p>The present powerline at the entrance to the site is not in service and has not been for many years.</p>	<p>The applicant would need to liaise with Council with regard to the provision of electricity to the site.</p>
<p>Air conditioning units for the facility will be going 24/7. This is in contradiction to the intention of creating and improving a Koala/wildlife corridor adjacent to the monopole.</p>	<p>Council's Environmental Health Unit has assessed the proposed development in terms of air conditioning noise.</p>
<p>There is a multitude of endangered species around this site.</p>	<p>A Flora and Fauna report was provided 4 September 2013, assessed by Council's NRM Unit and found to be satisfactory.</p>
<p>The DA for the monopole is premature. Development of the land could be decades away. Why has the DA been submitted at such an early stage in a sensitive location? Which area will this really service?</p>	<p>The concept plan for the Kings Forest Residential Township has been approved. The proposal conflicts with a sensitive land use in Precinct 3 and has been recommended for refusal.</p>
<p>Why is there no ecological buffer on Lot 1 DP 397082?</p>	<p>This is a matter relating to the assessment of DA09/0836 for the sports fields development.</p>
<p>Conflict of Interest – Council accepting lease money and giving approval.</p>	<p>DA's are submitted over Council land subject to external lease arrangements. The Development Assessment Unit retains objectivity in assessing such proposals.</p>

Objection	Response
Telstra have advised us that there is no budget for landscaping.	Landscaping would be required of the applicant should any approval be granted.
Telstra have advised us that elevated positions around Kings Forest would be preferred for several reasons including radiofrequency objectives, reduced height and reduced visual impact. We feel that choice of the proposed site could well be biased through principles of cost reduction and contractual issues rather than suitability of the site.	An alternative site has been offered in Precinct 9 of the Kings Forest development. Council is not aware of the applicant's motives for the current site selection.
LEDA have advised use that they are willing to discuss alternative sites which we feel are available.	An alternative site has been offered in Precinct 9 of the Kings Forest development.
<p>The location of the proposal will significantly impact on the development potential of Precinct 3, particularly having regard to the requirement for a 200m buffer.</p> 	<p>The applicant has not relied upon any distance related policy for the siting of the facility.</p> <p>The Department of Education and Communities does not support the proposal as it does not meet the required minimum 500m distance from the boundary of Precinct 3.</p>
<p>Siting of the facility on the western side of the subject land would eliminate any potential adverse impacts by way of buffers to Precinct 3.</p> 	<p>Siting the facility on the western side of the subject land does not comply with DEC's minimum 500m distance policy from the boundary of Precinct 3.</p>
<p>Following submission of further information by the applicant on 4 September 2013, the objectors were given the opportunity to provide additional comment.</p>	
Money generated from the lease will pay for the Kingscliff Soccer Club's ground maintenance.	Manager Recreation Services advised that the grounds would be maintained with or without the lease in place.

<p>The Flora and Fauna report was done in a very limited timeframe which can cloud results. There was no mention of the Glossy Black Cockatoo or habitat for threatened species (Wallum Sedge Frog, microbats). Dry weather conditions have influenced insect activity.</p>	<p>The Flora and Fauna report was provided 4 September 2013, assessed by Council's NRM Unit and found to be satisfactory.</p>
<p>The planned Koala Corridor to the north and Acid Frog Compensation habitat to the east are both within the range of highest radiation around this Monopole. Reference made to a previous Biolink report by the same author deems a negative impact upon these species.</p>	<p>Council's assessment of the Flora and Fauna report does not raise these issues as problematic.</p>
<p>All of the previous comments regarding visual impact still apply. What exactly is the height of the structure including the fill? The Casuarina monopole was reduced from 30m to 20m in response to objections.</p>	<p>Height of the structure located upon fill will be RL 41.6m AHD.</p>
<p>EME levels increase due to future antennas and co-location of other carriers once the facility has been established. Additional sources of EME should be taken into account.</p>	<p>Additional and future sources of EME have not been taken into account by the applicant.</p>
<p>The EME figures do not give any clarification on EME levels in planned Koala corridor trees once established.</p>	<p>This is consistent with application documentation.</p>
<p>Asbestos guidelines should be observed prior to earthworks being undertaken.</p>	<p>Suitable conditions of consent would apply should an approval be granted.</p>
<p>The Department of Education and Communities indicates that in terms of land use, school sites should not be located within or immediately adjacent to, inter alia, mobile phone towers.</p> <p>The proposed facility will be approximately 50m from the nearest part of the community facility Precinct No. 3 shown on the approved Kings Forest Revised Concept Plan and Precinct Plan.</p> <p>The proposed siting of the facility is inconsistent with the Department's guideline. If the facility were to be approved and erected, Precinct 3 would not be suitable for a school.</p>	<p>The Department of Education and Communities does not support the proposal as it does not meet the required minimum 500m distance from the boundary of Precinct 3.</p>

<p>An alternative site on the western side of the sports fields is the more logical and suitable in the circumstances.</p>	<p>Council will not consider this alternative location.</p> <p>Siting the facility on the western side of the subject land does not comply with DEC's minimum 500m distance policy from the boundary of Precinct 3.</p>
<p>Any decision by Council in respect of this DA which might compromise implementation of the Concept Plan and the Project Approval would be inappropriate and unnecessary given that there are suitable alternative sites within the Depot Road sports fields and Precinct 9.</p>	<p>Council will not consider an alternative location within the sports fields site.</p> <p>Siting the facility on the western side of the subject land does not comply with DEC's minimum 500m distance policy from the boundary of Precinct 3.</p>

(e) Public interest

Council currently has no specific policies in relation to telecommunication tower developments. The proposal is a permissible form of development in the 5(a) zone and therefore can be assessed by Council.

Concerns with regard to health risks are considered within the body of this report and are supported by the formal submission from the Department of Education and Communities.

Strict guidelines have been put in place by the Department with regard to master planning new education facility sites. The Concept Plan nominating 'Precinct 3' for a future government educational facility within Kings Forest Residential Township has been approved. Development of the State Significant Site would be negatively impacted if the telecommunications facility were approved in this location.

It is therefore considered that the development will negatively impact on matters relating to the public interest and sustainable future economic development of the Shire.

OPTIONS:

Option 1

That Development Application DA13/0201 for a telecommunications facility at Lot 1 DP 397082 No. 80 Depot Road, Kings Forest be refused for the following reasons:

1. The development application is contrary to Clause 4 of the Tweed Local Environmental Plan 2000, in that the proposed development does not meet the aims of the plan.
2. The development application is contrary to Clause 8(1) of the Tweed Local Environmental Plan 2000, in that the proposed development will have an unacceptable cumulative impact on the Kings Forest locality.
3. The development application is not consistent with and is not supported by Department of Education and Communities policy regarding the installation of mobile telecommunication facilities within proximity to education facility sites.

4. Accordingly, the development application is not considered to be in the public interest.

or

Option 2

That Development Application DA13/0201 for a telecommunications facility at Lot 1 DP 397082 No. 80 Depot Road, Kings Forest be approved with the following conditions:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and:
 - Plan No N109565 Sheet S1 Issue 3 (Site Layout and Access) as amended in red, prepared by Telstra and dated 3 September 2013
 - Plan No N109565 Sheet S1-1 Issue 2 (Site Layout) as amended in red, prepared by Telstra and dated 10 August 2012
 - Plan No N109565 Sheet S3 Issue 2 (South Elevation) as amended in red, prepared by Telstra and dated 10 August 2012,except where varied by the conditions of this consent.

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

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

[GEN0135]
4. The owner is to ensure that the proposed building is constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]
5. Pruning or removal of vegetation to establish and maintain a 10m inner protection zone around the facility to meet bushfire safety standards or to provide access to the site must be carried out to the minimum extent necessary.

[GENNS01]
6. The mobile phone tower may not exceed a maximum height of RL 41.6m AHD including any attached antenna, aerials or other appurtenances.

[GENNS02]
7. Any construction certificate issued for this development must include details for the construction of the access track extension.

[GENNS03]

8. This development consent does not include any further expansion of the approved infrastructure which consists of two (2) panel antennas (2.63m and 2.09m long) mounted on a triangular headframe at Centre Line 30.0m. Any further expansion of the infrastructure will require separate development consent where statutorily required.

[GENNS04]

9. Any costs associated with providing access to the facility shall be borne by the proponent.

[GENNS05]

10. The provision of electricity and other services as required shall be subject to negotiation with Council and the owners of adjacent land.

[GENNS06]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

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

[PCC0585]

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

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

will not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.

- a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
- b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

14. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

15. Prior to the issue of a construction certificate, a Remediation Action Plan in accordance with the Report on Preliminary Site Investigation (Project 80360.00) prepared by Douglas Partners and dated October 2013 shall be submitted to Council for approval to the satisfaction of the General Manager or delegate.

[PCCNS01]

16. Prior to the issue of a construction certificate, the revised Construction Management Plan, incorporating the recommendations of the approved Remediation Action Plan shall be submitted to Council for approval to the satisfaction of the General Manager or delegate.

[PCCNS02]

17. An acid sulphate soils investigation, and management plan where required, shall be carried out in accordance with the Acid Sulfate Soil Manual, ASSMAC 1998 and submitted to Council for approval to the satisfaction of the General Manager or delegate prior to the issue of a construction certificate.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

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

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

[PCW0215]

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

[PCW0225]

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

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

[PCW0245]

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

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

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

[PCW0255]

- 22. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

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

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

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

- A. Short Term Period - 4 weeks.

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

- B. Long term period - the duration.

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

[DUR0215]

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

[DUR0375]

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

[DUR0405]

28. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

29. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:
- Noise, water or air pollution.
 - Dust during filling operations and also from construction vehicles.
 - Material removed from the site by wind.
- [DUR1005]
30. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.
- [DUR1015]
31. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
- [DUR1025]
32. Landscaping of the site shall be carried out in accordance with the approved landscaping plans.
- [DUR1045]
33. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
34. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.
- [DUR2015]
35. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.
- [DUR2185]
36. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.
- [DUR2425]
37. Air conditioning units and the like shall be located, installed and operated so as not to be heard in a habitable room of a residence during restricted hours or where it would create offensive noise as defined within the NSW Protection of the Environment Operations (Noise Control) Regulation 2008.
- [DUR2835]
38. During construction and subsequent operation of the facility, vehicle speeds along the access road shall not exceed 40km/h.
- [DURNS01]

39. The landfill cap shall not be penetrated or disturbed.

[DURNS02]

40. Where an acid sulphate soils management plan is required as identified within the approved investigation report, all works shall be carried out in accordance with the approved plan.

[DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

42. All landscaping work is to be completed in accordance with the approved plans prior to the issue of a final occupation certificate.

[POC0475]

43. Prior to this issue of any Occupation Certificate the Principal Certifying Authority shall be provided with certification from a practising structural engineer which states that the completed telecommunications tower will be structurally adequate for its intended use in this location.

[POCNS01]

44. Prior to the issue of any occupation certificate, an Environmental Management Plan shall be submitted to Council for approval to the satisfaction of the General Manager or delegate. The Plan shall include a recommendation for the wording as to the creation of a restriction as to user under Section 88B of the Conveyancing Act to manage the risk associated with landfill gas in the subsoils at the site.

[POCNS02]

45. Prior to the issue of any occupation certificate, a restriction as to user under Section 88B of the Conveyancing Act is to be created to the satisfaction of the General Manager or delegate regarding the use of the area in accordance with the approved Environmental Management Plan.

[POCNS03]

USE

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

[USE0125]

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

[USE0175]

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

[USE0225]

49. All plant and equipment installed or used in or on the premises:
- (a) Must be maintained in a proper and efficient condition, and
 - (b) Must be operated in a proper and efficient manner.

In this condition, "plant and equipment" includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

50. All commercial/industrial/residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

CONDITIONS OF APPROVAL IN RELATION TO SECTION 79BA OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1. At the commencement of building works and in perpetuity the entire leased area shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. The equipment shelter shall comply with section 8 (BAL 40) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'.

Council officers recommend Option 1.

CONCLUSION:

In general it is considered that the proposed telecommunication facility is suitable with regard to design and community need.

However, the location of the telecommunications facility adjacent to a future government school site is not appropriate. Its proximity compromises implementation of an approved sensitive land use and would render the site unsuitable for its intended purpose as an educational facility.

For this reason the proposal is recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

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

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.	DEC submission (ECM 3254334)
Attachment 2.	DEC Advisory Notes for Developers and Consent Authority for Master Planning New Education Facility Sites (ECM 3254335)
Attachment 3.	Clause 4.1 Site Selection (Industry Code C564:2011 Mobile Phone Base Station Deployment) <i>Communications Alliance Ltd 2011</i> (ECM 3254337)
Attachment 4.	Report from Telstra in response to submission by DEC (ECM 3254338)

19 [PR-CM] Development Application DA13/0385 for a Three Lot Subdivision and Single Dwelling with Attached Secondary Dwelling at Lot 63 DP 804148 No. 3-6 Trutes Terrace, Terranora

SUBMITTED BY: Development Assessment

FILE REFERENCE: DA13/0385 Pt1



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 meeting of 12 December 2013 resolved as follows:

"RESOLVED that this item be deferred to a future Council meeting and to provide advice about alternative effluent disposal."

A Councillors Workshop is scheduled for 16 January 2014 to further discuss this application.

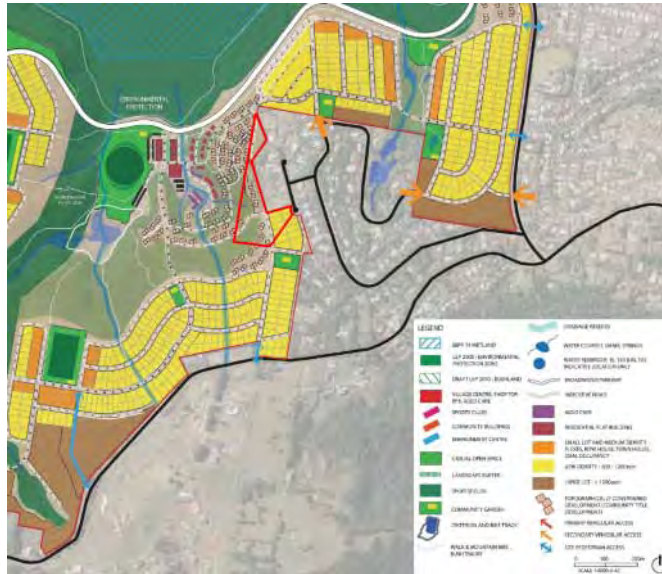
The report is now resubmitted to Council for its determination.

Previous Report

On 18 July 2013 Council received a Development Application seeking approval to create a three lot subdivision from one existing allotment currently with an allotment size of 2.769ha. The proposed subdivision seeks approval for proposed Lot 1 with a land size of 1900m² (which will remain vacant with a future house option), proposed Lot 2 with a land size of 3030m² (which will maintain an existing dwelling) and proposed Lot 3 with a land size of 2.2ha. It is also proposed as part of this Development Application to construct a dwelling with attached secondary dwelling over proposed Lot 3.

The existing parcel of land and all the proposed allotments are located within the mapped urban land release area at Terranora known as "Area E" which is one of Council's major urban land release areas.

On 13 December 2011 Council resolved to endorse the Draft Development Control Plan B24 Area E Urban Release Development Code and this DCP shows that the subject site could theoretically accommodate 6 low density residential homes and approximately 13 additional homes under a community title development as shown on the below figure.



Area E Indicative Structure Plan (Figure 2.2 Draft DCP B24 page 22 from the Subdivision Section)

The proposed three lot subdivision is considered an underdevelopment of prime residential land having regard to the endorsed DCP for the site.

Furthermore, the proposed three lot subdivision cannot physically connect to any existing or currently proposed sewer reticulation systems and accordingly the applicants have requested consideration for onsite effluent disposal.

Council's Water Unit staff have reviewed this proposal and have indicated that prior to the Parkes Lane sewerage system being implemented (at a point when it will be economic to do so) development should be refused.

Council's Environmental Health Officer's have reviewed the proposed onsite effluent disposal scheme and are of the opinion that the two smaller allotments would need to be almost entirely cleared of vegetation to ensure viable onsite effluent disposal areas. Council's minimum size criteria for onsite effluent is normally 4000m² allotments and the proposed allotments are only 1900m² and 3030m². Therefore on site effluent is not considered to be a viable option as it results in large urban lots completely cleared of vegetation (contrary to the existing larger allotments in a leafy environment) in an area nominated for higher density residential purposes.

It should also be noted that whilst Council adopted the Draft Development Control Plan B24 Area E Urban Release Development Code Council also specifically required an appropriate framework of Developer Contributions to be in place before final adoption of the DCP.

All lots within "Area E" need to contribute to the costs of sports fields, the proposed road being Broadwater Parkway, environmental restoration and local drainage issues. The costs of such facilities equates to approximately \$40,000 per allotment within Area E based on the densities as set by the DCP. If the densities as per the DCP are not utilised each lot will have to pay even more for these required facilities. In addition each proposed allotment of land would need to pay the normal Developer Contributions for Water and Sewer (\$18,500 per allotment), Roads (\$13,400), and all the normal S94 Contributions applicable to all lots within the Shire (approximately \$10,000). When all of these figures are combined it equates to each lot having to pay \$81,900 in developer contributions per allotment of land. Such contributions are not viable for minor subdivisions and can only be justified when land within Area E is developed to its intended population in a coordinated manner. For example Altitude Aspire which is currently being developed in the eastern portion of Area E proposed 255 allotments of land based on the above developer contributions and they have agreed to

enter into a Voluntary Planning Agreement to cover the site specific contributions listed above. However the proposed under utilisation of land within a planned urban land release area cannot be considered desirable or viable in this location given the constraints of the site. In this instance the applicant has not proposed a mechanism for paying the site specific contributions (\$40,000 per allotment) and accordingly the proposed subdivision is considered premature in light of the rest of the release area.

It is considered that the overarching purpose of the Environmental Planning and Assessment Act 1979 and its associated documents is to secure the orderly development of land. This includes having the necessary infrastructure available in order to service the development. Furthermore, the proposed three lot subdivision is considered to severely undermine the broader strategic plans for the subject site and represents a massive under development of prime residential land. For these reasons the application is recommended for refusal.

RECOMMENDATION:

That Development Application DA13/0385 for a three lot subdivision and single dwelling with attached secondary dwelling at Lot 63 DP 804148 No. 3-6 Trutes Terrace, Terranora be refused for the following reasons:

- 1. The proposed subdivision is not considered to comply with the Environmental Planning and Assessment Act 1979 as it fails to secure the orderly development of land. Furthermore, the proposal is not consistent with the provisions of the Tweed Local Environmental Plan 2000 and in particular Clause 4(a), Clause 8(1)(a), (b) and (c)] and Clause 11, as the subdivision is premature having regard to the broader release area in which it is located and represents an under utilisation of urban land within an approved urban land release area.**
- 2. The proposed subdivision is not consistent with the provisions of Tweed Development Control Plan Part A5 and in particular Section A5.4.13 Infrastructure, as the sites cannot be adequately serviced with reticulated sewer.**
- 3. The proposed subdivision does not satisfy the objectives or density yield provisions in accordance with Tweed Development Control Plan Section B 24 Draft Area E Urban Release Development Code.**
- 4. The application has not been supported with an appropriate funding mechanism to establish an infrastructure regime to cater for the required on site services within the 'Area E' urban land release area. The "Area E Urban Land Release Area" does not have an applicable S94 Contribution Plan and the applicant has not established a suitable funding mechanism to reflect the urban land release area requirements as other development in the release area have had to do.**
- 5. The proposal is premature and would undermine the whole release area. If approved the application would have a negative cumulative impact on the remainder of the release area and potentially set an undesirable precedent.**
- 6. The proposal is not in the public interest as the development would have negative flow on affects for the remainder of the release area.**

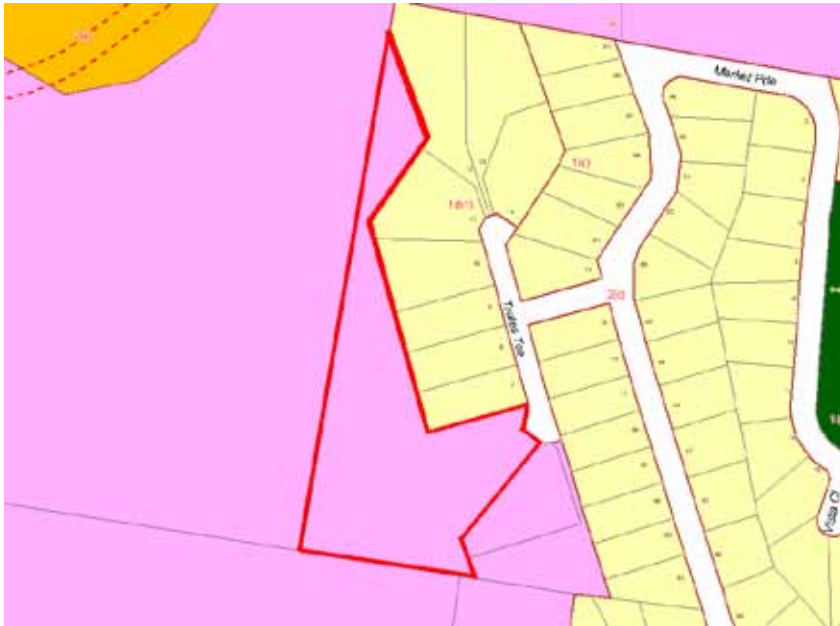
REPORT:

Applicant: Mr T Edser and Mrs C Edser
Owner: Mr Trevor E Edser & Mrs Christine I Edser
Location: Lot 63 DP 804148 No. 3-6 Trutes Terrace, Terranora
Zoning: 2(c) Urban Expansion
Cost: \$829,800

Background:

The Subject Site

The subject site is located on the western side of Trutes Terrace and currently comprises a total area of 2.769 hectares. It comprises one parcel of 2(c) Urban Expansion zoned land.



Lot 63 DP 804148



Subject site within Area E Urban Release Area

The Proposed Development

The application seeks consent to subdivide the 2(c) zoned land (which comprises one allotment) to create three allotments.

The existing allotment comprises:

- Lot 63 DP 804148 with a total site area of approximately 2.769ha.

The proposed layout is as follows:

- Proposed Lot 1 with a total area of 1,900m²;
- Proposed Lot 2 with a total area of 3,030m²
- Proposed Lot 3 with a total area of 22,223m² (2.2223ha)

Lot 1 will remain vacant as part of this proposal. It has been sized to support a single dwelling as part of a future development application. The lot will have direct street frontage to Trutes Terrace.

Lot 2 is a battle-axe shaped lot that will bound the existing dwelling on-site. The access handle arrangement maintains frontage to Trutes Terrace.

Lot 3 forms the residual land and will support the single dwelling with attached secondary dwelling that is proposed as part of this application. An access handle is retained to allow for frontage to Trutes Terrace.

The proposed dwelling with attached secondary dwelling has a maximum total height of 7.5m. It has been designed to incorporate two storeys.

The single dwelling incorporates four bedrooms and three bathrooms with an open plan living, dining and outdoor entertaining area.

The attached secondary dwelling is located on the ground floor and is fitout with a single bedroom and one bathroom as well as its own kitchen and laundry. The attached secondary dwelling has a floor area of 55.7m² and is compliant with the maximum floor area requirements of the Draft LEP 2012 (60m²).

The existing shed on-site is to be relocated onto the created Lot 3. This shed will be ancillary to the proposed dwelling and will be accessible from the driveway.

History

Upon review of the submitted detail Council responded to the applicant with the following information request:

"Area E Urban Land Release Area

The proposed development falls within the mapped urban land release area of 'Area E'. The Tweed LEP (Clause 53 D - Specific provisions for Terranora Urban Release Area E) requires this urban land release area to have a site specific DCP that considered certain aspects of developing the site.

Council has drafted a site specific DCP (Draft Tweed DCP Section B24 – Area E Urban Release Development Code). This DCP has been endorsed by Council but not yet adopted as the infrastructure framework for the release area has not yet been established.

You may be aware that Metricon are progressing with a project in Area E called 'Altitude Aspire'. This project is being assessed by the NSW Department of Planning and the only reason that this proposal is being considered is that the proponents have agreed to enter into a Voluntary Planning Agreement (VPA) with Tweed Shire Council to cover costs associated with Area E in regards to drainage, sports fields, the Broadwater Parkway construction and environmental restoration. The approximate cost for these matters is \$40,000 per lot within Altitude Aspire in addition to the normal infrastructure charges. It is anticipated that all lots within Area E will need to enter into a similar VPA to ensure that adequate infrastructure is provided within the release area.

Therefore, given the subject land is within the Area E Urban Land Release Area and the development cannot proceed without an infrastructure framework and Council is proposing a VPA similar to that drafted for 'Altitude Aspire'. However for an additional 2 lots as proposed by this application seems unviable. Should you wish to proceed with the subject application please advise whether you will be entering into a Voluntary Planning Agreement (the drafting of which would also need to be funded by you). If you are not prepared to enter into this voluntary planning agreement or provide another mechanism for infrastructure contributions within Area E then Council would recommend the withdrawal of the subject application. Alternatively Council will determine the application based on the information provided to date.

Should you decide to proceed with the application despite the comments above you should also be aware of the following issues that are yet resolved within the application:

Sewer Infrastructure

Council's System Engineer has provided the following information in relation to Development Control Plan Section A5:

"The site as it exists is not serviced by Council sewer. On-site treatment exists for the existing dwelling and the Statement of Environmental Effects Report proposes the new lots shall also be serviced by onsite treatment. The Tweed Shire Council Development Control Plan: Section A5- Subdivision Manual requires that land in Zone 2(c) Urban Expansion must provide sewerage services to the lot as specified in Development Design Specification D12. Pressure sewer currently exists up to 30 Parkes Lane (approximately 640 meters via road easement from the proposed development), however the downstream system has capacity limitations and no further extension can be permitted at this stage. The Parkes Lane limited sewer scheme was developed on a strictly limited basis of only permitting an additional 10 ET connection of which 5 are already connected or allocated. This scheme involves an additional charge of \$4320 per ET.

It is intended to provide a sewerage system to the Parkes Lane area when other development within Area E progresses to a point at which it will be economic. Prior to that, the development should be refused unless the developer can demonstrate how the requirement to connect to sewer in the short term can be met."

It is therefore considered that the proposed development does not comply with Council's Development Control Plan Section A5 - Subdivision Manual and as such the applicant is either requested to enter into a VPA as outlined in point 1 or withdraw the proposed development.

Engineering Issues

Council's Development Engineer has provided the following information that is required to be addressed if the applicant continues with the proposed development.

It is noted that the proposal includes a series of retaining walls along and near to the southern boundary of proposed Lot 3. It is requested that the applicant demonstrate how these comply with the requirements of TSC DCP A1 and TSC Development Design Specification D6.

Minor Engineering matters:

The applicant is to be advised of the following minor issues relating to the proposed driveway access, which can either be addressed as part of this submission or alternatively can be covered by consent conditions:

The driveway design nominates an inverted crown whereas the preferred cross-section is a one-way crossfall.

The vehicular footpath crossing from Trutes Terrace is to be evenly splayed.

As a result of the information request further research was done in regards to servicing the site as the applicant requested that onsite effluent service the proposed development until adequate servicing is available. The onsite sewerage design as submitted was considered

to be unsatisfactory for proposed Lot 1 as Council prefers lot sizes of 4000m² to ensure sufficient room for recreational activities.

The applicant outlined that through use of a Voluntary Planning Agreement, the proposed subdivision and lots created would comply with Section A5 of the Tweed DCP 2008 once sewer infrastructure becomes available at reasonable cost.

It was determined that the onsite effluent disposal as designed would require 100% vegetation clearance which lots less than 4000m² would require. Notwithstanding, on site effluent disposal at this location is not be supported by Council Officers given Tweed DCP Section A5. The application was requested to be withdrawn as a result of this.

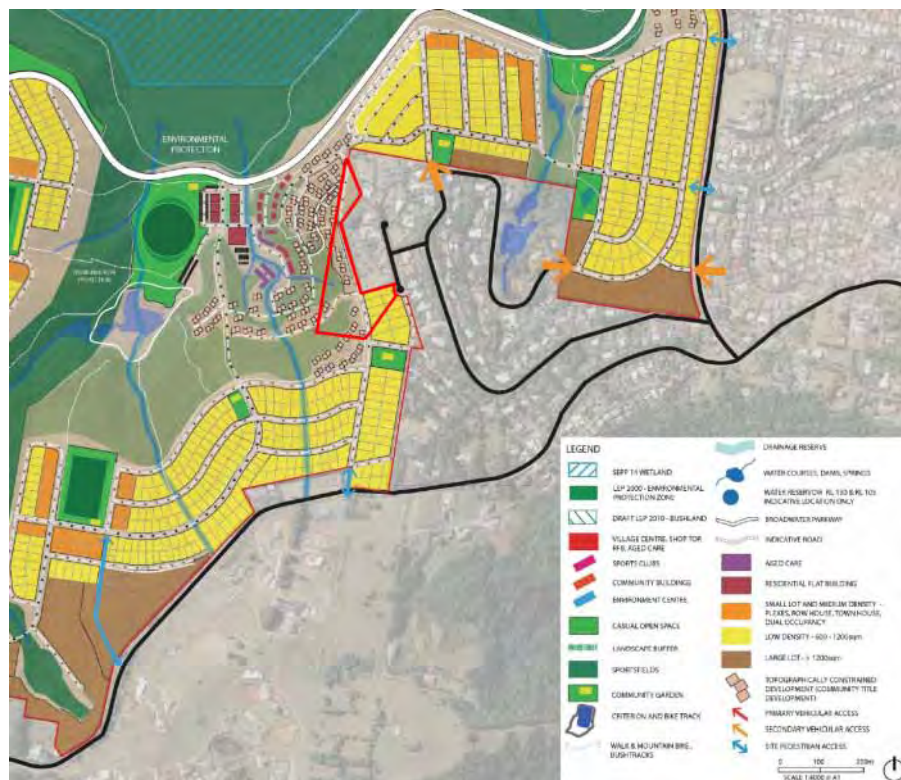
Summary

Having regard to relevant statutory controls in particular Section 79C Clause 1(a)(iii):

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:

(iii) any development control plan

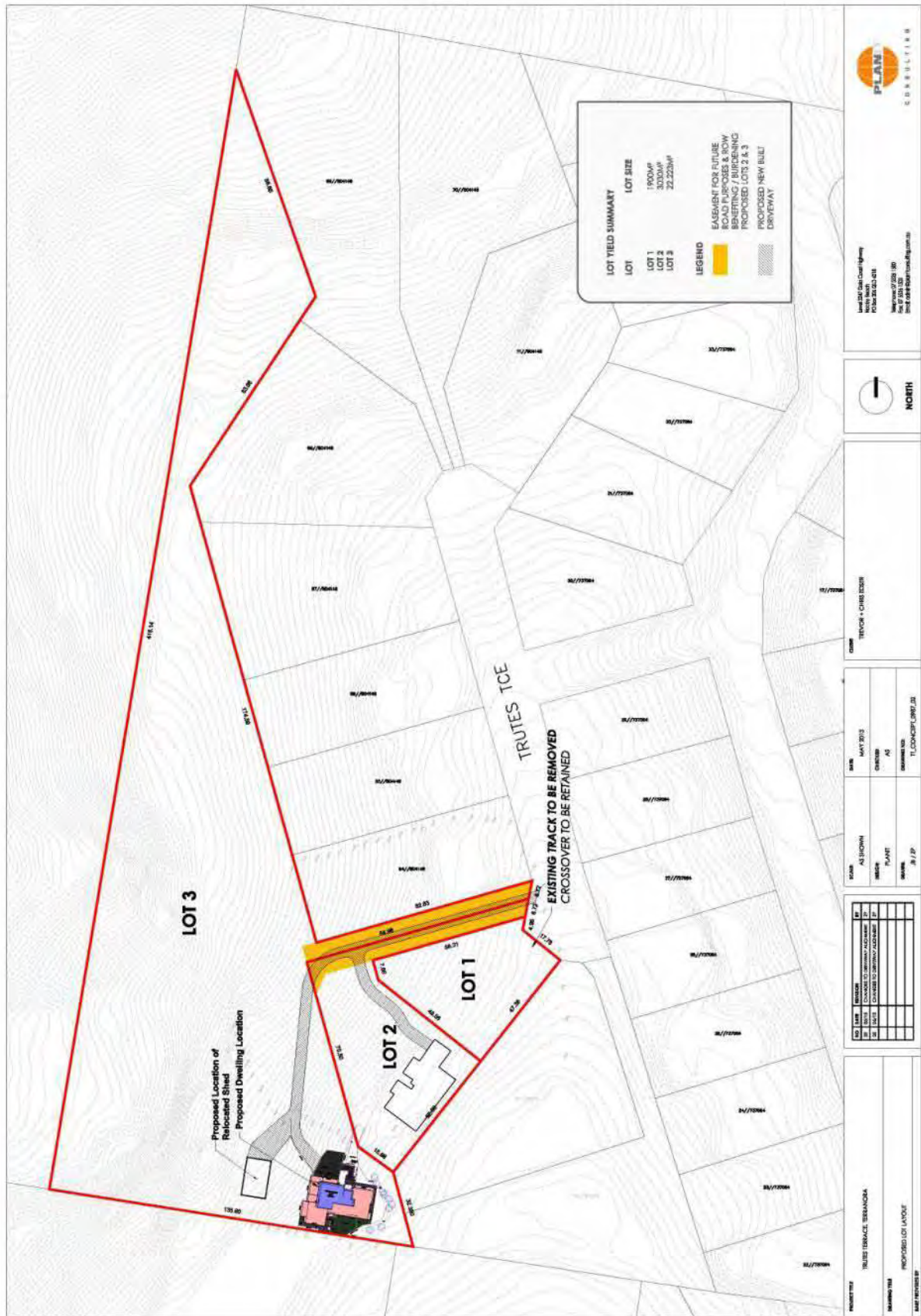
The proposed development is located in the 2(c) Urban Expansion zone which is intended for future urban development. The DCP Structure plan shows the subject site should accommodate approximately six low density residential homes and approximately 13 houses over a community title developments as shown on the figure below. The proposed subdivision is a massive under development and should be refused.

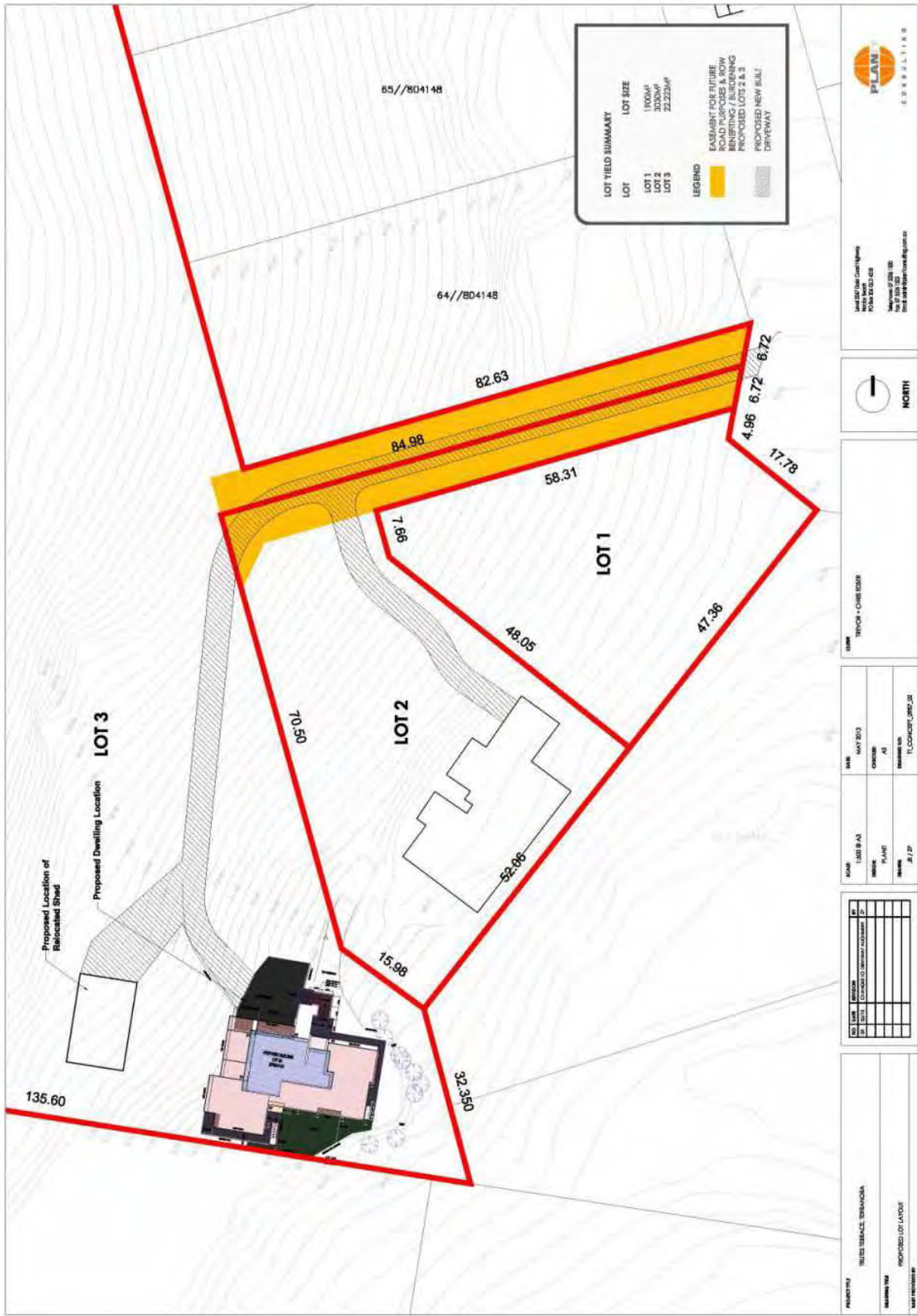


Area E Indicative Structure Plan (Figure 2.2 Draft DCP B24 page 22 from the Subdivision Section)

An assessment against the provisions of the urban subdivision objectives of Council's Development Control Plan Section A5 and Section B24 was deemed appropriate. The proposed development was assessed against the Tweed LEP 2000 and other relevant statutory controls and it was determined that the proposed two lot subdivision is not considered suitable. The proposed development is recommended for refusal.

DEVELOPMENT/ELEVATION PLANS:





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

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 4 - Aims of the Plan

The aims of this plan are:

- (a) *to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan which was adopted, after extensive community consultation, by the Council on 17 December 1996, the vision of which is:*
- “The management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced”, and*
- (b) *to provide a legal basis for the making of a development control plan that contains more detailed local planning policies and other provisions that provide guidance for future development and land management, such as provisions recommending the following:*
- (i) *that some or all development should be restricted to certain land within a zone,*
- (ii) *that specific development requirements should apply to certain land in a zone or to a certain type of development,*
- (iii) *that certain types or forms of development or activities should be encouraged by the provision of appropriate incentives, and*
- (c) *to give effect to and provide reference to the following strategies and policies adopted by the Council:*
- *Tweed Shire 2000+ Strategy*
 - *Pottsville Village Strategy, and*
- (d) *to encourage sustainable economic development of the area of Tweed compatible with the area’s environmental and residential amenity qualities.*

Strategic Plans

Clause 4 of the Tweed Local Environmental Plan 2000 states the following:

- (c) *to give effect to and provide reference to the following strategies and policies adopted by the Council:*
- *Tweed Shire 2000+ Strategy*

An assessment has been undertaken in regards to Council’s Strategic plans. There are three strategic plans which will be addressed with the Tweed Shire 2000+ Strategy and the Tweed 4/24 Strategic Plan being superseded plans and the most recent plan in force being the Community Strategic Plan 2011/2021. Although the earlier plans have been superseded they are still important in outlining the overall strategic plan for the Terranora area and the direction

Council has been working towards strategically for the area. Each of the plans have been assessed below.

Tweed Shire 2000+ Strategy

The Strategic Plan for Tweed 2000+ which has now been superseded was adopted on 17 December 1996. The Plan provides the broad directions for future planning in the Tweed. Within the policies and actions section, references specifically to Terranora 'Area E' are made as follows:

117. Green Belts *Open space green belts will be addressed by:*

- (e) *limiting development of Area 'E; at Terranora to the north-facing slope of the Terranora Ridge, so that the southern face remains as a forested backdrop to the Tweed River and agricultural land.*

122. Terranora (Area E) - *Subject to meeting other strategic requirements for integrated planning, the detailed local area planning for Terranora should include the following principles:*

- *A relatively high portion of large residential lots (i.e. minimum size of 800m²) because of existing development and scenic values*
- *Defined areas of potential dual occupancy and medium density development*
- *Controls over clearing of vegetation on land containing vegetation with habitat significance*
- *Housing not located directly adjoining wetlands or other significant vegetation, buffer areas provided with these based on local characteristics of vegetation, drainage and topography*
- *Houses not permitted on prominent ridgelines*

From the information above it can be seen that there are a number of strategic directions for the Terranora area. It identifies a number of issues which need to be addressed prior to the release of the urban land including *an infrastructure plan and development control plan*. If this subdivision was to be approved it would create a situation where there are increased numbers of owners and therefore this would make it increasingly difficult to strategically plan the area. The cumulative impact of approving this application could be that a number of other land owners in the locality undertake similar subdivisions thereby increasing the number of owners and allotments not suitably serviced for urban subdivision. The approval of this subdivision would create an undesirable precedent for the area. It is therefore considered that the proposed development should be refused.

Tweed 4/24 Strategic Plan

The Tweed 4/24 Strategic Plan which has now been superseded was adopted in September 2004. A key element of the strategy is as follows:

Urban Development. *Implement current plans for urban expansion including Cobaki and Bilambil Heights. Complete assessments of Terranora 'Area E' and Kings Forest. Retain green belts or buffers between settlements.*

Furthermore, Part 7 - Managing Urban Development outlines the following:

Continued urban expansion over the next two decades is inevitable. Substantial areas of land at Cobaki Lakes, Bilambil Heights, Kings Forest and elsewhere have been zoned for development for many years. Population growth has slowed somewhat in recent years, but remains strong.

Further urban development depends on improved infrastructure, including roads, water and sewerage, drainage and flood control, parks and a wide range of community facilities (education, health, police etc). Whilst some of this infrastructure is Council's responsibility, State and Federal governments, the private sector and community organisations all have important roles to play. Adequate funding and effective coordination are essential.

Challenges and Opportunities - *At current growth rates there is sufficient zoned land in the Tweed for 20-25 years residential development. In the short term there appears to be no need for Council to consider additional major release areas beyond those in the current Residential Development Strategy (Kings Forest, Terranora 'Area E' and Kielvale. However, the capacity of existing zoned residential land needs to be confirmed it is possible that some areas zoned for development may prove unsuitable or may not be released for many years. The likely extent of redevelopment for higher density housing in existing urban areas also needs to be assessed.*

Strategic Directions - *Council will liaise with developers to seek the timely release of zoned urban land to meet market needs. Master Plans for Kings Forest, Bilambil Heights (subject to adequate road access) and 'Area E' at Terranora (subject to rezoning) will be completed as quickly as possible.*

Four-Year Priorities

Urban Planning - *Review the likely capacity and timing of proposed urban release areas (Cobaki Lakes, Kings Forest, Terranora 'Area E' and Bilambil Heights) taking into account:*

- *Housing demand and affordability*
- *Infrastructure, road access and environmental issues*
- *Redevelopment potential in existing areas*
- *Needs for land for non-residential uses*
- *Possible alternative locations for development.*

It can be seen from the information above that Terranora 'Area E' is still regarded as an area for future urban development. A number of infrastructure improvements need to be completed before this can happen. It puts the onus on not only Council but landowners in the area. If the urban release is to go forward then Council needs to take a coordinated approach to the development. If this subdivision was to go forward then there would be an increase in land owners which could make it increasingly difficult to plan the area.

Community Strategic Plan 2011/2021

The Strategic Plan 2011/2021 is the current plan and was adopted by Council on 14 December 2010. *The Tweed Community Strategic Plan 2011/2021 is the community's 10-year vision for the Tweed, to protect the qualities that make the Tweed a great place to live and to create communities which are strong and well*

connected. This plan creates a framework to implement Council's four-year Delivery Program and annual Operational Plan, which will align the community's aspirations with the necessary strategy development, planning and resourcing required to achieve the long-term vision and deliver the outcomes.

The Community Strategic Plan outlines a number of other plans and policies which are to be used in conjunction with the Plan. These include the Tweed Urban and Employment Land Release Strategy 2009 which was implemented on 17 March 2009. This document is intended to examine growth options that would guide Tweed Shire towards 2031. Section 11 and 13 of this Plan relates to the directions for urban land development and implementation. Council could take a range of planning approaches or a combination of planning approaches to deal with growth and change over the next 25 years. A number of these are outlined as follows:

11.1 Rely on Existing Zoned Areas - *This option would see Council not rezone any more land for residential development over the life of the Strategy (till 2031) relying on existing zoned land to meet the demands of the market. Given the amount of land that Council has already zoned and the predicted growth rates, it is an option that would have some advantages. These would include allowing Council to concentrate on servicing the existing established areas and current zoned lands with infrastructure and social services; allow Council to focus on urban design issues; and allow Council to review existing planning controls (particularly DCP's) to better address local issues.*

13.1.3 Land Release - *The potential urban release lands nominated in this Strategy are considered in a short, medium and long term land release program based on a 0-10 year, 10-20 year and 20+ year time frame. This Strategy recognises the large existing supply of zoned land located predominantly at Kings Forest, Cobaki Lakes, Bilambil Heights, Area E and West Kingscliff and the role that these lands will play in supplying the residential needs of the Tweed over the next 10 years in particular.*

Terranora 'Area E' is still considered to be a major land release area identified within the strategic plan for Tweed Shire. For effective urban planning to be undertaken it is considered that the fragmentation of urban expansion zoned land should be limited. If this subdivision is approved it will set a precedent for other land owners to undertake similar types of developments reducing Council's ability to move forward with its urban release of the area.

Based on the above strategic plans outlined for the Terranora 'Area E' urban land release area it is considered that the proposed development would have a negative cumulative impact on the surrounding locality. It is therefore recommended that the proposed subdivision be refused.

The proposed development is not considered to be consistent with the aims of the TLEP 2000. The proposed development is not considered to be consistent with the vision of the shire "to manage growth so that the unique natural and developed character of the Tweed Shire is retained." The proposed development is for a three lot subdivision which does not comply with the primary objective of the zone as seen below, and the consent considerations contained within the TLEP 2000.

Tweed Shire 2000+ Strategy has been superseded through by both Tweed 4/24 and the adoption of the Community Strategic Plan 2011/2021. All three documents include references to Terranora 'Area E'; urban release area and have been assessed above.

The proposed development is non-compliant with the TLEP 2000 in terms of creating negative cumulative impacts being that it creates a precedent for other similar types of development to go ahead in the area. It is considered not to be in keeping with the aim of the plan in particular, that all development should be restricted to certain land within a zone and that specific development requirements should apply to certain land in a zone or to a certain type of development.

Clause 5 - Ecologically Sustainable Development

Clause 5 aims to promote development that is consistent with the four principles of ecologically sustainable development, being the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms.

To accommodate the onsite effluent as proposed for Lot 1, 100% vegetation clearance would be required and maintained to ensure onsite effluent is accommodated. It is considered that conservation of biological diversity and ecological integrity may be impacted, were this application to be approved.

Clause 8 - Consent Considerations

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

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

The land is within the 2(c) zone and the proposed subdivision is not consistent with the primary objective of the zone which is as follows:

"to identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its optimum utilisation consistent with environmental constraints and the need to minimise residential landtake."

It is considered that the proposed subdivision does not ensure optimum utilisation of the land. A secondary objective of the zone is to:

"enable planning flexibility to achieve the other objectives of the zone by means of detailed guidelines in a development control plan."

As the proposed development does not comply with Council's Development Control Plan Section A5 - Subdivision Manual as detailed later in this report it is considered that it also does not meet the secondary objective of the zone.

The proposed development if approved may result in unacceptable cumulative impacts. The creation of two additional freehold lots is an under utilisation of land and may encourage, or allow for further subdivision development in the

surrounding locality due to precedence. The subject site is within the 2(c) Urban Expansion zoned land and has been identified for future urban development. Allowing this subdivision could create a negative cumulative effect being the first subdivisions in the urban expansion area of 'Area E' which is underutilised and not serviced by the essential services outlined in Council's Development Control Plans (DCPs). It could lead to a number of other residents within the locality applying for similar subdivisions and hence reducing the likeliness of the area to be strategically planned for its future urban purposes. It is therefore recommended that the application be refused.

Clause 11 - Zone Objectives

The subject land is zoned 2(c) Urban Expansion. The objectives of the 2(c) zone include:

Primary objective

- *Identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its optimum utilisation consistent with environmental constraints and the need to minimise residential landtake.*

Secondary objectives

- *To allow associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents.*
- *To ensure that sensitive environmental areas within and outside the zone are protected from any adverse impacts of development.*
- *Enable planning flexibility to achieve the other objectives of the zone by means of detailed guidelines in a development control plan.*

The proposed subdivision is to create an allotment for the purpose of creating two additional lots for residential purposes. The proposal has not ensured its optimum utilisation as the zone is for future urban development. It is considered that the intent of the proposed subdivision does not satisfy the objectives of the Tweed LEP as both proposed lots will not be serviced in accordance with Council's Development Control Plan. Additionally, the subdivision may lead to establishing land use which conflicts with the future urban expansion and strategic planning for the Terranora area.

The proposal is therefore not consistent with the relevant zone objectives and recommended for refusal.

Clause 15 - Essential Services

Council's Strategic and Asset Engineer has provided the following:

Water

The site is currently serviced by an existing Council water main in Trutes Terrace. The developer proposes to leave this existing connection in place to the existing dwelling and to provide additional connection points for the proposed lots within the access handles of each allotment. This will require the construction of two new service connections from the existing line to the proposed Lots 2 and 3.

Water pressures at this location are around 80m and therefore sufficient protection such as a pressure limiting valve should be installed.

Sewer

The site as it exists is not serviced by Council sewer. On-site treatment exists for the existing dwelling and the Statement of Environmental Effects Report proposes the new lots shall also be serviced by onsite treatment. The Tweed Shire Council Development Control Plan: Section A5-Subdivision Manual requires that land in Zone 2(c) Urban Expansion must provide sewerage services to the lot as specified in Development Design Specification D12.

Pressure sewer currently exists up to 30 Parkes Lane (approximately 640 meters via road easement from the proposed development), however the downstream system has capacity limitations and no further extension can be permitted at this stage. The Parkes Lane limited sewer scheme was developed on a strictly limited basis of only permitting an additional 10 ET connection of which 5 are already connected or allocated. This scheme involves an additional charge of \$4320 per ET.

It is intended to provide a sewerage system to the Parkes Lane area when other development within Area E progresses to a point at which it will be economic. Prior to that, the development should be refused unless the developer can demonstrate how the requirement to connect to sewer in the short term can be met.

The alternative is for Council to find a way to circumvent the requirement of DCP Section A5.

Recommendation

The development should be refused on the basis that it cannot meet DCP Section A5.

Electricity services are currently provided to the area via Essential Energy infrastructure.

Telecommunication services are currently provided to the area via Telstra infrastructure.

As the proposed development cannot provide the essential services as required by Council it is considered appropriate to refuse the application.

Clause 16 - Height of Building

The site has a maximum building height of 9m from the finished ground level and a storey limit of three. The proposed dwelling with attached secondary dwelling has a maximum total height of 7.5m. It has been designed to incorporate two storeys. The proposal complies with the clause.

Clause 17 - Social Impact Assessment

An assessment under DCP A13 – Socio-Economic Impact Assessment has revealed that a Social Impact Assessment is not necessary for this type of development and accordingly Clause 17 is deemed satisfied.

Clause 19 - Subdivision

The objective of this clause is to provide a comprehensive system of planning controls for the subdivision of land in the Tweed local government area. The proposed development does not satisfy the provisions outlined for Area E and is accordingly recommended for refusal.

Clause 35 - Acid Sulfate Soils

Clause 35 of the TLEP 2000 requires Acid Sulfate Soils (ASS) management in relation to development where such is likely to be impacted upon. The subject site exhibits Class 5 ASS however, given the elevated nature of this site, acid sulfate soil is not considered a constraint. The applicant has provided an Acid Sulfate Soil Minor Works Plan and it is considered that ASS will not be impacted.

Clause 38 - Future Road Corridor

The objective of Clause 38 is to cater for the alignment of, and development in proximity to, future roads. Due to the location of the development within the 'Area E' Urban Release Area a 13.45m wide easement for future road purposes which will both benefit and burden Lots 2 and 3 is required. This has been included in the subdivision and can be conditioned if approved.

Clause 39 - Remediation of Contaminated Land

A Preliminary Site Contamination Assessment has been carried out which was reviewed by Council's Environmental Health Unit who responded with the following:

'dwelling sites on proposed lot 1 and 3 within the proposed subdivision of Lot 63 DP 804148 are unlikely to be significantly impacted by potential contaminants of concern and therefore suitable for the proposed residential use and in relation to potential site contamination associated with current or former agricultural activities, no remediation is required.'

It is therefore considered that the proposed complies with this clause.

Clause 39A - Bushfire Protection

The subject site has a portion which is identified as being bushfire prone land. The proposed development was referred to the NSW Rural Fire Service who responded on 5 September 2013 with one condition of consent to be included in the recommendations. The proposed development is being recommended for refusal however if required the NSW Rural Fire Service conditions can be inserted into any approval.

Clause 53D - Specific provisions for Terranora Urban Release Area E

The site forms part of the Terranora 'Area E' Urban Release Area and is subject to an assessment against Clause 53D of the TLEP 2000. Clause 53D(3)(a) specifies that the consent authority must not consent to development on land to which this clause applies unless it is satisfied that a development control plan has been prepared for the land.

Development Control Plan Section B24 has been adopted but not made by Council on 13 December 2011 and applies to the whole of the Urban Release Area.

At the Council meeting of 26 June 2012, Council resolved (Item 352) that:

"Clause 53D(3)(a) of the Tweed Local Environmental Plan 2000 is considered satisfied for minor works which do not affect the overall strategic objectives for Area E Terranora".

Minor development is considered not to intensify existing uses over the Urban Release Area. It is considered that a subdivision of land creating additional

residential allotments is not minor in nature and may affect the overall strategic objectives of Terranora 'Area E'.

The proposal does not raise any issues with regard to contamination, proximity to wetlands or non-compliance with Council's Tweed Urban Stormwater Quality Management Plan.

In addition, 'Area E' does not yet have an adopted S94 Contributions regime. Any increase in density could not be considered until an appropriate S94 regime is endorsed. This application does not propose to increase density on site and is therefore able to be considered as minor.

As such, this clause is considered to be unsatisfactory and refusal of the application is recommended.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

Clause 32B of the NCREP is applicable to this proposal as the subject land falls under the jurisdiction of the NSW Coastal Policy.

- (a) Council is required to consider the NSW Coastal Policy 1997 when assessing applications for development to which the policy applies. [In this case, the proposed granny flat does not contradict the strategic aims and objectives of the policy, owing to its residential nature and lack of impact on any adjoining water body.]
- (b) Council is also required to consider the Coastline Management Manual.
- (c) A consideration of the North Coast: Design Guidelines is required.
- (d) Public access to the foreshore must not be impeded. This proposal does not restrict access to any public foreshore area.
- (e&f) Council is required to consider whether the development would result in overshadowing of beaches or adjacent open space. This application does not result in overshadowing of any beaches or adjacent open space.

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

Clause 43: Residential development

- (1) The council shall not grant consent to development for residential purposes unless:
 - (a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,
 - (b) it is satisfied that the proposed road widths are not excessive for the function of the road,
 - (c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,
 - (d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and

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

As a single dwelling development with attached secondary dwelling, the proposed density reflects the surrounding density. However, the proposed development is recommended for refusal as the proposed is unable to be serviced by Council sewer and is underutilised as 2(c) Urban Expansion zoned land.

The proposal is therefore considered to be inconsistent with the relevant provision (a) of Clause 43 of NCREP 1988.

SEPP No. 55 - Remediation of Land

A Preliminary Site Contamination Investigation for Lot 63 DP 804148 prepared by HMC Environmental Consulting Pty Ltd dated April 2013 (Report: HMC 2013.027 CL) has been submitted. Council's Environmental Health Unit have assessed the report and have provided the following:

'HMC have advised that in relation to current or past landuse associated with agricultural activities, the two new nominated dwelling sites on proposed lot 1 and 3 within the proposed subdivision of Lot 63 DP 804148 are unlikely to be significantly impacted by potential contaminants of concern and therefore suitable for the proposed residential use and in relation to potential site contamination associated with current or former agricultural activities, no remediation is required.'

It is therefore considered that the proposed development is in accordance with the requirements of the SEPP.

SEPP No 71 – Coastal Protection

The subject land does not have frontage to the coastal foreshore reserve and therefore will not restrict public access to the foreshore. The development is not consistent with the zone objectives of TLEP 2000 as outlined in the report above. The proposed development additionally does not meet the minimum requirements of the relevant Council DCPs and is inconsistent with ESD principles and objectives. It is therefore considered that the proposal does not satisfy the matters for consideration under SEPP 71 and is recommended for refusal.

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

The Draft Tweed Local Environmental Plan 2012 relates to the subject site and zones the land R1 - General Residential. Within the R1 - General Residential zone the minimum subdivision size is 450m². The proposal complies with this minimum allotment size.

Clause 1.2 - Aims of Plan provides the following:

(2) *The particular aims of this Plan are as follows:*

(a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents.*

The greater strategic plan for the area is for future urban development as per Council's Strategic policies outlined above. It is considered that the proposed development is not consistent with the aims of the Draft LEP 2012 and is recommended for refusal.

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

Tweed Development Control Plan

A1 – Residential and Tourist Development Code

Given there is a site specific Development Control Plan for the subject site this Section of the DCP only applies to the extent of any inconsistency. The provisions in the site specific DCP are sufficient in this instance to assess the application.

A5-Subdivision Manual

The proposed subdivision has been assessed against section A5. The subject application was referred to Councils Development Engineering Section who provided comment on the application against the provisions of DCP A5. Further information was requested in relation to a number of DCP A5 issues relating to retaining walls and the proposed driveways. This information was not received as the applicant was advised that the proposal would be refused.

Relevant sections of A5 are addressed in more detail below:

A5.4.3 Physical Constraints

The Subdivision Manual (A5) requires that master planning of the site is undertaken to identify physical constraints, including environmental constraints on the development site or adjacent land. The intent is that urban form responds to the natural landform and drainage system, topographical features and environmental constraints. The proposal is not considered to be consistent with the approved DCP for the site, as detailed within this report.

A5.4. Environmental Constraints

A5 also requires that site constraints are identified including contaminated land, landslip, bushfire threatened species, ecological communities, coastal lands, significant vegetation, landscape character, acid sulfate soils, heritage or cultural items.

As detailed within this report, this application relates to the subdivision of a single allotment into three allotments for residential development. The proposal is to utilise onsite effluent disposal instead of servicing the site with sewer until it is available. As a result of this the proposed Lot 1 would require to be cleared of all vegetation to ensure the onsite effluent can be accommodated. It is considered that this may raise issues with the ecological communities and landscape character.

The proposed development is also located in an area as identified on the bushfire prone land maps. The proposed development was referred to the NSW Rural Fire Service who responded on 5 September 2013 with one condition of consent to be included in the recommendations. The proposed development is being recommended for refusal however if required the NSW Rural Fire Service conditions can be inserted into any approval.

A5.4.7 Storm Water Runoff, Drainage, Waterways and Flooding

The site is not flood prone and is not located in close proximity to waterways. The proposed development is not considered to increase the severity of stormwater runoff, impact drainage or increase the risk of flooding in the locality.

A5.4.8 Urban Structure

The Subdivision Manual seeks to ensure neighbourhood design is walkable, connected and includes an interconnected street network. It also considers that a network of well distributed parks should be provided that offer a variety of safe, appropriate and attractive public open spaces and to ensure a site responsive approach to urban development that avoids unjustifiable changes to the natural landform.

The urban structure has been dictated by the Draft Tweed DCP B24. The urban structure is considered to be inconsistent with the provisions of the DCP as the site is located within an urban release area which is not adequately serviced and is an underutilisation of the site in terms of dwelling density.

A5.4.10 Movement Network

This section of the Subdivision Manual seeks to ensure adequate street network and intersection design. The proposed development has included a future road reserve to adequately cater for the release of the urban area being Area E. It is considered that the proposal is inadequate in terms of the movement network given the inconsistency with the site specific DCP.

A5.4.11 Open Space Network

The proposed additional allotments do not generate the need for additional parks, however each lot would be required to contribute to the cost of local parks under a funding mechanism which has not been established.

A5.4.12 Lot Layout

Whilst the proposal complies with the minimum lot size for dwelling houses of 450m² and are of a regular shape capable of accommodating a building platform with a minimum dimension of 10m x 15m, the proposed development is located within the urban release area being Area E the three lot residential subdivision is considered to be an underutilisation of the site in terms of density. The development is therefore recommended for refusal.

A5.4.13 Infrastructure

The proposed development was referred to Council's Strategic and Asset Engineer who provided the following:

"The site as it exists is not serviced by Council sewer. On-site treatment exists for the existing dwelling and the Statement of Environmental Effects Report proposes the new lots shall also be serviced by onsite treatment. The Tweed Shire Council Development Control Plan: Section A5- Subdivision Manual requires that land in Zone 2(c) Urban Expansion must provide sewerage services to the lot as specified in Development Design Specification D12.

Pressure sewer currently exists up to 30 Parkes Lane (approximately 640 meters via road easement from the proposed development), however the downstream system has capacity limitations and no further extension can be permitted at this stage. The Parkes Lane limited sewer scheme was developed on a strictly limited basis of only permitting an additional 10 ET connection of which 5 are already connected or allocated. This scheme involves an additional charge of \$4320 per ET.

It is intended to provide a sewerage system to the Parkes Lane area when other development within Area E progresses to a point at which it will be economic. Prior to that, the development should be refused unless the developer can

demonstrate how the requirement to connect to sewer in the short term can be met.

The site is currently serviced by an existing Council water main in Trutes Terrace. The developer proposes to leave this existing connection in place to the existing dwelling and to provide additional connection points for the proposed lots within the access handles of each allotment. This will require the construction of two new service connections from the existing line to the proposed Lots 2 and 3.

Water pressures at this location are around 80m and therefore sufficient protection such as a pressure limiting valve should be installed.

The current site is not provided with sewerage reticulation and previous approval had allowed for an on-site sewage management system to service the site. Under Section A5 of this DCP the subdivision would require connection to sewage.

Following further correspondence with the applicant and a meeting with members of Councils Development Engineering Section, it was considered that it is unlikely that the applicant would be willing to provide information in relation to the number of issues raised in the Request for Further Information letter in relation to the provision of sewer facilities for each site. It is therefore considered appropriate to assess the application based on the information on the file.

The proposed development is considered to be in contravention of DCP A5, in particular Section A5.4.13 Infrastructure, and as such should be refused.

It is noted that Council's Environmental Health Officer made the following comment:

"On-site Sewage Management - Proposed Lot 1 is considered restrictive in size for a dwelling and associated structures and may not provide adequate area for social and recreational uses and landscaping/deep soil zones.

Consideration should also be given to whether it is desirable to remove the majority of existing vegetation on the proposed lots 1 and 2 for land application areas."

It was considered that the removal of 100% of the vegetation on site to cater for the proposed on-site effluent is not a desirable situation. As such it is considered appropriate to refuse the application based on the constraints.

Based on the information provided and the Council's strategic planning direction it is considered that the application is required to comply with the urban standards of this section of the Development Control Plan. The application is therefore recommended for refusal.

A11-Public Notification of Development Proposals

The proposed development was notified to surrounding neighbours for a period of 14 days finishing on Monday 19 August 2013 in accordance with the Development Control Plan. From this notification period there were no submissions received in relation to the proposal. The proposed development therefore complies with this section of the DCP.

B24-Draft Area E Urban Release Development Code

It should be noted that Development Control Plan B24 Area E Urban Release Development Code has been adopted but not yet in effect.

The aims of this section of the Development Control Plan are to ensure:

1. *Quality residential development that responds to aspect, slope and climate;*
2. *Protection and enhancement of natural bushland areas, waterways and land of high ecological value;*
3. *Provision of quality open space and public domain areas that meet the needs of the local and regional community;*
4. *Provision of integrated into pedestrian and cycleway networks;*
5. *Co-ordinated infrastructure provision to ensure efficient use of the land and efficient infrastructure supply and provision.*

It is considered that the development does not provide adequate infrastructure for the proposal and as such should be refused.

Proposed dwelling with attached secondary dwelling

Tweed DCP Section B24 has items relating to Development Applications in regards to design specifications as follows:

2.3 Design Principle 1 - Environment

Objectives

- *The environmental lands, natural watercourses and other natural systems are protected and retained.*
- *To preserve and protect land of high ecological significance from urban development.*
- *To encourage the enhancement of land with high environmental qualities.*
- *To provide for the rehabilitation and enhancement of degraded habitat and ensure that comprehensive rehabilitation plans form part of any future development applications or masterplans.*
- *To provide for the protection and improvement of existing hydrological conditions in Terranora Broadwater.*
- *To provide a natural growth boundary to residential development and visual relief for the proposed urban environment.*
- *To integrate localised 'green belts' into the urban footprint.*
- *To create additional wildlife corridors.*
- *To embody urban development within a park-like setting.*

If the development were to be approved with the on-site effluent disposal as requested there would be a requirement for all vegetation for Proposed Lot 1 to be removed. The proposed would therefore not enhance the environment. As such, the proposed development is recommended for refusal.

2.4 Design Principle 2 - Landscape Character and Views

Objectives

- *Maintain the integrity of ridge lines, valleys and natural topographic features as an important part of the localities character.*

- *Promote subdivision design which reduces the need for benching and significant cut and fill.*
- *To ensure site modifications, retaining walls and engineered elements do not adversely impact on the streetscape, or precincts character.*
- *The watercourses and vegetated drainage lines running through the site provide excellent visual, recreational, educational and environmental preservation opportunities and are to be integrated with opportunity for pedestrian links between.*
- *Realise and retain key visual character components of the site through a contemporary urban structure and built form.*
- *Provide view sharing and maintenance of view fields.*
- *Maintain important regional and local views.*
- *Preserve the visual amenity of and within the site.*
- *The identification and retention of green breaks, important feature trees/stands of trees and important view fields.*

The proposed development generally complies with this design principle. It is considered that the dwelling and attached secondary dwelling would not decrease the visual amenity of the area.

2.5 Design Principle 3 - Landforming

Objectives

- *Maintaining and respecting the landform – buildings and civil works are to be designed to landform rather than landform designed to buildings and civil works;*
- *Maintain the integrity of ridge lines, valleys and natural topographic features as an important part of the locality's character;*
- *Promote subdivision, building design and structural systems which reduce the need for benching and significant cut and fill;*
- *Understand the design relationship of slope to appropriate construction types to minimise cut and fill and respond to upslope, down slope, side slope and combination slope with appropriate design consideration;*
- *Adopt an overall bulk earthworks strategy that includes:*
 - *subdivision design which reduces the need for benching and significant cut and fill;*
 - *to limit modification of site levels at boundaries to maintain amenity to adjoining properties;*
 - *to ensure site modifications, retaining walls and engineered elements do not adversely impact on the streetscape character;*
 - *ensure that fencing on top of retaining walls does not adversely impact amenity of neighbouring properties or de-stabilise retaining walls;*
 - *where possible, the use of the stone found on the site should be incorporated into the retaining walls, although it is understood that this stone would not be suitable for structural elements of retaining walls.*

The proposed development only proposes minor earthworks. It is considered that the proposed development is consistent with this design principle.

2.6 Design Principle 4 - Road Layout Traffic and Transport

Objectives

- *As well as providing access for vehicles, streets and roads are to be pedestrian safe and friendly environments.*
- *Integrate the principles of WSUD into street and open space design.*
- *Progressively implement the construction of Broadwater Parkway, the primary road for the Area E Urban Release Area.*
- *The design of Broadwater Parkway is to create a sense of place through a range of public domain treatments and address pedestrian movement and comfort, efficient vehicle movement, and establish a key entry statement and journey to the overall character and appearance Area E.*
- *A road layout and design that provides integration between the existing urban fabric, particularly to the East and West, for an efficient bus transport option. Suitable locations and attractive bus shelter designs should be determined to further encourage this sustainable mode of transport.*
- *A road network and layout that establishes a clear and legible configuration contributing to way finding and establishing a strong streetscape character in terms of carriage widths, verge, street trees and implementation of water sensitive urban design principles.*
- *Adequate integrated bicycle facilities (parking and on/off street routes). Particular consideration should be given to providing East-West links throughout Area E that traverse the same contour, or provide minimal transition in elevation to further encourage this healthy and sustainable form of transport.*

The proposed development has incorporated a future road reserve through all three allotments as it is a requirement for access for the future development when Area E is released. It is considered that the road reserve is adequate to cater for any future development. It is however noted that development of the area should not be undertaken until adequate services can be provided for the urban release area. As such the proposal is recommended for refusal.

2.7 Design Principle 5 - Open Space

Objectives

- *Ensure a mix of active and passive open space to service the community;*
- *To integrate road layout with open space and pedestrian/cycle paths to achieve good access, connectivity and site permeability;*
- *The primary role of the open space is to ensure that the passive and active recreation needs of the proposed community are met. However, the open space is also expected to provide visual relief to the urban environment and to be designed to contribute towards an overall identity and a new 'sense of place' for the community (responsive to the unimproved nature and vistas characteristic of the undeveloped site);*

- *The design of the individual open spaces and overall network is to facilitate use by the community. Open space should incorporate design aspects of safety, accessibility, activity (through embellishments) and utility (e.g. slope, dimensions). The network in the area should acknowledge its role in the 'bigger system' by building upon and connecting to open spaces in surrounding areas;*
- *Ensure a diverse range of quality open spaces is anticipated to allow for diversity of recreation use and flexibility to meet the changing recreation needs of future generations;*
- *Ensure the provision of a structured open space facility within the Area E Urban Release Area;*
- *Encourage the delivery of alternate forms, uses and facilities for public open space;*
- *Provide a series of well designed public open spaces that contributes to the identity, amenity and wellbeing of the community;*
- *Provide open space that is conveniently and safely accessible to users, particularly pedestrians and cyclists;*
- *Ensure green linkages are provided through the residential precincts to connect the open space system into the greater (external) network;*
- *The open space areas are designed to ensure that land is not fragmented by physical barriers preventing use by those that it intends to service, including inhibited groups such as the frail;*
- *To ensure that open space areas comprise suitable dimensions, quality of land and are unencumbered by hazards;*
- *Provide opportunity for community gardens.*

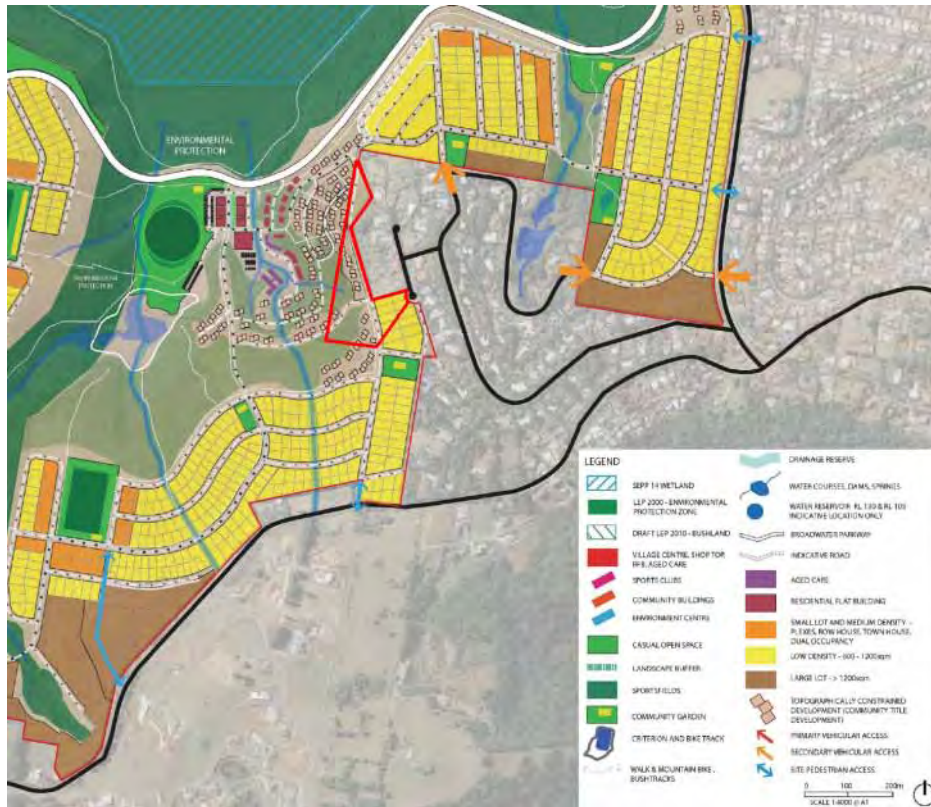
The proposed development is for a three lot subdivision. It is considered that open space is not required as a part of this application and contributions could be levied for this component.

2.8 Design Principle 6 - Dwelling and Allotment Mix

Objectives

- *To provide for a range of lot sizes and medium density integrated sites which will provide a broader range of housing types, sizes and housing choice for future occupants.*

The proposed development represents an under-utilisation of the site. As seen in the figure below, the site is envisaged for a broad range of housing types and sizes. The proposed development is for a three lot subdivision with a detached dwelling and attached secondary dwelling. The proposal has not ensured its optimum utilisation as the zone is for future urban development. It is therefore recommended that the proposed development should be refused.



Area E Indicative Structure Plan (Figure 2.2 Draft DCP B24 page 22 from the Subdivision Section)

2.9 Design Principle 7 - Urban Design, Streetscape and Public Domain

Objectives

- Public domain areas both within the village centre and residential areas are embellished to a high standard and reinforce the landscape character of the locality.
- Public domain areas are safe and accessible to all users.

Not applicable. It is considered that a three lot subdivision does not require public domain enhancements.

2.10 Design Principle 8 - Solar orientation

Objectives

- Encourage subdivision design which maximises opportunity for good solar orientation and access to prevailing breezes in terms of street layout and lot configuration;
- Encourage buildings which respond to the natural environment and climatic condition of the location;

The proposed development has been oriented for good solar orientation and has access to prevailing breezes. The applicant has provided shadow diagrams which comply with the provisions.

2.11 Design Principle 9 - Hazards and Resilience

Objectives

- Ensure that development is appropriately designed to accommodate for potential climate change impacts.

- *Ensure that any soil contamination is identified and suitably mitigated prior to the development of Area E.*
- *Provide only suitable development and landuses within land identified as affected by a Probable Maximum Flood.*
- *Minimise the disturbance of acid sulfate soils.*
- *Provide a subdivision layout that responds to and manages bushfire hazards.*
- *Incorporate design elements and urban buffers, such as lot size and orientation, perimeter roads or overland drainage reserves, to enable the maintenance of existing vegetation and provide adequate separation of residential landuses from any hazard.*
- *Ensure areas identified as 'currently unsuitable' are excluded from development for urban purposes or other purposes that are sensitive to soil stability.*

The proposed development is located within a mapped bushfire prone area. The proposed development was referred to the NSW Rural Fire Service who responded on 5 September 2013 with one condition of consent to be included in the recommendations. The proposed development is being recommended for refusal however if required the NSW Rural Fire Service conditions can be inserted into any approval.

2.12 Design Principle 10 - Infrastructure

Objectives

- *Progressively implement the design and construction of essential services for Area E and ensure coordinated and efficient delivery;*
- *Convey external catchment flows safely through the site;*
- *Preserve existing catchment boundaries and utilise existing water courses and gully lines for conveyance where practical and environmentally sustainable;*
- *Provision of minor and major stormwater collection and conveyance systems for the development land;*
- *Provision of stormwater quality control devices to meet Council's stormwater quality objectives in accordance with Development Design Specification D7 – Stormwater Quality;*
- *Provision of stormwater detention / retention devices and level spreaders to ensure that stormwater discharge from the development does not create significant adverse impacts on receiving water bodies, wetlands and environmental land.*

Section 2.12 - Design Principle 10: Infrastructure has the following:

A sewerage strategy for Area E was developed in the Banora Point Sewerage Strategy Study (September 1999). This strategy provides for a new regional sewer pump station to be constructed within Area E. Flow from the Terranora Village sub-regional pump station (SPS3033) will be intercepted and re-pumped through a new 375 diameter sewer rising main (SRM) direct to the Banora Point

Wastewater Treatment Plant, unloading the existing SPS3018 Fraser Drive. Recent analysis has shown that:

- *The estimated inflow to SPS3018 has increased over that anticipated when the 1999 Strategy was prepared.*
- *The disused 150 diameter SRM was placed in service some years ago to reduce the effect of the additional load.*
- *The existing SPS3018 is performing below the estimated peak wet weather flow.*
- *SPS3018 cannot be satisfactorily upgraded to adequately cope with the estimated interim inflow on the existing site.*
- *The corridor expected to contain the new 375 diameter SRM already has two active mains and it is considered that no additional mains should be constructed in that corridor other than the proposed 375 diameter main.*

Accordingly, further investigation of staging options is required to determine a suitable interim strategy to enable development to proceed.

The proposed development does not comply with the Development Control Plan in relation to servicing the site.

The development does not ensure co-ordinated infrastructure provision to ensure efficient use of the land. The proposed development is also an underutilisation of the land. The application should therefore be refused.

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

Clause 92(a) Government Coastal Policy

The proposed development is consistent with the objectives and strategic actions of the NSW Coastal Policy 1997.

Clause 92(b) Applications for demolition

No demolition is proposed with the application.

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

The site is not located within a coastal zone management area.

Tweed Shire Coastline Management Plan 2005

The site is not affected by the Tweed Shire Coastline Management Plan 2005. No further assessment is required.

Tweed Coast Estuaries Management Plan 2004

The site is not affected by the Tweed Coast Estuaries Management Plan 2004. No further assessment is required.

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

The site is not affected by the Coastal Zone Management Plan for Cobaki and Terranora Broadwater. No further assessment is required.

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

Context and Setting

The proposed subdivision whilst considered minor in nature by itself, could set an undesirable precedent and create a negative cumulative impact upon the locality. As outlined previously, the subdivision is located within the Terranora 'Area E' Urban Release Area. If this application was to be approved it would create a precedent for a number of other similar applications to come in creating a large number of smaller allotments with numerous landowners making it difficult to strategically plan the area as envisaged by the adopted DCP. A number of infrastructure issues need to be rectified before this happens.

Flora and Fauna

The proposed development would require Lot 1 to be cleared of all vegetation to ensure the On-site Effluent is sufficient. It is considered that the clearing of 100% of the vegetation on the proposed lot is undesirable and should not be supported in this instance.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The proposed development is located within the Terranora 'Area E' Urban Release Area. The surrounding sites are currently of a similar size as the subject site and utilised for residential purposes. The sites are located within the 2(c) Urban Expansion zone and are earmarked for future urban development. The fragmentation of land zoned urban expansion in the area should be limited until such time that the urban release is going to be undertaken. The cumulative effect if all (or a significant number) of allotment owners in the vicinity of this development did the same, would be significant.

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

Public Submissions

The proposed development was notified for a period of 14 days finishing on Monday 19 August 2013 in accordance with the Act and Regulations. There were no submissions received in relation to the proposed development.

Rural Fire Service

The proposed development was referred to the NSW Rural Fire Service who responded on 5 September 2013 with one condition of consent to be included in the recommendations. The proposed development is being recommended for refusal however if required the NSW Rural Fire Service conditions can be inserted into any approval.

(e) Public interest

The proposed three lot subdivision and dwelling with attached secondary dwelling is of a relatively minor scale and nature however should the application be approved, it would set a harmful precedent for the continued urban release of the area. As such it is considered that the proposal is not in the public interest.

OPTIONS:

That Council:

1. Refuses this application in accordance with the recommendation for refusal; or

2. Requests the applicant to withdraw their Development Application and re-lodge an amended application which better align with the site specific Development Control Plan and which considers and establishes a Developer Contributions funding mechanism for services within Area E including (but not limited to) sports fields, the Broadwater Parkway, environmental restoration, and drainage issues.

CONCLUSION:

It is considered that the overarching purpose of the Environmental Planning and Assessment Act 1979 and its associated documents is to secure the orderly development of land. This includes having the necessary infrastructure available in order to service the development. The proposed three lot subdivision cannot be adequately serviced with reticulated sewer and is considered to severely undermine the broader strategic plans for the subject site as it represents a massive under development of prime residential land. For these reasons the application is recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

20 [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:

This is a report on the NSW Government's proposed model for stand-alone Aboriginal cultural heritage legislation, which is the current phase of the Government's broader Aboriginal cultural heritage legislative reform.

The consultation documents; *Reforming the Aboriginal Cultural Heritage System in NSW*, released by the Office of Environment and Heritage are being exhibited and are open for public submission until 14 February 2014.

An evaluation of the proposed structural reform based upon the information within the consultation documents illuminated both new positive elements arising from the reform as well as uncertainty from the lack of clarity and detail in the documentation and which collectively prompted the need for this report and the drafting of a submission.

Whilst reform of heritage laws is proposed at both the Commonwealth and State level, this report and the submission drafted is concerned only with the NSW State reforms.

RECOMMENDATION:

That Council 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

Commonwealth Reform

The Australian Government; Department of Environment, Water Heritage and the Arts, commenced its review of reforming the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, as well as other related Acts, and released its discussion paper: *Indigenous Heritage Law Reform*, in August 2009.

The Commonwealth recognised that achieving a system to ensure Indigenous Australians would have the best opportunities to protect their heritage, to cut red tape and duplication, would require significant change and would need to culminate with a nationally consistent approach to protection. A key recommendation of the reform was a system of accreditation and best practice standards premised on three critical elements: clarifying responsibilities, improving procedures, and making sure that protective and enforcement measures worked effectively.

In its most basic interpretation the reform would yield one of two opportunities for the States and Territories: a system of accreditation for their own laws to be based on a consistent set of standards, or alternatively the adoption by a State or Territory of the Commonwealth's model codes.

In response to the Commonwealth's approach to reform, the New South Wales Government committed to reviewing the State's laws. Central to the review undertaken by the Aboriginal Cultural and Heritage Reform Working Party, as appointed in 2011, was the level of consistency or 'compliance' of the current legislative scheme with the national system proposed by the Commonwealth, using the 20 proposed Commonwealth accreditation standards as the benchmark.

The Working Party reported that the current State legislative scheme would not likely meet the proposed new accreditation standards and this in turn presented the NSW Government with an opportunity to reform the State's heritage protection laws if it was to retain legislative independence in this area.

NSW State Reform

It is evident that views have changed since the legal protection of aboriginal heritage was included within the *National Parks and Wildlife Act 1974* (NPWA) and sufficiently so that there now prevails an acknowledgement of the right of Aboriginal people to have a substantial say in the manner in which their cultural heritage is protected and managed.

It is broadly accepted that the NPWA has limited roles for Aboriginal people specifically relating to their involvement and oversight of aboriginal heritage and is concentrated instead on the protection and conservation of 'places' and 'objects'. This reflects the Act's origin of having an archaeological perspective with its predominant focus over tangible cultural heritage, which belies the longstanding disconnect between Aboriginal and non-Aboriginal peoples understanding of what constitutes Aboriginal cultural significance.

In late 2011 the Office of Environment and Heritage (OEH) commenced a process to develop options for the reform of the State's Aboriginal heritage laws, aimed at improving the protection of Aboriginal cultural heritage. Consistent with the recommendations of the Commonwealth's heritage law reform proposal of 2009, the State Government was to embark on a reform that would have central to it the clear demarcation of the roles and responsibilities of the key stakeholders, and one that would see government shifting into a

support-based role for Aboriginal people who would be represented through various committees and councils.

A discussion paper seeking community and industry feedback on a wide range of matters related to the management and protection of Aboriginal cultural heritage was released at this time. Consultation based on the discussion paper was held throughout NSW in late 2011, with Council staff and community representatives attending sessions in Coffs Harbour and Tweed Heads.

Following this initial consultation, an Aboriginal Culture and Heritage Reform Working Party was established to advise the NSW Government on options for the protection and management of Aboriginal culture and heritage. The terms of reference for the working party are outlined in the exhibition material.

The working party developed a discussion paper and broadly the majority of the recommendations of the working party have been incorporated into material currently on exhibition, which includes:

- *Reforming the Aboriginal Cultural Heritage System in NSW Discussion Paper*
- *Comparing the NSW Aboriginal heritage system with other Australian systems*
- *How the Aboriginal heritage system works*
- A suite of Fact Sheets

The full suite of exhibition information may be accessed on the OEH website at: <http://www.environment.nsw.gov.au/achreform/>

Submissions on the proposed legislation reforms are invited, with the closing date recently extended to 28 March 2014.

OEH Information sessions

A number of Council staff attended an OEH Aboriginal Cultural Heritage legislation reform information session at Ballina on 27 November 2013. The session provided a brief overview of the changes, including the linkages of this legislative review to a large number of Acts concurrently under review, including:

- The Environmental Planning and Assessment Act (Planning Reform Bill)
- Stand alone Draft Aboriginal Cultural Heritage legislation
- National Parks and Wildlife Act amendments
- Aboriginal Land Rights Act
- Native Vegetation Act
- Protection of the Environment Operations Act
- Strata Titles Act

The session did not provide extensive explanation of the legislative reforms, focussing instead on small group discussion based on several 'themes' of the proposed reforms.

Aboriginal Community liaison

A number of representatives from the Tweed/Byron Aboriginal community also attended the OEH legislation reform information session in Ballina.

The draft Tweed Shire Council submission was forwarded to the Aboriginal Advisory Committee (AAC) in late November for their review. The AAC members considered the

submission at their meeting of Friday 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 will be collating their own submission(s) raising similar and further concerns with the proposed legislative reforms.

Discussion

Generally the intent to reform Aboriginal Cultural heritage (ACH) legislation to ensure more appropriate understanding and recognition of the wider range of Aboriginal cultural heritage issues? and to incorporate that into stand alone legislation is supported. Similarly the premise that the Aboriginal people who hold local knowledge are the appropriate people to identify their Aboriginal cultural heritage, what is significant and how potential impact on this cultural heritage should be managed, is also supported.

In general the legislation proposes the following:

- Stand-alone Aboriginal cultural heritage legislation.
- New definitions for Aboriginal cultural heritage.
- Establishment of Local Aboriginal Cultural Committees LACHC comprised of up to 10 Aboriginal community members under the governance of the OEH Heritage Division. The size/boundary of the area a LACHC is yet to be determined.
- The committee will be a single point of contact tasked with preparing the mapping, plans of management, assessment and management of all development referrals, negotiation with the development industry on Project Agreements.
- Mapping and Plans of management are to be approved by the OEH. OEH will maintain an ACH register. Mapping is to identify 'no or low ACH', 'high ACH value' and 'incomplete ACH value'.
- Introduction of Project Agreements for consideration in the planning process
- Links to the planning system.
- Maintenance of compliance and enforcement penalties, defences and exemptions.
- A process for managing unexpected finds.

Despite the many positive reforms proposed there remain several areas of concern and these are addressed in more detail within the submission attached. A summary of those concerns follows.

Qualification of ACH Advisory Committee Members

It is proposed that the legislature will create a new stand-alone Act to be known as the *Aboriginal Cultural Heritage Act* (ACH Act), complete with a corresponding *Regulation*. The Regulation, as is the longstanding legislative practice, will provide the machinery of how the Act will actually work by providing the detail on timeframes, appointments, penalties, standardised procedures and practices and the like. Importantly the ACH Regulation will set out the requirements and terms of reference for the establishment of the new Aboriginal Cultural Heritage Advisory Committees.

The Government is proposing to regulate the qualifications of the committee members through the Regulations and will seek to limit entry to only those Aboriginal people with relevant skills, knowledge of planning and legislation and experience in ACH matters.

The concern is that many Aboriginal people within the local community possess extensive knowledge and experience with their cultural heritage but may not possess those other 'relevant skills'. The implication from a definition of 'relevant skills' that is too narrow would

likely operate to exclude certain members of the community who might otherwise be best placed to speak for country and possess the greatest knowledge about the culturally significant issue.

It is recommended that any such definition be sufficiently flexible, for example s79 of the *Evidence of Act 1995* (NSW) which speaks of "specialised knowledge", to capture rather than exclude members whose knowledge is sufficiently specialised in at least Aboriginal cultural heritage plus one other area. If, as the Government claims, the Aboriginal committees are to be supported by government, then the Government's Aboriginal Liaison Officers should be able to provide the committees with the relevant expertise on planning and legislation in the interim to the government instituting training and education programs.

Resourcing

The discussion paper addresses resourcing of Project Plans to inform development and local planning decisions however, there is no information on the significant financial resourcing that will be required if, as proposed, the Local Aboriginal Cultural Heritage Committees will have the responsibility for preparing the ACH mapping, plans of management. Equally, how the Committees will be resourced to manage case by case assessment of applications within the proposed 'fit-for-purpose' regulatory scheme and to negotiate with large and powerful development industries and businesses remains very unclear and uncertain, particularly in an environment where the ACH Regulation is set to include tight timeframes for this to occur.

Mapping and Plans of Management

The preparation of the mapping and plans of management represents a significant body of work and may require significant resourcing. The discussion paper does not provide sufficient information on the timing and methodology for the preparation of the mapping and plans of management and consequently the extent of the resourcing required is indeterminable.

Consistency in the approach by Aboriginal groups across the State to the identification and mapping of ACH significance and the structure of the plans of management will be critical to the understanding of how mapping has been developed and how it is being used across the State.

Consistency will also be a critical factor in providing resourcing and skills development to enable Aboriginal communities to develop the required maps and plans of management with the leadership and resourcing they will require within the required timeframes. Who will deliver this assistance and support, state or local, also remains unclear because the documentation also fails to address how government itself will be resourced to deliver those services.

Security of data and information

A key factor in the development of ACH mapping is agreement with the community on the level of information accessible to the wider community. The discussion paper is insufficiently detailed to enable a reasonable understanding of how the more sensitive ACH data is to be managed and protected.

Flexible regulatory processes - Project Agreements

The proposed legislation identifies a 10 day turn around for the Local ACH Committee (LACHC) to reach agreement on a Project Agreement. If no agreement is reached a project may proceed with caution, that is, it is considered deemed to satisfy consultation requirements. This is an area of great concern given that the LACHC will be required to

liaise with the communities they represent, reach agreement between Aboriginal community representatives and negotiate with the developer.

Where the 10 day timeframe is not met, an applicant may proceed with caution and without a 'Project Agreement'. Without an agreement being reached with the LACHC, the developer could not be expected to know what values and significance exist and therefore what, if any, protective measures are required.

It is widely known and accepted that proper identification and consideration of the issues takes substantially longer than 10 days to achieve. Whilst many Aboriginal and non-Aboriginal people would agree that current timeframes are often too long, a rigid application of 10 days without distinguishing the nuances and complexities that can and often do occur between projects on a site by site basis will lead to a failure of the Act to deliver the "better protection" the reforms claim to ensure.

The NSW Government has a long history of benchmarking its performance on time performance indicators. It is not a system that has been applied uniformly and consistently either neither across the planning system nor between the State and local authorities. More information and detail is required on how this time performance benchmark is likely to improve rather than hinder the protection of the State's Aboriginal cultural heritage.

As an alternative the Government could evaluate performance indicators to monitor the impact of time delay relative the constraint(s) of a proposal. This may lead to periods of assessment greater than 10 days; however it will provide a more accurate barometer of how it impacts on the economics of the proposal and therefore the economy as a whole, which, reading between the lines, is a further and considerable driving force for the reforms. The economic impact, where it occurs, can then be calibrated (cost benefit tested) against the potential loss of the culturally significant matter, where it exists, to determine whether the longer timeframes are justified.

Calibration of the system is essential and should both proceed from a precautionary standpoint and be preferred to the hardline approach this particular reform proposes.

Relationship to the Local Environmental Plan

The proposed legislation is unclear as to whether the mapping of ACH is to be included within a Council's local environmental plan (LEP), translated into the proposed planning legislation reforms as a "Local Plan". The term "local land-use plan" used in the proposed legislation is not used in the Planning Administration Bill 2013 and it is not clear if this reference means the LEP/Local Plan or more generically other strategic planning.

The standard LEP template has been structured to address ACH together with European heritage within Clause 5.10, as listed in Schedule 5 Environmental Heritage and as mapped on the 'Heritage Map'. This is supported by the Ministerial *S117 Direction*.

TSC has been actively working towards meeting the objectives for including ACH within the LEP through the development of the Aboriginal Cultural Heritage Management Plan, which includes mapping layers, a thematic history and a comprehensive management plan, with the mapping to be included in the Tweed Shire LEPs and the management plan to guide "what happens" where subject land is mapped.

Context with the TSC Aboriginal Cultural Heritage Management Plan

TSC is well advanced in the preparation of a draft Aboriginal Cultural Heritage Management Plan (ACHMP) with the assistance of heritage consultants Converge Heritage + Community and the Aboriginal community. This project has been ongoing for 18 months and has incorporated extensive consultation with the Aboriginal community.

The ACHMP project has been a collaborative process bringing together the leadership and skills of the consultants and Council, the local knowledge and information of the Aboriginal community, the input of other State agencies, and the support and financial resources of both TSC and Office of Environment and Heritage (OEH). The support and co-operation of all involved has been critical to the process and has resulted in the development of draft mapping, a draft management plan and relationship building between the Council and the Aboriginal community.

An overview of this project was given to a Councillor workshop on 7 November 2013.

The intent of the proposed legislation appears to generally correlate with the draft mapping currently being prepared, though the application of the mapping and its end inclusion within the Tweed Local Environmental Plans remains unclear at this stage.

Notwithstanding, the information and mapping developed in the TSC ACHMP should be able to inform and/or be adapted to the proposed stand alone ACH legislation.

OPTIONS:

1. Council resolve to forward the attachment as a Tweed Shire Council submission to the Office of Environment and Heritage; or
2. Council resolved not to forward the attached submission to the Office of Environment and Heritage; or
3. Council resolve to defer sending a submission subject to further discussion at a Councillor workshop.

CONCLUSION:

The reform of Aboriginal heritage laws in NSW aims to expand the protection of Aboriginal cultural heritage to include tangible and intangible cultural heritage and to be developed as stand-alone legislation. This is a new approach and is supported however, as is common with legislative reform the extent of potential implications cannot be fully understood in the absence of the legislation itself.

It is clear from the discussion papers that the State Government is shifting toward a model of heritage protection whereby the process of identification and management is prepared and maintained by Aboriginal people, which is an acknowledgement of those people who are best placed to so; the Aboriginal people are the custodians of their cultural knowledge for their country and represent the only people who can both articulate the elasticity of its significance and understand its currency when subjected to negotiation.

The Government's approach to the reform and the model presently being canvassed with the broader community marks a clear shift from the current system of heritage protection in NSW. It incorporates many positive reforms however there remains significant gaps in the information about the roles and functions of key stakeholders. There is little discussion about the role of local government as it is today; managing and protecting cultural heritage through LEPs and DCPs, and whether it will continue to have a strategic function or whether it will become simply a recipient of the plans and mapping prepared by the ACH Committees through the development and planning proposal assessment systems.

Similarly the resources, 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 these are not addressed sufficiently to enable a proper assessment of critical elements of the performance of the reforms proposed.

In addition, Tweed Council is well advanced in the preparation of a shire-wide Aboriginal cultural heritage management plan, which seeks to recognise and protect Aboriginal cultural heritage identified through a rigorous assessment process undertaken in consultation with the Tweed Aboriginal community. It is anticipated that the methodology followed will broadly be consistent with the proposed legislative reforms and whilst this is welcomed and should bring about a more expedient implementation of the Shire's Aboriginal cultural heritage protection it is also unclear whether Council will be asked to hand-over its data to the EOH or ACH Committee. Ultimately, it is unclear how the process will affect the positive relationship that exists between the Council and the Tweed's Aboriginal community. The reliance and trust each has with the other is essential for the effective ongoing management of development and strategic planning assessment processes.

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. Submission on Reforming the Aboriginal Cultural Heritage System in NSW (ECM 3258993)

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

21 [CNR-CM] Chinderah Pontoon - Independent Advice

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
4.1.3	Manage and regulate the natural and built environments

SUMMARY OF REPORT:

Council staff were requested by way of a resolution on 21 November 2013 to bring forward a report on seeking advice on ecological impacts of the proposed Chinderah Pontoon, particularly on the Lillie's Island and other seagrass beds.

This report presents information relating to quotes received from relevant environmental consultants to undertake the range of tasks itemised in the resolution. For reasons of commercial confidence, the quotes themselves have been included as confidential attachments to this report.

While the quotes received represent a well considered approach to the list of issues to be investigated in the Council resolution, it is not considered that engagement of specialist consultants is necessary to prepare a satisfactory review of environmental factors and Part V application for this project. Expertise is available within Council to address all the matters identified in the 21 November resolution, and the Part V application will be objectively assessed by Council's Development Assessment Unit and a number of State Government Agencies.

RECOMMENDATION:

That:

- 1. The Review of Environmental Factors (REF) and Part V application for the proposed Chinderah pontoon be completed internally without engaging additional consultants to provide specialist advice in accordance with the resolution of 21 November 2013.**

2. **ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act 1993, because it contains:-**
- (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:

At the Council meeting on 21 November 2013 it was resolved as follows:

Council brings forward a report on seeking advice on ecological impacts of the Chinderah Pontoon particularly on the Lillie's Island and other seagrass beds. This advice to include:

- 1. A brief literature review of relevant documents, including but not limited to, The Tweed River Wake Study, the Land and Environment Court judgement on the Chinderah Marina, recent Council reports on commercial wakeboarding applications.*
- 2. Likely ecological impacts from the pontoon, including construction, and associated boat and wake activity in the Chinderah Bay region and surrounds, including on seagrass or other marine ecology, particularly the Lillie's Island seagrass bed.*
- 3. Potential for increased erosion from associated boating activity.*
- 4. Visual impacts including on World Heritage vistas and vistas of High Conservation Value areas.*
- 5. Options to reduce environmental impacts including fish friendly / eco friendly design that could blend into the landscape.*
- 6. Recommendations for appropriately located signage to protect the high conservation areas in this region from boat traffic and inappropriate visitation.*
- 7. Recommendations for monitoring and evaluation of ecological impacts, including options for evaluation via a staged construction approach.*
- 8. Recommendations for further studies if required, including but not limited, to consideration of a pollution disaster management plan, a flood disaster management plan, and a debris removal management plan.*

Action

Council officers requested three environmental consulting firms to provide a quote to undertake the range of studies outlined in the resolution. The three firms approached have relevant expertise in the assessment of impacts on aquatic ecology and preparation of management plans for estuaries. Two firms, Australian Wetlands Consulting and Hydrosphere, responded to Council's request and have provided detailed methodologies and quotes which are contained as confidential attachments to this report.

The lowest tendered fee for undertaking the full suite of studies outlined in the Council resolution is \$15,518. Investigations and reporting would require between three and six weeks to complete, but could be delayed by weather, including flooding and associated river turbidity.

Consulting firms were also asked to provide an assessment of what portion of the full suite of study tasks could be completed for the sum of \$3,000.

Each firm has advised the following tasks could be undertaken:

Australian Wetlands Consulting

- Briefly review key documents noted in the resolution
- Investigate the potential for ecological impacts in light of that literature
- Prepare a preliminary visual impact assessment
- Prepare a short findings and recommendations report

Hydrosphere

- A brief literature review and summary
- A site visit to provide an overview of the study area features
- A short report (letter) on the potential significance of the seagrass and potential impacts, commentary on the erosion risk and visual impacts and recommendations for further studies

Assessment

The submissions provided by each of the firms are well considered and address the key points raised in the Council resolution of 21 November 2013.

Based on price and the detail of the methodology proposed, it is considered that the submission from Australian Wetlands Consulting is the stronger of the two received.

It is not considered that there would be any value in engaging a consulting firm to undertake a brief review of key documents with a price ceiling of \$3,000. This level of analysis would not produce anything more detailed than what has previously been presented to Council.

Should Council elect to engage an external consultant to undertake the study as proposed in the resolution of 21 November, staff will still need to incorporate all relevant findings into an REF to accompany a Part V approval.

It is noted that there are no funds available within the existing project budget, or within the Waterways Program generally, to undertake the studies called for in the 21 November resolution.

It is considered that Council officers have the local knowledge, skills and experience necessary to prepare an REF that incorporates the issues raised in the 21 November resolution. The key aspects of the proposal that have been identified in the 21 November resolution, that being seagrass, river bank erosion, visual impact, design and signage can be completed without the significant additional expense, project delay and management resource required to engage an external contractor.

Once completed, an REF and Part V application for the proposed Chinderah pontoon will be assessed by Council's Development Assessment Unit, and referred to a number of state Government Departments that have carriage of legislation relating to protection of environmental attributes potentially affected by the proposal. It is considered that the level of scrutiny inherent within this standard process of environmental impact assessment is sufficient to ensure that a rigorous analysis of all potential impacts associated with the proposed Chinderah pontoon is achieved.

OPTIONS:

1. Appoints an external consultant to undertake the range of tasks identified in 21 November 2013 resolution.
2. The Review of Environmental Factors (REF) and Part V application for the proposed Chinderah pontoon be completed internally without engaging additional consultants to provide specialist advice in accordance with the resolution of 21 November 2013.

CONCLUSION:

There is no budget within the Waterways Program to undertake the additional studies called for in resolution of 21 November 2013 relating to independent advice on the environmental impacts of the Chinderah Pontoon. It is not considered that the engagement of independent specialist consultants will result in the preparation of a more valid REF for the proposed Chinderah Pontoon Part V application.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

As per the body of the report the cost to engage a consultant to prepare the necessary studies would be \$15,518. There is no budget allocated for this work.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Methodology from Hydrosphere (ECM 3261058)

(Confidential) Attachment 2. Methodology from Australian Wetlands Consulting (ECM 3261071)

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22 [CNR-CM] Revolving Energy Fund Investment Repayments

SUBMITTED BY: Natural Resource Management

Valid



Civic Leadership



Caring for the Environment

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
 - 4.1 Protect the environment and natural beauty of the Tweed
 - 4.1.2 Environmental Sustainability
-

SUMMARY OF REPORT:

In 1997 Council established an energy fund as part of its commitment to reducing greenhouse gases within its operations.

The current funding conditions of Council's Revolving Energy Fund are too onerous, less attractive than private finance and ineffective in realising energy savings back into Council budgets.

An internal energy working group has reviewed the funding conditions and recommends a change to make the use of the fund more attractive for Council energy efficiency projects, therefore making funding available for other energy-savings works in future.

RECOMMENDATION:

That Council improves the effectiveness of the Revolving Energy Fund by reintroducing a 'sunset clause' to limit the contribution of energy cost savings from energy efficiency projects on Council facilities to 75% of savings for four years following the full repayment of the initial capital.

REPORT:

Background

In 1997 Council established an energy fund as part of its commitment to reducing greenhouse gases within its operations.

The Revolving Energy Fund (REF) was set up to provide an internal source of funding to cover the capital cost of energy efficiency improvements to Council facilities. Capital from the REF was to be repaid by the savings in energy costs and ongoing repayments of half of the energy cost savings were made for a further five years for the purpose of pursuing further energy conservation and green energy programs.

In 2007 Council funding conditions for the Revolving Energy Fund changed to require:

- a) 100% of quarterly savings achieved through energy efficiency measures be set aside into the Revolving Energy Fund until the capital expenditure has been returned to the fund.
- b) Once the capital expenditure has been recovered, 75% of the quarterly savings be set aside into the Revolving Energy Fund on an ongoing basis.

Since the start of the REF, energy efficiency measures with a capital cost of \$120,000 have been funded by the REF. Projects have included lighting retrofits, the installation of a variable speed driver motor in an air conditioning unit, power factor correction, and solar pool heating. Payback periods have ranged from six months to eight years.

Review of REF funding conditions

Council teams who have initiated energy efficiency projects funded under the REF find the '75% of savings repaid to the REF on an ongoing basis' condition to be too onerous, less attractive than private finance and therefore ineffective in realising energy savings in Council budgets.

As a result REF money has not been used for Council energy efficiency measures for several years. The REF is currently holding a balance of just over \$200,000.

An internal energy working group reviewed the REF conditions in comparison with private finance terms. They have recommended amending the REF repayment conditions to limit 75% energy cost saving contributions to four years once the initial capital has been repaid. The recommended change is anticipated to make the REF competitive with private finance conditions while enabling reinvestment of Council energy cost savings to enable future investments in energy efficiency projects.

The energy working group are awaiting the outcome of Murwillumbah Civic Centre and Tweed River Aquatic Centre energy audits to identify energy efficiency initiatives and energy cost saving options with attractive payback periods for REF investment.

Related programs - Climate Change Fund

In April 2013 Council resolved to allocate \$100,000 to a Climate Change fund in the 2013/14 budget and each subsequent budget to implement actions relating to Council's Sustainability Officer and that any savings recouped such as energy efficiencies are reinvested into the fund.

\$75,000 has been set aside from the water and sewer fund to audit and assess ways of maintaining operations in water treatment plants in more energy efficient ways. \$25,000 has been allocated from the general fund to be used under the same conditions as the REF.

OPTIONS:

1. Maintain current funding conditions: Council teams will seek funding elsewhere for energy efficiency projects, and therefore the REF will no longer grow and serve as a useful funding source for future projects.
2. Revise funding conditions: a 4 year sunset clause on 75% savings repayments (after capital repayment) would match private funding conditions. A shorter savings repayment period would realise energy savings in Council budgets sooner and reduce the amount of REF money available for reinvestment.

CONCLUSION:

The REF has been a useful source of funding for energy efficient and cost saving projects in the past. The proposed revision of the funding conditions aims to reinvigorate Council's strategic use and reinvestment of these funds into the future.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Repayments from four energy efficiency projects dating back to the 2003 - 2008 period would stop under the proposed revision of REF funding conditions, resulting in a \$5,000 saving in the Building Maintenance budget in the 2013/14 financial year.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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23 [CNR-CM] North Coast Energy Forum 2014

SUBMITTED BY: Natural Resource Management

Valid



Civic Leadership



Caring for the Environment

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
 - 1.1.2 Create a sustainable, social and environmentally aware community through education

 - 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:

Tweed Shire Council has been invited to host and sponsor the 2014 North Coast Energy Forum.

North Coast Energy Forums (NCEF) bring people together in the Northern Rivers to progress a sustainable regional energy system. An independent steering group have coordinated forums in 2010, 2011, 2013, attracting over 100 participants in 2013.

Hosting the event would be consistent with Community Strategy Plan objectives and would make a useful addition to Council's other sustainability, energy efficiency and renewable energy objectives and initiatives planned for 2014.

RECOMMENDATION:

That:

1. Council hosts the 2014 North Coast Energy Forum including sponsorship to a maximum of \$5,000 funded through the Natural Resource Management Program.
2. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act 1993, because it contains:-
 - (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:

The organising committee of the North Coast Energy Forum have submitted a confidential prospectus (see attached) seeking sponsorship from Council to host the 2014 North Coast Energy Forum.

Background

North Coast Energy Forums (NCEF) have been held in the Northern Rivers Region in 2010, 2011, 2013. The purpose of NCEF is to inspire, inform and enable people, organisations and stakeholders to connect and find ways to work together towards a sustainable regional energy system. Semi-annual forums enable participants to network, learn and plan energy initiatives. The NCEF website and steering committee then act as an ongoing point of contact and communication about energy initiatives.

The forum operates as a grassroots complement to Sustain Northern Rivers, a collaboration of regional organisations, including Council, working across energy, transport, food and biodiversity sectors to take action on climate change. There is considerable informal cooperation and some shared membership between the two organisations.

The forums have been organised by a steering group of energy and sustainability professionals from a range of backgrounds including state and local government, the community sector and consultants. Previous forums have been hosted by Lismore Council (2013), Byron Shire Council (2011) and a Bellingen network of community groups in 2010.

In 2013, over 100 participants attended the event, and paid between \$50 - \$130 each in registration fees. The 2013 event cost \$10,000 to put together. Registration fees accounted for 40% of the budget for the event, with sponsorship from the host council and other sponsors making up the remainder.

Tweed Shire Councillors and Council officers attended the 2013 forum. Officers found the event to be informative and a useful networking event, but felt there was a lack of documentation of the ideas that were generated at the event, and a lack of ownership to progress, track and report on the development of those ideas. The NCEF steering group acknowledges the lack of follow up and communication since the last event, and will address this in the development of the 2014 forum and in a newsletter to participants which is currently being developed (with short term funding from OEH).

Implications for Council

Relationship to existing programs and activities

Hosting the NCEF in Tweed Shire would be consistent with Community Strategy Plan objectives and would make a useful addition to other sustainability, energy efficiency and renewable energy initiatives planned for 2014:

- *Hosting the NCEF would support objectives 1.1.2 (Create a sustainable, socially and environmentally aware community through education) and 1.1.3 (Prepare for climate change through adaptation and mitigation strategies) of the Community Strategic Plan:*

The NCEF would be a prominent addition to the calendar of local environmental and urban sustainability events in Tweed Shire in 2014, including World Environment Day activities at Knox Park in June and the 2014 'Living for the Future' Home Expo between April and August. The registration cost to attend the NCEF and the specific focus on energy means the event would most likely appeal to dedicated energy efficiency and

renewable energy advocates. Promoting Councils hosting of the event to the community could help demonstrate Council's ongoing support for sustainable energy developments and industries in the Shire and across the wider Northern Rivers' region.

- *Hosting the NCEF could help inform and progress Council's approach to energy self-sufficiency:*

Work is underway to review other councils' energy self-sufficiency targets and to assess the most efficient and cost-effective options available to improve Council's energy efficiency and produce sufficient renewable energy to inform a report back to Council.

- *Hosting the NCEF in the Tweed Shire could support a key objective of the Tweed Renewable Energy Think Tank Action Plan, namely the promotion of energy efficiency and literacy amongst the local community and businesses. New ideas and opportunities for Think Tank consideration could also emerge.*

A panel of community and industry representatives have met annually in 2012 and 2013 to identify viable opportunities for renewable energy projects in Tweed Shire. The 2013 Think Tank generated a plan of action to pursue three key objectives:

1. Better use of bio-energy, by extending the operation and energy price conditions for Condong co-generation plant
2. Community-scale energy storage trials and community investment models
3. Promoting energy efficiency and literacy amongst the local community and businesses.

Council has committed to coordinate another Think Tank in August 2014. Outcomes of the NCEF could identify local renewable energy opportunities for the Think Tank panel to consider as it tracks progress against the existing action plan.

OPTIONS:

1. Resolve to host the NCEF.
2. Resolve not to host the NCEF.

CONCLUSION:

Hosting the NCEF would offer Council an opportunity to support sustainability and climate change mitigation related-objectives in the Community Strategy Plan, and create a useful addition to other sustainability, energy efficiency and renewable energy initiatives underway.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Sponsorship of NCEF 2014 would involve a financial contribution of between \$2,500 and \$5,000 (based on previous councils' contributions) and in-kind contributions through interaction with the steering group, event logistics, promotions etc. A budget for the event would need to be created by reallocating funds from other Natural Resource Management programs.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Prospectus (ECM 3258056)

24 [CNR-CM] Tweed Regional Museum and Tweed Regional Gallery Deductible Gift Recipient (DGR) Fund Policies

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
 - 2.1.3 Provide opportunities for residents to enjoy access to the arts, festivals, sporting activities, recreation, community and cultural facilities
-

SUMMARY OF REPORT:

Both the Tweed Regional Museum and the Tweed Regional Gallery have been endorsed by the Australian Taxation Office as Deductible Gift Recipient (DGR) institutions operated by the Tweed Shire Council.

On 15 August 2013 Council resolved that the draft *Tweed River Regional Museum Deductible Gift Recipient (DGR) Fund Policy* and the *Tweed River Art Gallery Deductible Gift Recipient (DGR) Fund Policy* be publicly exhibited for a period of 28 days and that public submissions be accepted for a period of 42 days. No comments or submissions on the policies were received during this period.

Since Council's initial endorsement of the draft Museum and Art Gallery DGR Policies on 15 August for exhibition and comment, rebranding and associated name changes for the Museum and the Gallery have been adopted.

The policies have been amended to reflect the new names of **Tweed Regional Museum** and **Tweed Regional Gallery** and are now proposed for adoption by Council.

RECOMMENDATION:

That:

- 1. The Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy Version 1.0 be adopted.**
 - 2. The Tweed Regional Gallery Deductible Gift Recipient (DGR) Fund Policy Version 1.0 be adopted.**
-

REPORT:

The Tweed Regional Museum and the Tweed Regional Gallery are recognised by the Australian Taxation Office (ATO) respectively as a public museum under item 12.1.3 of Section 30-100 and under item 12.1.4 of Section 30-100 of the *Income Tax Assessment Act*. The Tweed Regional Museum and the Tweed Regional Gallery are endorsed as deductible gift recipient (DGR) institutions operated by Tweed Shire Council.

Deductible Gift Recipient endorsement by the ATO enables the Tweed Regional Museum and the Tweed Regional Gallery to receive income tax deductible gifts and contributions, provided that such gifts and donations are made to an appropriately administered Gift Fund. Such endorsement is a key component in attracting future public funds for both the Museum and the Gallery.

To ensure ongoing compliance with Australian Taxation Office requirements, the *Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy* and the *Tweed Regional Gallery Deductible Gift Recipient (DGR) Fund Policy* have been developed. The policies set out the basis for ATO recognition and endorsement of the Museum and the Gallery and compliance and governance requirements relevant to Fund administration.

On 15 August 2013 Council resolved that the draft *Tweed River Regional Museum Deductible Gift Recipient (DGR) Fund Policy* and the *Tweed River Art Gallery Deductible Gift Recipient (DGR) Fund Policy* be publicly exhibited for a period of 28 days and that public submissions be accepted for a period of 42 days.

The 28 day period for public exhibition of both policies concluded on 6 November 2013. The period for public comment concluded on 21 November 2013. No comments on the policies were received during this period.

As flagged in the Museum DGR Policy, an associated *Tweed Regional Museum Deductible Gift Recipient Fund Procedure* has been developed to meet ATO requirements. The Procedure has been developed in liaison with Council's Financial Services staff for endorsement by the Executive Management Team. The Gallery is in the process of reviewing its procedures for receiving tax deductible donations.

Since Council's endorsement of the draft Museum DGR and draft Gallery Policies on 15 August, rebranding and associated name changes for the Museum and the Gallery have been adopted.

The Policies have been amended to reflect the new names of **Tweed Regional Museum** and **Tweed Regional Gallery**.

OPTIONS:

1. That Council adopts the *Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy* and the *Tweed Regional Gallery Deductible Gift Recipient (DGR) Fund Policy*.
2. That Council NOT adopt the *Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy* nor the *Tweed Regional Gallery Deductible Gift Recipient (DGR) Fund Policy*.

CONCLUSION:

No submissions were received during the period of public exhibition and comment for the policies governing administration of the *Tweed Regional Museum Deductible Gift Recipient Fund* and the *Tweed Regional Gallery Deductible Gift Recipient Fund*. Council's adoption of the policies will ensure ongoing compliance with Australian Taxation Office requirements and transparent administration of the gift funds.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Income Tax Assessment Act 1997

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.	Tweed Regional Museum Deductible Gift Recipient (DGR) Fund Policy Version 1.0 (ECM 3259734)
Attachment 2.	Tweed Regional Gallery Deductible Gift Recipient (DGR) Fund Policy Version 1.0 (ECM 3259712)

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25 [CNR-CM] Preliminary Ecological Assessment of Environmentally Zoned Land Adjacent to the Proposed Motocross Track - Lundberg Drive South Murwillumbah

SUBMITTED BY: Waste Management

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 the May 2013 Council meeting, a Notice of Motion was submitted requesting that Council undertake a preliminary Environmental Assessment (EA) of the land immediately to the north of the decommissioned Murwillumbah Landfill. The intent was to determine the likely impacts that the proposed motocross track on the old landfill would have on the adjacent property, and in particular the flora and fauna. Council was also asked to assess the ecological value of the adjacent site, and the sites value from a broader regional ecological perspective.

Given the financial implications of conducting the above EA as per the Notice of Motion, this report deals with the second part which is, to provide an EA of the adjacent property to determine the ecological value of the site and to determine the value of the site from a broader ecological perspective.

This report presents that EA on the land to the north of the closed Murwillumbah Landfill that is zoned Environmental Protection (Habitat), being Part Lot 2 DP 1139059 and Lot 8 DP 258122.

The site was found to support a range of biodiversity values, including legislatively significant species and communities despite a history of site disturbance. It was also noted that the site probably serves as an important habitat link in an otherwise disturbed landscape whilst retaining a moderately diverse species assemblage.

RECOMMENDATION:

That Council:

- 1. Receives and notes the report regarding the Preliminary Ecological Assessment of Environmentally Zoned Land Adjacent to the Proposed Motocross Track - Lundberg Drive South Murwillumbah.**
-

2. Provides a copy of the report to the proponent of the proposed motocross track.

REPORT:

At its meeting on 16 May 2013, Council resolved as follows:

"that Council undertakes a preliminary environmental assessment of the environmental land to the immediate north of the decommissioned Murwillumbah Landfill to firstly determine the potential noise and dust impacts from the proposed development on this site and secondly, its ecological value, giving consideration to all fauna and flora on the site and the site's value in terms of the broader terrestrial environment, such as a nursery for endangered bats and bird species."

A brief was prepared for the work with a provisional estimate of \$10,000. Following further discussion on the scope of works, the brief was modified to only include the Environmental Assessment (EA) of the subject site in an attempt to reduce the cost. Once presented to Council, it would determine the sufficiency of the information and direction would be provided by Council on any further investigations it would like undertaken.

Council's Design Unit proposed to undertake a preliminary ecological assessment of the subject land (Part Lot 2 DP 1139059 and Lot 8 DP 258122) involving a desktop review and limited field survey to validate vegetation communities and threatened species habitats. The aim of the EA would be to determine the likelihood of occurrence of legislatively significant flora and fauna species, their habitats, and Endangered/Threatened Ecological Communities at the site.

The EA would also include advice on the ecological value of the site in relation to the broader landscape. This included accessing NSW and Commonwealth ecological databases and other relevant environmental mapping layers to evaluate the potential regional impacts and significance of the site.

The site

The environmental lands have been subject to a range of direct and indirect impacts over an extended period. The earliest available historical aerial photos taken in 1962 shows the site primarily cleared of native vegetation with only small pockets retained at the toe of the southern batters and some low lying wetland vegetation in the east and west of the site. Between 1970 and 1987 plantation pine was established over the majority of the hill, and this has since developed into a forest habitat, though with little floristic and structural diversity.

In areas where pine was not planted, regrowth of native vegetation including native wet sclerophyll and swamp sclerophyll forest has occurred. There has also been a significant establishment of camphor laurel, particularly at the toe of the hill. There have also been some efforts at bush regeneration, although maintenance of this area has ceased and weed species such as lantana have re-established.

The site has also been significantly impacted by what is known as edge impacts. This occurs where two contrasting habitats converge without natural graduation. On this site the edge impacts are associated with the pine plantation, the establishment of the adjacent industrial development and up until recently, the operation of quarrying and landfill on the adjoining block.

Despite the edge effects the fauna assemblage identified during the field assessment was seen as a community that was generally tolerant to modified habitats and edge related effects.

Ecological Assessment

The ecological assessment of the site comprised:

- Desktop assessment of ecological databases and spatial layers as they relate to the study area,
- Field assessment to describe vegetation communities and identify any Endangered Ecological Communities (EEC's) at the subject site, and
- A one day and one night preliminary assessment of fauna habitat features and suitability for rare, threatened and significant species pursuant to the Threatened Species Conservation Act and Environment Protection and Biodiversity Conservation Act.

Findings of the EA

The following biodiversity values were identified during the desktop and field assessment:

- Five broad vegetation community types
 - Exotic pine plantation
 - Brushbox open forest
 - Cumbungi and Para Grass dominated freshwater wetland
 - Broadleaf Paperbark forest, and
 - Swamp Box, Swamp Mahogany and Willow Bottlebrush forest.
- Three of the vegetation communities are analogous with two different types of EEC's pursuant to the NSW TSC Act:
 - Freshwater wetlands on coastal floodplains of the NSW North Coast, Sydney Basin and SE corner bioregions, and
 - Swamp Sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and SE corner bioregions.
- Two threatened/rare flora species and one rare flora species were positively recorded on site:
 - Fine leafed Tuckeroo - listed as vulnerable under the TSC Act and ROTAP conservation code 2RC
 - Davidson Plum – Listed as Endangered under the TSC Act and EPBC Act, ROTAP conservation code 2ECi. Although the Davidson Plum is considered a planted specimen and not part of a wild population.
 - Black Walnut (Endiandra Globosa)- ROTAP conservation code 2RC.
- Potential habitat for three additional threatened flora species, though none of these species were recorded during preliminary field surveys.
- One NSW and Commonwealth threatened fauna species, the Grey-headed Flying Fox.
- One NSW threatened insectivorous bat, the Little Bentwing-bat, recorded foraging on site.
- A further nine NSW threatened fauna species considered likely to occur based on the presence of some aspect of their preferred habitat (ie. foraging, sheltering) or the site facilitating a movement pathway for these species.
- Roosting habitat for the Black Flying Fox.

A full copy of the EA is attached to this report.

The current EA has cost Council \$5,900.

OPTIONS:

Council may take note of the information provided in the report to ensure they are informed prior to considering the proposed development of a motocross track on the adjoining property.

Whilst this report identifies the ecological significance of the site and provides some commentary on edge impacts it does not address the question of what impact the development of a motocross track on the closed Murwillumbah Landfill would have on this site. The cost to undertake this work is estimated to be between \$5,000 and \$10,000 and would form the basis of a development application.

CONCLUSION:

The site supports a range of biodiversity values, including legislatively significant species and communities despite a history of site disturbance. Further it was noted that the site probably serves an important habitat link in an otherwise disturbed landscape and retains a moderately diverse species assemblage. The report also highlighted the resilience of the site and the ability of the site to cope with edge impacts.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The current investigation has cost Council \$5,900.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Preliminary Ecological Assessment (ECM 3260613)

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REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

26 [EO-CM] Easement over Council Land - Lot 6 DP237093 - Holden Street, Tweed Heads South

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:

Essential Energy installed 66kv and 11kv cables through a parcel of Council land, Lot 6 in DP 237093, located at the southern end of Holden Street, Tweed Heads South. Council provided owners' consent for the works, subject to the creation of an easement and compensation.

It is recommended that Council approve the granting of the easement and the determination of compensation offered by Essential Energy, and to execute all necessary documentation under the Common Seal of Council.

RECOMMENDATION:

That:

1. Council approves the granting of an Easement for Underground Powerlines 10 wide within Lot 6 DP 237093;
2. Council accepts the compensation offered by Essential Energy as detailed in the body of the report; and
3. All necessary documentation be executed under the Common Seal of Council.

REPORT:

Easement

Essential Energy installed 66kv and 11kv underground cables through a parcel of Council land, Lot 6 in DP 237093 located at the southern end of Holden Street, Tweed Heads South. Council provided its consent for the works, subject to the creation of an easement and compensation. Figure 1 below shows the subject land in heavy outline:

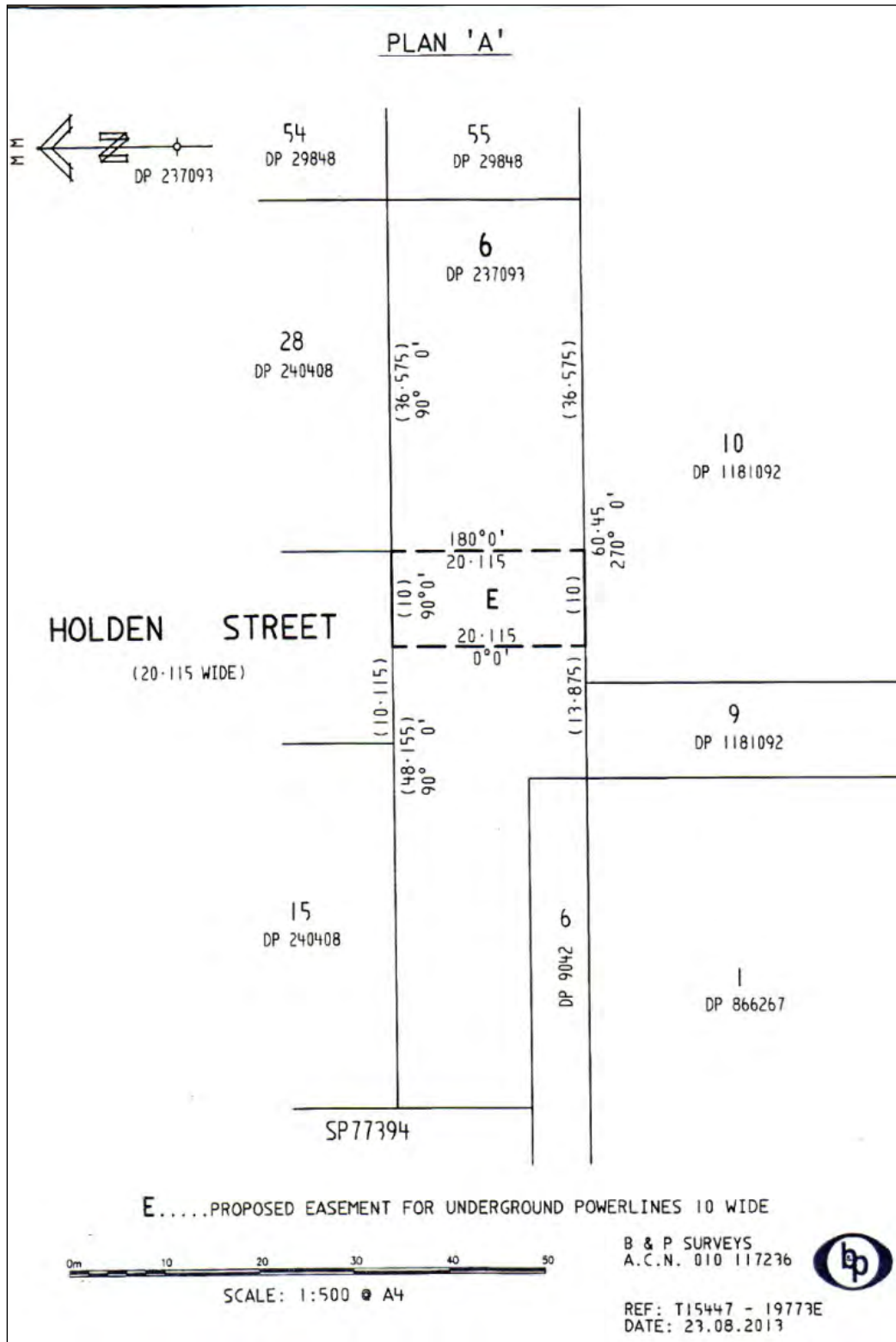
Figure 1:



The cables are part of a network of infrastructure connecting to the substation within the Essential Energy compound at Tweed Heads South. The substation is located at its southern boundary.

Essential Energy are seeing a 10 metre wide easement within the parcel. Figure 2 shows the proposed easement, marked "E":

Figure 2:



The parcel contains a formed access to the Tweed Billabong Caravan Park to the south west, which was initially consented to by Council on the basis that an alternative access would be developed to the west when planned future extensions to the caravan park were undertaken. Figure 3 below highlights the formed access within Lot 6:

Figure 3:



The development application for the extensions has been received and is currently under assessment.

The application indicates that access will be provided from Dry Dock Road, however, there may be a requirement for the current access from Holden Street to be used for emergency access. At the time of preparing this report an emergency and evacuation procedure or plan had not been provided to Council.

The parcel is further constrained by Council water and sewer infrastructure. See Figures 4 and 5 below:

Figure 4 - water infrastructure:

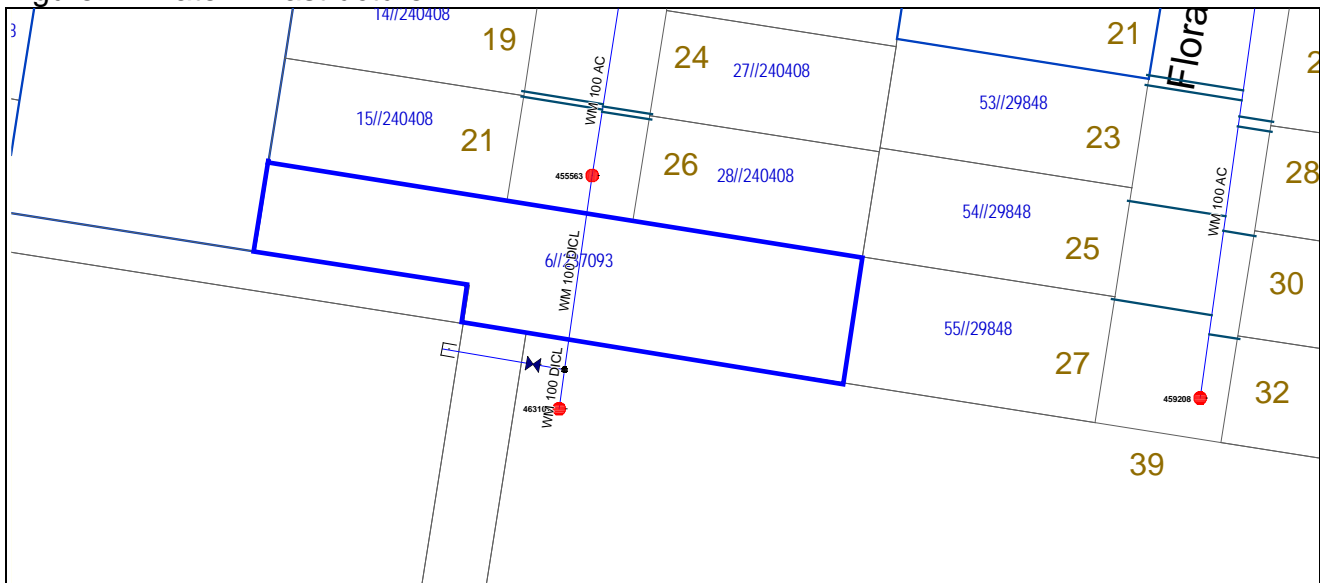
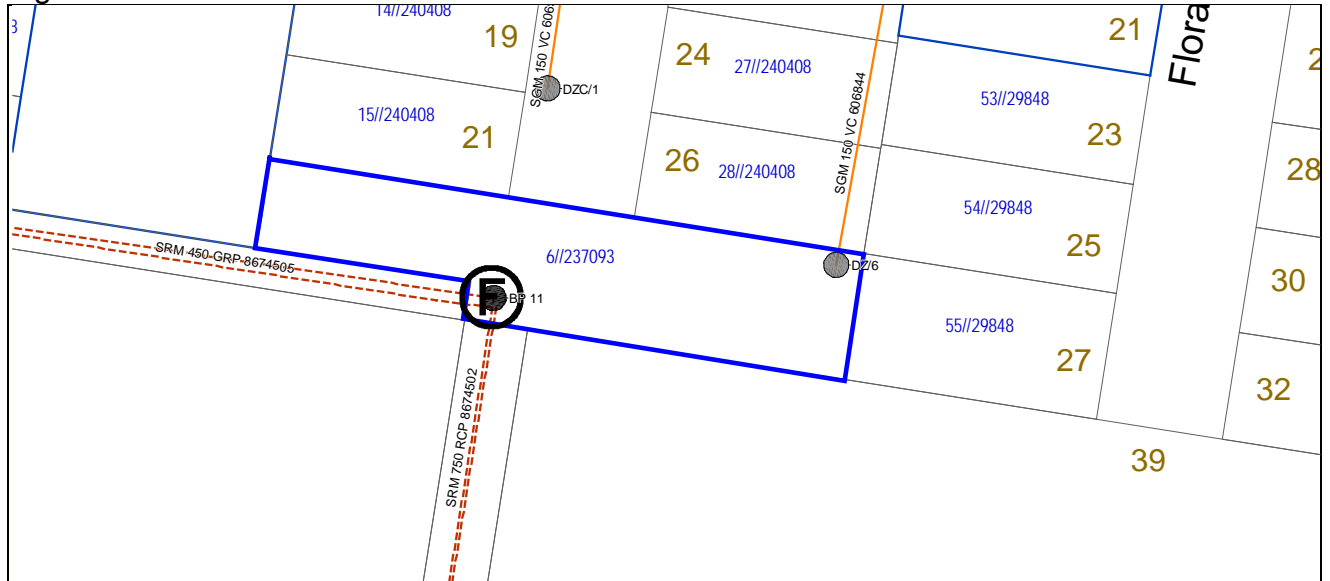


Figure 5 - sewer infrastructure:



Council has negotiated the terms of the easement to ensure that they acknowledge the existence of the water and sewerage infrastructure and not obstruct Council's access to same.

Lot 6 is operational land, so there are no statutory constraints to grant the easement to Essential Energy.

Compensation

Essential Energy has provided a valuation determining the compensation for the easement at \$5,005 (GST exclusive), together with reasonable legal and valuation fees incurred. This amount is considered reasonable in the circumstances, due to the infrastructure within the parcel.

It is recommended that Council approve the granting of the easement and accept the quantum of compensation offered by Essential Energy, and to execute all necessary documentation under the Common Seal of Council.

OPTIONS:

1. To approve the granting of an Easement for Underground Powerlines 10 wide within Lot 6 DP 237093 and accept the compensation as determined of \$5,005 (GST exclusive); or
2. To approve the granting of the Easement for Underground Powerlines 10 wide within Lot 6 DP 237093 and not accept the compensation as offered.

CONCLUSION:

As Council granted access to Essential Energy to install the underground powerlines subject to the creation of an easement, it is recommended that Council resolve to grant the easement. As noted in the body of the report, the compensation is deemed reasonable in light of the parcel being constrained by Council infrastructure, and it is recommended that the amount be accepted.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Income from compensation paid for the creation of an easement over Council Land can be directed to the otherwise unbudgeted projects.

c. Legal:

There are no legal implications arising from this action.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

27 [EO-CM] Crown Reserve 89237 - Licence from Crown for SES Facility at Banora Point

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:

Council has received previous reports relating to the accommodation of the State Emergency Services Tweed Heads Unit. At its meeting held on 17 April 2012, Council resolved to, inter alia, obtain a licence from the Crown for the SES to operate from premises at Banora Point, being part of Crown Reserve 89237, within Lot 682 in DP 41192.

A licence agreement, pursuant to section 34A of the *Crown Lands Act 1989*, has now been received and reviewed and it is recommended that Council approve entering into the licence and execute same under the Common Seal of Council.

RECOMMENDATION:

That Council:

- 1. Approves entering into a licence agreement with the Crown, pursuant to Section 34A of the Crown Lands Act 1989 for Part of Crown Reserve 89237 being Lot 682 in DP 41192 at Banora Point for a term of five (5) years; and**
- 2. Executes all documentation under the Common Seal of Council.**

REPORT:

Council has received previous reports relating to the accommodation of the State Emergency Services (SES) Tweed Heads Unit. At its meeting held on 17 April 2012, Council resolved to, inter alia, obtain a licence from the Crown for the SES to operate from premises at Banora Point of Crown Reserve 89237. A copy of that report is attached for Council's information.

Council lodged an application for the licence, together with a request for the statutory minimum rental to be applied, in light of the purpose of the licence to enable Council to abide by its statutory obligation to provide facilities to the SES at Banora Point.

The Parliamentary Secretary advised Council that market rent would apply, the commencing licence fee is \$5,542 per annum.

The licence is for a term of five (5) years, and special condition 61 of the licence provides:

"61. No Renewal of Tenure

The holder acknowledges that upon expiry of the term of this licence, no further tenure will be granted to the holder.

The holder shall prior to the expiry of the term of the licence:

Finalise the compulsory acquisition of Lot 682 DP 41192 pursuant to the provisions of the Land Acquisition (Just Terms Compensation) Act 1991; or

Relocate the State Emergency Service facilities to an alternate site."

Council officers are currently investigating alternative sites for an SES facility to service the Tweed Heads area.

A licence agreement, pursuant to Section 34A of the *Crown Lands Act 1989*, has now been received and reviewed and it is recommended that Council approve entering into the licence and execute same under the Common Seal of Council.

OPTIONS:

1. To approve entering into a licence agreement with the Crown for the occupation of Crown Reserve 89237 for the provision of accommodation for the State Emergency Services Tweed Heads Unit; or
2. To not approve entering into a licence agreement with the Crown for the occupation of Crown Reserve 89237 for the provision of accommodation for the State Emergency Services Tweed Heads Unit.

CONCLUSION:

The licence agreement as offered allows Council to occupy the site for the SES until an alternative site is identified and developed, and if that does not eventuate, the acquisition of the land to allow continued occupation at the current site.

To provide facilities to the SES to service the Tweed Heads area, it is recommended that Council approve entering into the licence agreement at the rental noted in the body of the report.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Rental to be budgeted for the term of the licence.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Council Report dated 17 April 2012 (ECM 2765353)

Attachment 2.

Council resolution dated 17 April 2012 (ECM 2773952)

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28 [EO-CM] Road Naming - Barneys Point Road, Banora Point

SUBMITTED BY: Design

FILE REFERENCE: GS5/1 Pt 7

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 at its meeting of 21 November 2013 resolved to publicise its intention to name the road running south from the Noarlunga Street intersection at Banora Point under the Pacific Highway then north to the Pacific Highway's Barneys Point exit as "**Barneys Point Road**" and allowed one month for objections to the proposal.

No objections were received during the consultation period.

It is recommended that "**Barneys Point Road**" be adopted for the naming purposes of the road and notification be submitted to the Government Gazette in accordance with the Roads (General) Regulation, 2008 and the Roads Act, 1993.

RECOMMENDATION:

That:

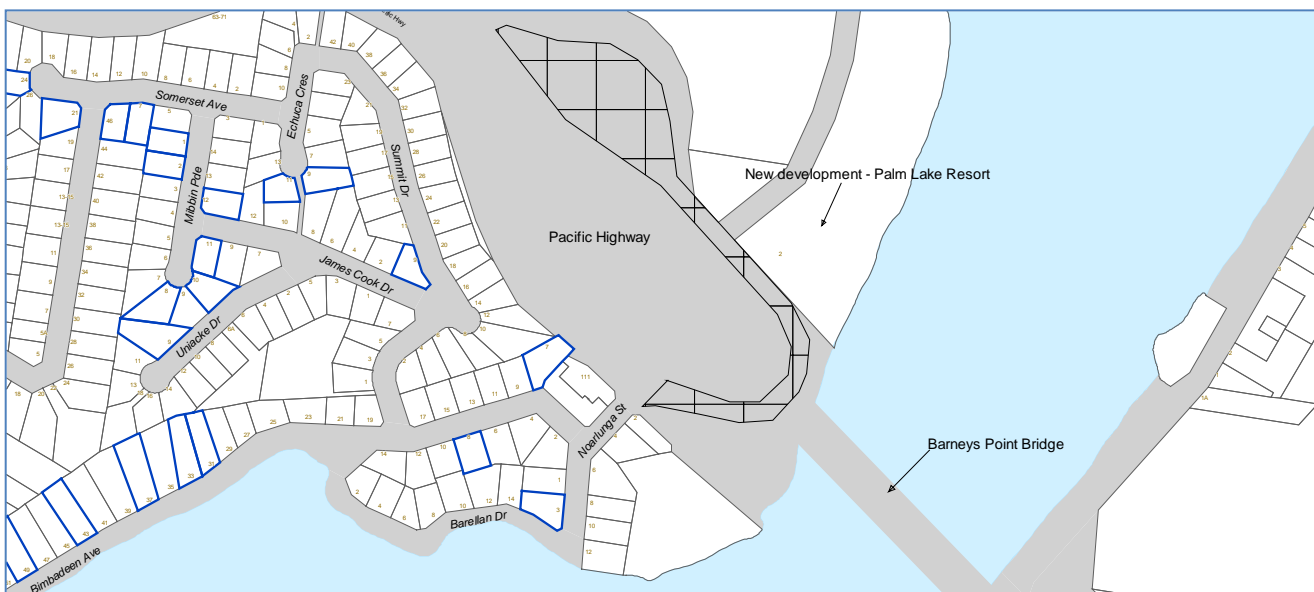
1. Council adopts the name of Barneys Point Road for the road running south from the Noarlunga Street intersection under the Pacific Highway then north to the Pacific Highway's Barneys Point exit at Banora Point, and
2. The naming of the public road be Gazetted under the provisions of the Roads (General) Regulation, 2008 and the Roads Act, 1993.

REPORT:

Council at its meeting of 21 November 2013 resolved to publicise its intention to name the road running south from the Noarlunga Street intersection at Banora Point under the Pacific Highway then north to the Pacific Highway's Barneys Point exit as "**Barneys Point Road**" and allowed one month for objections to the proposal.

No objections were received during the consultation period.

Below is a plan showing the location of the road reserve to be named. It is located off the Pacific Highway at the Barneys Point exit:



OPTIONS:

The process of naming the public road reserve as Barneys Point Road complies with and has been completed in accordance with Council's Policy - Naming of Streets and Roads.

CONCLUSION:

It is recommended that "**Barneys Point Road**" be adopted for the naming purposes of the road and notification be submitted to the Government Gazette in accordance with the Roads (General) Regulation, 2008 and the Roads Act, 1993.

COUNCIL IMPLICATIONS:

a. Policy:

Naming of Streets and Roads Version 1.2.

b. Budget/Long Term Financial Plan:

No budget implications.

c. Legal:

Not Applicable.

d. Communication/Engagement:
Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Council report on Road Naming dated 21 November 2013
(ECM 3261318).

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29 [EO-CM] Release of Easement for Rising Main - Darlington Drive, Banora Point

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:

An application has been received from the owners of Lot 4 in DP837285 Darlington Drive for the extinguishment of an Easement for Rising Main 5 wide as shown in DP610609 created by the then Minister for Public Works by resumption on 5 March 1981.

The Easement for Rising Main was vested in Council giving it the authority to amend or release same.

There is no infrastructure remaining within the site of the easement and Councils records indicate that the easement site has been abandoned.

The easement is now unnecessary and it is recommended that it be extinguished in its entirety at the full cost of the applicant.

RECOMMENDATION:

That Council:

1. Consents to the extinguishment of the Easement for Rising Main 5 wide shown in DP610609 and created by Resumption Application S5398382 at the full cost to the applicant; and
2. All relevant documents be executed under the Common Seal of Council.

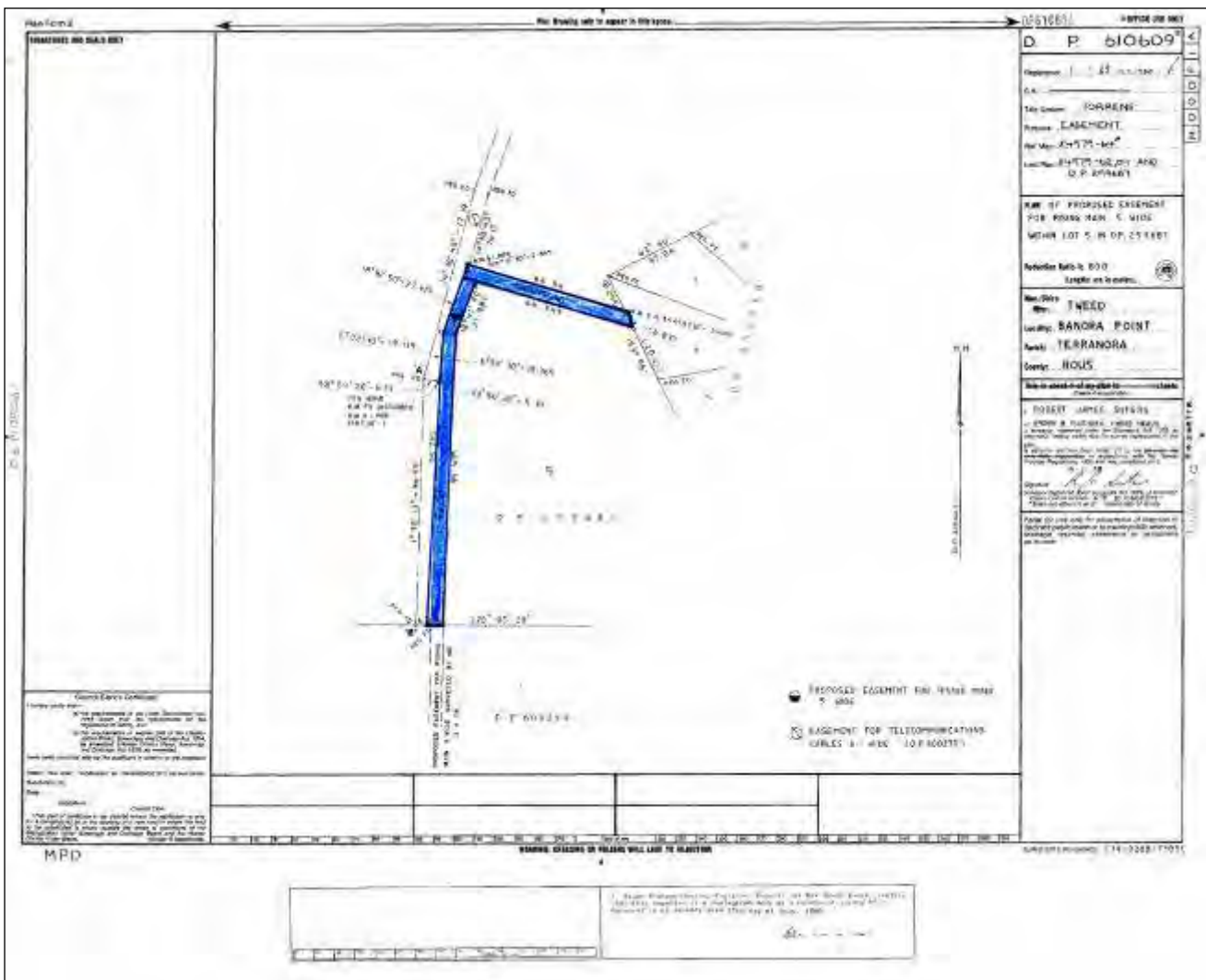
REPORT:

An application has been received from the owners of Lot 4 in DP837285, Darlington Drive, Banora Point, for the extinguishment of an Easement for Rising Main 5 wide which was created in DP610609 by resumption and registered by Transfer S5398382.

A proposed easement was created in DP610609 in 1980. The acquisition of the easement was gazetted on 24 December 1980 (with a subsequent erratum notice of 13 February 1981 - see attachments) for the purpose of Part V of the Public Works Act, 1912 which vested the rights of the said easement in the Minister for Public works.

Below, at Figure 1, is a copy of DP610609 showing the full extent of the Easement for Rising Main (shaded).

Figure 1:



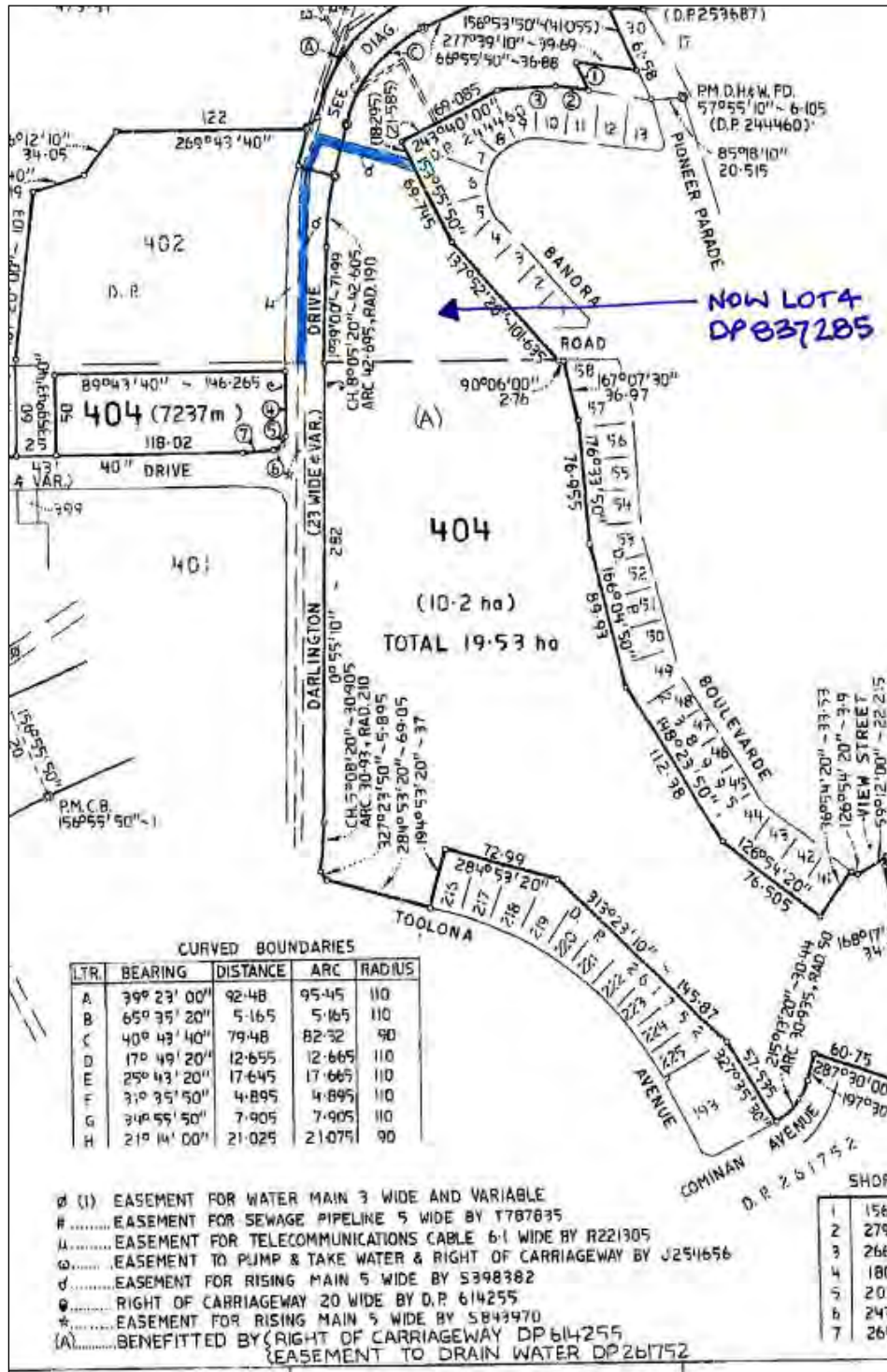
A resumption application for the easement was then registered by the Minister for Public Works on 5 March 1981 giving effect to the acquisition of the easement.

A gazettal notice was published on 5 February 1993 vesting the easement in Tweed Shire Council. Tweed Shire Council is now the benefiting authority of the easement and thus has the authority to amend or release the Easement.

In June 1987 a plan of new road and residue of Lots which contained the land now known as Lot 4 in DP837285 was registered. An extension of Darlington Drive was dedicated in this plan and was made subject to inter alia the Easement for Rising Main 5 wide.

Figure 2 below is an excerpt from DP746725 showing the Easement (shaded) within Lot 404, now Lot 4 DP837285 and Darlington Drive, Banora Point.

Figure 2:



Lot 4 in DP837285 is now the subject of a subdivision by the land owner under DA11/0216.

Figure 3 below is an excerpt of DP837285 showing Lot 4 and the Easement for Rising Main 5 wide. It does not show the full extent of the easement within Darlington Drive as this is not a survey requirement.

Figure 3:



The application received by Council has requested that the Easement for Rising Main 5 wide as shown in DP610609 and created by Resumption Application S5398382 be extinguished on the basis that all infrastructure has been removed. Council's Geographical Information System confirms that the sewer rising main has been abandoned.

Council's Water Unit has no objection to the release and extinguishment of the easement as the original use of the easement was discontinued many years ago and is no longer required. Furthermore there is no likelihood that Council would reinstate the use of the rising main as the development of the catchment has progressed in such a way that its use would be impractical.

OPTIONS:

1. Council consents to the extinguishment of the Easement for Rising Main 5 wide as shown in DP610609 and created by Resumption Application S5398382, or
2. Council does not consent to the extinguishment of the Easement for Rising Main 5 wide as shown in DP610609 and created by Resumption Application S5398382.

CONCLUSION:

The Easement for Rising Main shown in DP610609 and created by Resumption Application by the Minister for Public Works was later vested in Council giving it the authority to amend or release same. There is no infrastructure remaining within the site of the easement and Council's records confirm that the easement is no longer required. The easement is now

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30 [EO-CM] Murwillumbah Community Centre Lease - Knox Park, Murwillumbah

SUBMITTED BY: Design

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:

The Murwillumbah Community Centre located at Knox Park, Murwillumbah has been completed and is fully functional.

It is now necessary for Council to enter into a Lease agreement for the occupation of the Community Centre with NSW Trade and Investment, Crown Lands Division. A report will be tabled at the January 2014 Reserves Trust Meeting requesting the consent of the Knox Park Reserve Trust to the creation of the proposed Lease.

A Plan of Subdivision for leasehold purposes has been created over Lots 7317 and 7318 DP1168115, Lots 1-32 Section 14 DP2087 and Lot 1 DP1162740. The Community Centre will be within Lot 1 of the plan and the residue of Knox Park will be contained within Lot 2.

RECOMMENDATION:

That:

- 1. Council enters into a Lease agreement with NSW Trade and Investment, Crown Lands Division for the Murwillumbah Community Centre, Knox Park, Murwillumbah contained within Lots 7317 and 7318 DP1168115, Lots 1-32 Section 14 DP2087 and Lot 1 DP1162740 and shown as Lot 1 in the proposed plan of subdivision for leasehold purposes contained within the body of the report for a period of 20 years; and**
- 2. All necessary documentation be executed under the Common Seal of Council.**

Prior to entering into a Lease agreement it will be necessary for the Knox Park Reserve Trust Manager to consent to the revocation of Crown Reserve 755724 in so far as it affects Lots 7317 and 7318 DP 1168115 and the addition of the same to Crown Reserve 540095 for public park as outlined in the report submitted to the Reserves Trust meeting of November 2013.

OPTIONS:

Council is required to enter into a lease agreement for the Murwillumbah Community Centre with NSW Trade and Investment, Crown Lands Division for the occupation of Crown Land for the provision of community services to the Tweed Heads Region.

CONCLUSION:

It is now necessary for Council to enter into a Lease agreement for the occupation of the Community Centre with NSW Trade and Investment, Crown Lands Division for a period of 20 years. A report will be tabled at the January 2014 Reserves Trust Meeting requesting the consent of the Knox Park Reserve Trust to the creation of the proposed Lease.

COUNCIL IMPLICATIONS:

a. Policy:

Community Services / Facilities Community Strategic Plan.

b. Budget/Long Term Financial Plan:

The estimated lease cost is in the order of \$7,600(+GST) per annum and will be funded from within the existing Murwillumbah Community Centre budget.

c. Legal:

Council is committed to a 20 year lease of the facility.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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31 [EO-CM] EQ2013-229 Greenvale Court Steel Culverts Relining

SUBMITTED BY: Works

Valid



Supporting Community Life

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
 - 2.3 Provide well serviced neighbourhoods
 - 2.3.5 Ensure adequate stormwater drainage, flood management and evacuation systems are in place to protect people and property from flooding
-

SUMMARY OF REPORT:

This report outlines the tender for EQ2013-229 Greenvale Court Steel Culverts Relining. The works are required to rehabilitate a twin 2100mm diameter corrugated steel culvert that is severely corroded and structurally inadequate to support the road above.

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.

ATTACHMENTS 1 and 2 are **CONFIDENTIAL** in accordance Section 10A (2) (d) of the Local Government Act 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers' commercial rates. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

RECOMMENDATION:

That:

1. The tender from Bothar Boring & Tunnelling be accepted to the value of \$136,670.00 exclusive of GST for tender EQ2013-229 Greenvale Court Steel Culverts Relining.
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 EQ2013-229 is for the detailed design and construction of a structural internal relining system to twin 2100mm corrugated steel culverts in Greenvale Court, Burringbar. The works are required to ensure the structural adequacy of the culverts due to severe corrosion of the existing steel pipes. The relining system will be capable of supporting the above road loads itself with no contribution from the existing steel culverts that have failed.

Tenders Received

Tenders closed at 4:00pm on 4 December 2013 with four (4) submissions received from the following contractors:

- Bothar Boring & Tunnelling
- Fluid Containment Solutions (with post-tender amended price schedule)
- ITS Pipetech Pty Ltd
- LR Industrial Services

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
Offer Price Compared with TSC Estimated cost	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
Industrial Relations and Safety Record	Schedule 7	Yes
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
Innovation	All Schedules	Yes
Maintenance and Running costs	All Schedules	No
Life of Proposed materials and equipment	All Schedules	Yes
Warranty Periods Offered	All Schedules	No
Development of Competitive Local Business/Industry	All Schedules	No
Council's Contract Administration Costs	Schedule 6	No
Local Preference policy	Schedule 11	10
	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 Bothar Boring & Tunnelling be awarded the contract for EQ2013-229 Greenvale Court Steel Culverts Relining.

Details of Bothar Boring & Tunnelling's relative competitiveness is shown in the Tender Evaluation Report **CONFIDENTIAL ATTACHMENT 1**.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.5.

b. Budget/Long Term Financial Plan:

E013-200 Drainage Rehabilitation.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. EQ2013-229 Greenvale Court Steel Culverts Relining – Tender Evaluation Report (ECM 77908506).

(Confidential) Attachment 2. EQ2013-229 Greenvale Court Steel Culverts Relining – Tender Evaluation Record (ECM 77908460).

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32 [EO-CM] EC2013-224 South Tweed Heads Swimming Pool Heat Pump and Ventilation

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:

Tender EC2013-224 South Tweed Heads Swimming Pool Heat Pump and Ventilation was called to engage a suitably qualified and experienced organisation to provide Design, Manufacture and Delivery, Demolition and Site set up, Heat Pump install and commission, Ventilator install and commission, Controller install and commission, Service interfacing and ductwork for the Heat Pump and Ventilation equipment at the South Tweed Heads Pool.

Tenders were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005.

As per the requirements of the Local Government Regulation 2005, tenders were officially advertised for EC2013-224 on Tuesday 26 November 2013 in The Sydney Morning Herald. The tender was also advertised in The Brisbane Courier Mail and the Tweed Link.

Tender submissions closed at 4.00pm (local time) on Wednesday 18 December 2013 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Due to the need for clarification of offers received and time frames associated with the preparation of reports to Council it is proposed that a late report be provided detailing the tenders received for consideration at the Council meeting of 23 January 2014.

The late report will review pricing offered and make a recommendation in relation to action to be taken on this tender.

RECOMMENDATION:

That this report be dealt with in conjunction with the late report, EC2013-224 South Tweed Heads Swimming Pool Heat Pump and Ventilation.

REPORT:

As per Summary of Report.

OPTIONS:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Funding is available within Council's Civic Building Asset Management allocations.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

33 [EO-CM] Seabreeze Entry

SUBMITTED BY: Recreation Services

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 held 19 September 2013, Council considered a report on issues associated with the Seabreeze Entry. Council resolved to:

1. Remove the fig trees in the eastern entry to Seabreeze Boulevard and replace with advanced Tuckeroo. The Seabreeze community are to be notified of the planned removal/replacement prior to works commencing; and
2. Commit to an allocation of \$27,500 plus accept the offer of \$7,000 from Metricon (total expenditure of \$35,000) to divert stormwater from the surrounding streets into the Seabreeze entry statement pond, should this be the preferred option of the community.

A letter was subsequently sent to all residents of the Seabreeze Estate detailing these two issues inviting comment. Submissions have been received and are summarised in this report.

RECOMMENDATION:

That Council:

1. **Endorses the removal of the fig trees in the Seabreeze eastern entry statement and replacement with Brush Box; and**
2. **Proceeds with works to redirect localised stormwater into the Seabreeze eastern entry statement pond and investigates the feasibility of other alternatives for recharging the pond with non potable water.**

REPORT:

At its meeting held 19 September 2013, Council considered a report on issues associated with the Seabreeze Entry. Council resolved to:

1. Remove the fig trees in the eastern entry to Seabreeze Boulevard and replace with advanced Tuckeroo. The Seabreeze community are to be notified of the planned removal/replacement prior to works commencing; and
2. Commit to an allocation of \$27,500 plus accept the offer of \$7,000 from Metricon (total expenditure of \$35,000) to divert stormwater from the surrounding streets into the Seabreeze entry statement pond should this be the preferred option of the community.

A letter was subsequently sent to all residents of the Seabreeze Estate (reproduced below) detailing these two issues inviting comment:

"Dear Resident

Eastern Landscaped Entry at Seabreeze

Council has given extensive consideration to two community concerns about the eastern landscaped entry to Seabreeze Estate:

- *the drying out of the pond in extended dry periods*
- *infrastructure damage caused by the avenue of figs planted on either side of Seabreeze Boulevard*

Council understands these issues are important to Seabreeze residents and wants to ensure the community fully understands the issues and has an opportunity to comment.

Issue 1 - Water Feature

For the past decade, Australian society has become much more aware of the need to conserve and protect water supplies.

The Tweed had a severe drought 10 years ago, reducing supplies in Clarrie Hall Dam to low levels. Since then, Brisbane has been affected by a drought which reduced Wyvenhoe (sic) Dam to 17 per cent of its capacity and Sydney has endured a similar experience.

People all over Australia have reduced water usage and waste, by reusing laundry water, installing rainwater tanks and other measures. Tweed residents and Council have been leaders in this water saving movement, achieving a significant reduction in water used per person per year in Tweed Shire.

Amid this need for water conservation, a Council meeting on 15 November 2012 considered a report about the Seabreeze Estate pond and the need to use large quantities of town water to sustain the pond levels, particularly in extended dry periods.

Council's Demand Management Program aims to reduce water use in the Tweed over a three-year period. The strategy includes the Tweed's major businesses, as well as Council's own buildings, parks and gardens, caravan parks and treatment plants. To

reduce Council's own demand for potable water and to find alternatives to water use wherever possible, a number of initiatives have already been implemented and more are planned.

The high use of water required to maintain the Seabreeze pond levels, particularly through drier periods, is contrary to the water conservation practices Council is implementing.

With this in mind, Council decided at its meeting in November 2012 that it could not continue to recharge the pond with town water and that it would rely solely on rain to fill the pond. Council officers were also directed to explore better ways to recharge the pond's water levels.

Council engineers investigated the feasibility of diverting localised stormwater from surrounding streets into the pond to better retain water levels in the pond. The investigation showed it is feasible to divert stormwater from some of the streets to the east of the water feature and this will substantially reduce the number and length of occasions when the pond levels are low. The diversion of stormwater will be an environmentally and economically sustainable way to maximise natural filling of the pond. It will not guarantee the pond is always full but it will minimise the periods when the pond is low.

Subject to support from the local community, Council has agreed to fund the stormwater diversion to the pond, with financial assistance from the developer of Seabreeze, Metricon. Council would therefore appreciate your views on the stormwater diversion concept before finalising a commitment to begin the works.

Issue 2 - Fig Trees

The eastern entrance also includes a central median down Seabreeze Boulevard planted with hoop pines and a row of hills weeping fig trees on either side of the road. Council and some nearby residents have been concerned about the potential impact of the figs on surrounding infrastructure (road, paths, cycleway, kerbs, pipes etc). Council has been monitoring the figs on the chance that the root barriers installed when the trees were planted, in conjunction with localised ground conditions, might prevent infrastructure damage. Unfortunately, there is evidence of damage to the cycleway and the road and, given the immaturity of the trees, this is likely to continue and worsen as the trees grow. The figs' spreading roots and foliage is also impacting on the growth of the hoop pines.

The western entry to Seabreeze Boulevard was constructed a number of years after the eastern entry and also included numerous hills weeping figs. Council was in a position to move early to remove the figs and replaced them with tuckeroos. This is now an attractive entrance without the infrastructure issues.

Council has now decided to remove the figs at the eastern entry and replace them with advanced tuckeroos. This will stop the damage to infrastructure and enable the hoop pines to grow to their full potential to create a striking entrance. Council appreciates that the removal of the figs will have a significant short-term visual impact on the entry. However, experience has shown the figs are not compatible with the site and its

infrastructure and replacing them now, before they grow much bigger, will minimise the impacts of the changeover to advanced tuckeroos.

Council invites your feedback on the decisions to remove the fig trees and to reconfigure stormwater drainage to sustain water levels in the pond. Public submissions can be made by email to tsc@tweed.nsw.gov.au or in writing to:

*Seabreeze Estate Entrance
C/O General Manager
Tweed Shire Council
PO Box 816
Murwillumbah 2484"*

In addition to 20 email responses received, 42 standardised response forms (reproduced below) were received which were produced and distributed by a resident of the estate. While the issue of the fig trees is appropriately represented on the form, the issue of the water feature offers options involving recharging the pond with town water which Council has already resolved to cease.



Circular Letter

To: Residents of Seabreeze Estate

SEABREEZE ENTRY – FIG TREES & WATER FEATURES

The Council has finally forwarded a letter to residents dated 1 November inviting views of residents regarding the Water Feature & Fig Trees.

History:

On 19th September this year the Council passed the following resolution:-

1. Removes the fig trees in the eastern entry to Seabreeze Boulevard & replaces with advanced Tuckeroo. The Seabreeze community are to be notified of the planned removal/replacement prior to works commencing.
2. Commits to an allocation of \$27,500 plus accepts the offer from Metricon (total expenditure \$35,000) to divert stormwater from the surrounding streets into the Seabreeze entry Statement pond should this be the preferred option of the Community."

Issue 1 – Fig Trees

The original Development Application required the Developer to plant those trees.

Are Tuckeroos the only alternative? Some residents believe that they shed large berries in season and attract flying foxes.

Who will be responsible for cleaning up the mess on the road and park?

Also will Council accept responsibility if the dreaded Hendra virus arrives here?

Issue 2 - Water Feature

Metricon was bound to maintain the water features for at least 3 years but it seems this may have been extended until the completion of Stage 6 which was apparently a few years ago.

Since then the Council has neglected both the water features and the maintenance of the rotunda's block work, pavers & railings. I believe the Council also removed re-circulating equipment and allowed the stream to dry up. The Council claims it was vandalised. Could it have been protected?

Initially I was informed by a Councillor that they intended that the Pond would be allowed to dry up.

The Pottsville Community Association made representations to Council following my suggestions at a general meeting. This may have been responsible for the resolution of 17th September.



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SEABREEZE ENTRY – FIG TREES & WATER FEATURES

At the Council Meeting held on 17th October a Petition signed by 653 residents was formally presented to the Council. The Petition required the Council to restore the Water Features (ie. The pond & its re-circulating stream) to their original state as specified in the approval by Council of the Estate's Development Application. The Water Features were the attraction for so many residents acquiring or renting property in the Estate. Photographs of it were used in advertisements & in such places as the Pottsville Sports Club.

Since the Petition was presented, a Senior Council Officer has since informed me that, unless the residents agree with the compromise of storm-water diversion, the funds would be spent elsewhere in the Shire.

The Council has not offered any other option to their compromise proposal yet the resolution re the water feature read, "should this be the preferred option".

A few of us believe that the diversion of storm water in the wet season may assist Council in its use of water but Council should also agree to top up the pond in the dry season. It should also restore the artificial stream by re-circulating the water in the pond & not leaving the water to stagnate.

Developers were obliged to contribute huge sums to Council to enable approval of the Development Application. Stages 1 -6 contributions totalled \$1,287,453 & the total for all Stages will be \$2,898,249. All of this including the developer's costs & profit have been effectively paid by the buyers of property in the Estate. However, how much of the developer's contributions have been spent in Seabreeze, let alone Pottsville?

The Entry Features would have also attracted higher prices for the Lots and hence the Council has benefited by higher Rates being collected.

To assist anyone wishing to respond to the Council's letter I attach a suggested response with options as outlined.

If you wish to complete the attachment you could either post it direct to Council or drop it into my letter-box at 11 Korora Parkway & I will deliver all received to the Council after photocopying them.

Kind Regards,

SEABREEZE ENTRY - FIG TREES & WATER FEATURE

RESPONSE TO COUNCIL LETTER OF 1 NOVEMBER 2013
BY RESIDENTS OF:

ISSUE 1 : FIG TREES
VOTING RE OPTIONS

Please mark "X"	
For	Against

A Removal of the fig trees on the Eastern side of Seabreeze Boulevard.

--	--

B Planting of advanced Tuckeroos be planted as a substitute

--	--

C If you agree with removing the fig trees but disagree with Tuckeroos, then what would you suggest instead:-

WATER FEATURES
VOTING RE OPTIONS

Please mark "X"	
For	Against

A Council Proposal to simply divert storm-water to maintain pond water

--	--

B Council to restore both Pond & circulating stream in accordance with originally approved Development Application & original responsibility accepted by Council.

--	--

C Agree with Council diversion of stormwater but require Council to maintain water level throughout the year by topping up with town water to satisfactory level.

--	--

D In addition to agreeing to C, I believe that the artificial running stream should be restored & adequate security of construction be provided to prevent vandalism.

--	--

OTHER REMARKS:

Signed on behalf of all residents at this property on

Name:

Fig Trees

60 responses were received in reference to the proposed removal of the fig trees and replacement with Tuckeroo.

16 objections to removal of the fig trees (1 email - 15 forms)

19 support removal of the figs and replacement with Tuckeroo (9 emails - 10 forms)

25 support the removal of the figs but suggest replacement with alternative species (4 emails - 21 forms).

The large proportion of the form responses requesting an alternative species to the Tuckeroo refer to Tuckeroo as attracting bats and being messy trees. This may have been influenced by the comments on the form covering letter:

"Are Tuckeroo the only alternative? Some residents believe that they shed large berries in season and attract flying foxes.

Who will be responsible for cleaning up the road and park?

Also will Council accept responsibility if the dreaded Hendra virus arrives here?"

Tuckeroos are no messier than any other street tree, nor do they attract flying foxes more than any other tree. The following comments with reference to bats are supplied by Council's Fauna Ecologist.

"Tuckeroos are not renowned as a preferred forage resource for flying-foxes; however they may be used on occasion as the diet of flying foxes is quite varied. The species of flying-fox likely to be encountered at Seabreeze include Grey-headed flying-fox (GHFF), Black flying-fox and Blossom Bat. Grey-headed flying-fox diet consists of the fruit, flowers, pollen, nectar and occasionally leaves of 201 plant species. Almost half of these being Myrtaceae, including their major food source Eucalyptus blossom. The favoured fruit resource of GHFF is figs (Ficus spp.). Black Flying-fox favours fleshy fruit and the blossom of eucalypts, melaleuca, and turpentines. Blossom Bat are specialist nectar and pollen feeders feeding predominantly on Banksia and Callistemon. Tuckeroos do not have a particularly fleshy fruit and are not likely to be selected where there is more preferable food source available.

These species are highly mobile and move throughout the landscape in response to the availability of forage resources.

The tree species least attractive to flying-fox foraging would be those not in the Family Myrtaceae especially Eucalypts, Melaleuca, Callistemon and Turpentine (Syncarpia glomulifera), and Banksia and Figs (Ficus)."

The matter was also referred to Council's Natural Resource Management Unit (NRM) for comment on appropriate species. NRM noted that Brush Box (*Lophostemon confertus*) do not produce as much pollen, and have much less flower than other Myrtaceae such as Melaleuca, Callistemon and Eucalypts and are quite different structurally (not a mass of stamens). Brush Box may provide a food source for bats in hard times but unlikely to be used as the resource is very small and more likely to be utilised by other species such as nectivorous birds and possibly microbats before flying foxes. Certainly Brush Box will not

attract anything but a stray vagrant and do not provide anything like the resource that fig or other myrtaceous species.

Accordingly, in response to the community's concern regarding bats and with reference to the advice above, Eucalypts, Melaleuca, Callistemon, Turpentine, Banksia and Figs have been excluded from consideration and Brush Box is recommended as the replacement tree after removal of the figs.

While it should be noted that advanced specimens of Brush Box will be relatively spindly initially, Brush Box is a large, hardy species that will compliment the hoop pines and create an impressive entry statement as they mature.

Water Feature

15 emails were received that provided responses on the proposal to redirect localised stormwater into the water feature.

13 supported the proposal.

2 rejected the proposal commenting that Council should continue to recharge the pond with town water.

The form responses were a little more problematic to assess as they provided four options, three of which include recharging the pond with town water. However, from the 42 forms received only 6 objected to the proposed redirection of the localised stormwater.

A number of submissions, both emails and form responses, suggested other alternative options for recharging the pond including ground water and rainwater tanks. These options can also be investigated for feasibility.

Additionally, a large number of submissions requested considerations of options to restore the circulating pump. Options for design and refit of the circulating pump will also be explored.

OPTIONS:

1. Notify the community that the fig trees will be removed and replaced with Brush Box. Undertake works to redirect localised stormwater into the pond and investigate the feasibility of other alternatives to recharge the pond from non potable water; or
2. Take no action

CONCLUSION:

The submissions received from the community demonstrate an acceptance that the fig trees need to be removed and replaced with more appropriate species that are more appropriately sited. There has been some concern expressed about the use of Tuckeroo due to their propensity to attract flying foxes and that they are a messy tree. While these concerns may be unfounded, there is no reason why an alternative species cannot be utilised and Brush Box will provide a grand entrance without being a prolific bat attracting tree.

The submissions demonstrated a strong desire to retain the pond and support for the proposed redirection of the localised stormwater. The form submissions received also demonstrated a preference for the continued use of town water to recharge the pond although Council has already resolved not to continue this practice. A number of submissions suggested investigating other alternate means of recharging the pond from non potable water sources and the feasibility of these options can be investigated.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Construction of stormwater diversion - \$35,000 (\$7,500 contribution from developers).

Removal of figs and replacement planting. - \$11,000.

These figures will be included in the March 2014 Quarterly Budget review.

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. Summary table of submissions received regarding Seabreeze Entry (ECM 3252613).

34 [EO-CM] Disposal of Land - 21 Piggabeen Road, Tweed Heads West

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:

At its meeting held 12 December 2013, Council resolved to list the subject property for sale by private treaty.

An offer has been made and it is recommended that Council accept the offer and execute all necessary documentation to complete the sale under the Common Seal of Council.

RECOMMENDATION:

That:

- 1. Council accepts the offer as detailed in the confidential attachment for the sale of 21 Piggabeen Road, Tweed Heads West comprised in Lot 1 DP 1179345; and**
- 2. All documentation be executed under the Common Seal of Council.**
- 3 ATTACHMENTS 1 and 2 are CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (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:

At its meeting held 12 December 2013, Council resolved to list the subject property for sale by private treaty.

The agent has advised that there have been two offers made on the subject property.

The first offer is conditional on finance and just above the highest range for negotiations for the property.

A second offer has been made which exceeds the highest range for negotiations. The offer is unconditional, with a 60 day settlement.

The second offer will satisfy Council's obligation to obtain value for money and the best price and it is recommended that Council approve and execute all necessary documentation to complete the sale under the Common Seal of Council.

OPTIONS:

1. Council accepts the second offer as made for the sale of 21 Piggabeen Road, Tweed Heads West; or
2. Council does not accept second the offer as made for the sale of 21 Piggabeen Road, Tweed Heads West

CONCLUSION:

In light of the unconditional offer exceeding the range for negotiation purposes in the valuation, it is recommended that Council accept the offer as made.

COUNCIL IMPLICATIONS:

a. Policy:

Disposal of Land Version 1.1.

b. Budget/Long Term Financial Plan:

Proceeds of sale to be allocated to Land Development Fund

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- (Confidential)* Attachment 1. Letter of offer from P Smith & Son dated 10 January, 2014 (ECM 3264245)
- (Confidential)* Attachment 2. Email from P Smith & Son dated 10 January 2014 (ECM 3264261).
-

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REPORTS FROM THE ACTING DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

35 [TCS-CM] Monthly Investment Report for Period Ending 31 December 2013

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 23 January 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.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

36 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 20 September 2013

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

- 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:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 20 September 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Aboriginal Advisory Committee Meeting held Friday 20 September 2013 be received and noted.

REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 20 September 2013 are reproduced as follows for the information of Councillors.

Venue:

Tweed Byron Local Aboriginal Land Council

Time:

9.30am

Present:

Aunty Joyce Summers (Canowindra representative), Jackie McDonald (Tweed Wollumbin Aboriginal Consultative Group representative), Leweena Williams (Tweed Aboriginal Corporation for Sport representative), Des Williams (Tweed Byron Local Aboriginal Land Council representative), Barry Longland (Mayor of Tweed Shire) (left at 11.25am); Katie Milne (Tweed Shire Council) (arrived at 11.30am)

Ex-officio:

Naida Tattersall (Tweed Shire Council), Anne McLean (Tweed Shire Council), Gabby Arthur (Tweed Shire Council)

Guests (in order of arrival):

David Hannah (Tweed Shire Council) (arrived at 10.14am); Rob Appo (arrived at 10.14am); Ian Fox (arrived at 10.14am); Kristy Harvey (Public Works) (arrived at 10.14am); Mick Donohue (Public Works) (arrived at 10.14am); Lara Bennett (Kids Caring for Country After School Program) (arrived at 10.30am); Matt Bloor (Tweed Shire Council) (arrived at 11.00am); Ian Fox (arrived at 12.15pm); Jason Young (Tweed Shire Council) (arrived at 12.00pm), Colin Gregor (Australian Museum) (arrived at 12.00pm)

Apologies:

Desrae Rotumah (Tweed Co-Operative Society)

Chair: Des Williams
Moved: Jackie McDonald
Seconded: Aunty Joyce

RESOLVED that the Chair was declared vacant and nominations were called. Des Williams was nominated and was unanimously elected to Chair the meeting.

Des Williams opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Jackie McDonald
Seconded: Barry Longland

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Monday 5 August 2013 be accepted as a true and accurate record of the proceedings of that meeting with the exception that:

A7(a) Cobaki Lakes Development. The Tugun Cobaki Alliance is considering making a submission to the State and Federal Government to have the site identified as a site of national significance because of the significant dates recorded in the excavation reports and the known Aboriginal Heritage values of the site. Action Item 'that a plan of action be made at the next AAC meeting' be deleted.

A3 NSW Planning White Paper - Overview. The Committee noted that Tweed has had an AAC since 1996 and the AAC has spent those 17 years developing a relationship with Council.

Business Arising:

BA1. Aboriginal Advisory Committee Nomination Form

Letter to AAC members attaching Delegates Nomination Form were handed out to members with a request that they be completed and returned to Council. Once all Nominations are received, a Report will be prepared to Council for adoption. The Nomination Form requests two alternate delegates which should assist with quorum requirements.

BA2. Community Development Officer - Aboriginal

Pending completion of the functional assessment and referee checks, the panel's recommendation for appointment will go to Human Resources.

BA3. Draft wording for Kirkwood Road Plaque

Jackie McDonald advised that she had located the draft plaque wording which was adopted at the AAC meeting on 13 April 2012 subject to members obtaining the endorsement of their organisations.

Moved: Jackie McDonald

Seconded: Joyce Summers

RESOLVED that the draft wording for the Kirkwood Road plaque be 'This site marks and recognises the location of a Registered Aboriginal Scarred/marked tree and acknowledges its continuing and enduring Cultural and Spiritual significance within the Cultural landscape, to the local Aboriginal people.'

BA4. Aboriginal Employment - Kirkwood Road

Jackie advised that she has now forwarded a copy of the email she received from See Civil regarding Aboriginal employment on the Kirkwood Road project to Anne McLean and Barry Longland at Council with a request that a copy be provided to the Acting General Manager.

Aunty Joyce left the meeting at 10.00am

Des noted that the situation on Kirkwood Road cannot be fixed at this stage and the community needs to learn from the experience. Jackie advised there is still 12 months work available on the Kirkwood Road project and positions need to be secured for Aboriginal people. Local Aboriginal employment needs to be included in any relevant Tender Specification prepared by Council.

Aunty Joyce Summers returned to the meeting at 10.03am

The Aboriginal induction training with Councillors and Executive will provide an opportunity to have a discussion regarding local Aboriginal employment.

Leweena suggested that a provision be included in the relevant Tender Specifications that a local Aboriginal person is included on the panel to ensure that local Aboriginal people obtain the employment as otherwise the panel won't know whether the people are local or not. There is a tendency for contractors to bring in Aboriginal people from other areas outside of the Tweed. The AAC were advised that it is beyond the scope of Jason Young's role to remedy tender processes without input from other positions at Council.

AAC members agreed that Council needs to put in place employment opportunities for local Aboriginal people on the Arkinstall Park project. Tender for Stage 1 will be let any time soon. Kerry Liddell of DEEWR has advised she can have an active role in assisting Council in the tender process to ensure local people are employed. Aunty Joyce advised that within the new Government, DEEWR no longer exists.

Jackie raised the question of whether there are any Aboriginal employment opportunities for the landscaping maintenance on Banora Point Bypass. It was noted that the handover has occurred and she could try to pursue through the Pacific Highway Taskforce.

Action Item: Anne McLean, Naida Tattersall and Jason Young to have an urgent meeting with the Acting General Manager to see what can be done to secure some local Aboriginal employment on the Kirkwood Road project as there is still 12 months work remaining.

Action Item: Anne McLean to arrange meeting with Kerry Liddell of DEEWR re employment opportunities for local Aboriginal people on the Arkinstall Park project being put in place by Council.

Agenda Items:

A1. Eviron Road Quarry and Landfill Project - David Hannah (Tweed Shire Council), Rob Appo, Ian Fox (Consultant), Kristy Harvey and Mick Donohue (Public Works) (all arrived at 10.14am)

An update on the landfill project and proposed Management Plan was distributed and formed the basis for discussion.

Jackie McDonald left at 10.26am

Jackie McDonald returned at 10.27am

Barry Longland left at 10.28am

Barry Longland returned to meeting at 10.41am

Leweena Williams left the meeting at 10.41am

Aunty Joyce Summers left the meeting at 10.41am

Leweena Williams returned to meeting at 10.43am

Aunty Joyce Summers returned to meeting at 10.43am

Leweena Williams returned to meeting at 10.44am

Moved: Jackie McDonald

Seconded: Aunty Joyce Summers

RESOLVED that the Aboriginal Advisory Committee endorses the engagement of Ian Fox to be the cultural heritage professional for the archaeological documentation that may be required for the project.

It was determined that a reintroduction of the Eviron Road Quarry and Landfill project, including the Cultural Heritage Assessment previously undertaken by Converge Heritage Consultants, be undertaken via a site visit by the AAC before agreement is reached on the

draft Heritage Management Plan for the project. It is anticipated the site visit will give all members an appreciation of the project.

Kristy Harvey, Michael Donohue, David Hannah, Rob Appo, Ian Fox left meeting at 11.22am
Barry Longland left the meeting at 11.25am
Cr Milne arrived at 11.30am

A2. Murwillumbah Pace - Learning Our Way - Lara Bennett (Kids Caring for Country After School Program)

Lara Bennett thanked the AAC for allowing her to attend the meeting and advised that Deidre Currie was unable to attend the presentation today as she is unwell. Lara's Powerpoint presentation provided background information on the Kids Caring for Country program and also showed examples of the story books that the children were preparing.

Lara noted that there isn't an Aboriginal word for learning.

The children and parents meet every Wednesday at Murwillumbah Community Centre. As a result of funding, the parents have designed some learning kits for partner schools as part of the Pace program. The program reinforces parents as the most important teacher in children's lives. The children are making story books. They are working with TWAECG to get Bundjalung words for common animals, body parts, day to day things.

The resource/activities book has been developed with parents. Flashcards are currently being developed which show the English word on the front and Ngandowal word on back. Jackie McDonald is providing a list of words for the project so that the flashcards and resource kit will contain local Aboriginal words where possible.

Aunty Joyce mentioned there is no counting flashcards. Lara advised that at this stage they have only developed the early years' literacy kit and the numeracy kit still has to be developed.

Lara requested that a representative attend the workshops with parents to provide advice on development of personal education plans. Jackie suggested the ACLO could attend the personal education planning workshops and provide material. Jackie advised she will also attend the workshops as the AECG member.

Des Williams nominated Jackie McDonald to assist with project.

A3. Platypus Project - Matt Bloor (Tweed Shire Council)

Matt Bloor advised that he is one of Council's Project Officers within the Natural Resource Management Unit and works on the waterways program which includes the River Health Grants for rehabilitation of creek banks and waterways and improving water quality.

Council is establishing a platypus project in the Tweed which will establish interest and raise awareness in our community and have them assist to rehabilitate and maintain our creeks. It is recognised that the Tweed has a great opportunity to preserve the platypus because of the rainfall, topography and environment and will be a core place for them to survive into the future as they are in decline in other areas. As part of the project, Council is calling upon the community to report sightings of platypus as a database has never been set up to record where they are located in the Tweed and if the habitats are known, funding can be used to target these areas to preserve the waterways and habitats.

Council is calling upon the knowledge and experience of the Aboriginal community as it will be preparing brochures and a poster about the platypus and would like to include the Aboriginal word for platypus and also some stories and artwork, if this is appropriate. Matt tabled a letter to the AAC members setting out details of the project together with a draft brochure and requested that the members take this information to their organisations and community. Council would be prepared to pay an Aboriginal community artist to develop artwork for the brochure. Matt's contact details are included in the letter and he would welcome contact from the Aboriginal community.

Leweena nominated Aunty Joyce to provide the artwork. It was noted that Aunty Joyce previously provided a painting of a platypus at a small school in the Gold Coast Hinterland.

The project will be launched in early November 2013 at Uki where a community artist will be conducting a weaving project featuring the platypus. Once the woven platypus is made, it will be paraded at the Tweed River Festival in Budd Park. A decision has not yet been made as to where the woven platypus will be housed once it is completed.

Matt advised that in the past 18 months, Council has been working to rehabilitate over 13km of riverbanks on both private and public land. It is anticipated that the platypus project will harness community interest in conservation work in the Tweed.

Anne raised the question of how the story could be developed, whether it will come through the AAC. Jackie advised that she will do some research and ask around the Traditional Owners and descendents. Des also advised that Rob Appo and Ian Fox have a lot of research regarding platypus in the shire and suggested that Matt could speak with them.

Council will be working with the community to establish platypus watch groups. There is an app so that platypus sightings can be recorded.

Matt Bloor left at 12.07pm
Ian Fox arrived at 12.15pm

A4. Ian Fox

Ian advised that he has been commissioned by Council regarding the following three projects:

(a) Clarrie Hall Dam - Interpretative Signage

As part of the Clarrie Hall Dam spillway upgrade project, all picnic and visitation areas and signage will be upgraded providing the opportunity to recognise cultural stories and cultural heritage of the area.

Ian has been commissioned to provide a report commenting on the cultural content to be included on the interpretative signage. It is anticipated there could be 6 to 8 signs. Ian is seeking advice from the AAC as to what they would like to see on those signs as far as cultural stories and cultural heritage content. Possible stories and information could include:

- 'Barrajanda - The Two Dogs'
- 'Gwyalá The Hunter'
- Reproduced image of the scarred tree and information regarding the grinding grooves and the cultural material that has been submerged as a result of the dam.

- 'The Two Sisters'
- How the little black and red wren got its colours
- Story of the local traditional people in point form introducing the name and cultural group etc.

Aunty Joyce enquired which version of 'Gwyala The Hunter' would be used and Ian noted he thought it would be the Mt Warning story. Ian will undertake some research and forward it to Aunty Joyce for verification and checking. Aunty Joyce advised she has a booklet of stories put together by Southern Cross University students. Ian to liaise further with Aunty Joyce regarding the booklet.

Ian asked whether the AAC would like him to come back with a collection of stories for them to choose from. Ian to talk with Aunty Joyce, put some ideas together and bring them to the next AAC meeting for discussion.

AAC will be requested to consider placement and design of the panels including whether they contain a combination of stories and information about the Traditional Owners along with maps, images and artwork.

(b) Murwillumbah Museum - Display Panels

Displays are currently being developed for the new Tweed Regional Museum telling the European story by recognising key individuals in various themes.

The Museum is also proposing to create some panels that acknowledge the Traditional Aboriginal people; to be displayed in the foyer area, prior to the European panels. Ian's idea is to have a map on the wall with the Indigenous cultural names for the places in the shire. He expects there will be approximately 130 places. This would form part of a cultural recognition and acknowledgement in the foyer of the museum.

Ian enquired whether it would be appropriate to tell the story of Billy Moore, the individual who had the king plate.

Aunty Joyce suggested the Dunbible story. Jackie knows this story about how Dunbible got its name. Jackie will provide the information to Ian.

Jackie advised that family names should be mentioned in the display. She advised Ian that she will put together a list of names.

Ian advised he will compile a list of objects currently in the Museum and seek advice at the next AAC meeting as to which objects would be suitable for display and their associated stories. Ian will seek advice at the next meeting as to how the AAC would like to see the display presented, what is included, what is said and how it best reflects the cultural history of the shire before European arrival, which is why it is in the foyer before entering the museum.

Ian explained the Aboriginal story will be threaded throughout the museum but will commence in the foyer. Ian's job is to work with the AAC to ensure that the display in the foyer contains the information that the Aboriginal community would like to see.

(c) Chinderah Foreshore - Due Diligence

Ian advised that he is preparing a Due Diligence Report for the Part V planning approval proposal of footings for a pontoon/jetty. Ian is proposing to cover the European and Cultural Aboriginal history for the whole shoreline. There is uncertainty as to whether the proposed pontoon will go ahead; however, it won't be proceeding at all until an assessment is carried out to decide on whether there is any impact on Aboriginal Cultural Heritage. There are sites not currently registered in AHIMS and Ian would propose to ensure they are clearly identified and registered on AHIMS.

Jackie noted that the old pylons are still there.

Ian advised that he is aware of a couple of midden sites that aren't currently registered and Jackie advised there is also one behind the newsagency at Mrs Toy's house.

Cr Milne advised at the Council meeting on 19 September 2013 it was proposed to move the jetty down 45m. It was noted that if it is moved 25m it will be closer to the midden. A rock wall was put in when the park was upgraded which is near the midden. There might be evidence of the midden adjacent to the rock wall. The impact of this jetty proposal is 2m of riverbank. Cr Milne advised that the jetty has an impact on erosion of the riverbank.

Ian assured the AAC that he knows of Cultural Heritage sites in the area and if they are going to be impacted by boating activity as a result of the jetty, it will be included in his Due Diligence report.

Jackie enquired what impact the development may have on Native Title. Ian advised that he doesn't address this issue. Jackie may need to follow up with Council.

Ian will prepare the Due Diligence report and bring it back to next AAC meeting.

Ian Fox left the meeting at 1.18pm

A5. Kirkwood Road Project - Jason Young (Tweed Shire Council) and Colin Gregor (Australian Museum)

(a) Relocation of Scarred Tree

Jason Young introduced Colin McGregor of the Australian Museum to the AAC. Colin has a history of being involved in scarred trees and their preservation and will provide expert advice on the Kirkwood Road Scarred Tree.

Colin advised that he became involved in preservation of Scarred Trees in 1991 in Sydney. He is a conservator so he usually looks at preserving the Scarred Tree for as long as possible but sometimes there are cultural issues where this isn't so important.

Colin made a Powerpoint presentation to the AAC.

Colin advised that he inspected the Kirkwood Road Scarred Tree and it was very solid and reasonably well preserved. There is a small shaft of termite damage up the middle of it; however, from what he could see there is very sound wood in the remaining part of the tree.

There are different management options depending on the condition of the tree. Management options include:

- recording information using photographs, drawings, 3D scanning, mouldings etc.

- managing the tree on site in its original site.
- relocation to semi open shelter with protection against elements including rain, sun, insects and vandalism.
- relocation to fully enclosed building such as a museum or cultural centre.
- stored in a showcase.

The Kirkwood Road Scarred Tree is of a size where it could be kept inside in a showcase or otherwise in a shelter, mounted off the ground on a steel post which goes through the base, so that it is protected. The bulk of the bark layer will stay on the tree and will dry quite slowly. It has not been weathered badly by direct exposure to weather and rain.

Colin advised he can write up a report with recommendations based on his observations and inspection of the Scarred Tree today.

An example was shown of a hexagonal shelter with a Scarred Tree on a concrete slab and then on a steel plinth so that it isn't directly in contact with the ground.

Des advised that he had envisaged the tree would be in a shelter rather than inside. The AAC liked the design of a hexagonal hut-like enclosure, with walls almost to the top and bottom but so that no one can climb through and a wire gate so that it could be locked up when the Minjungbal Aboriginal Museum and Cultural Centre is closed. There was discussion that it could have slatted walls; there would be no need to have seats, just room to walk around it. Jackie suggested that interpretative signage be included in the hut to inform students about the history of the Scarred Tree.

Jason advised that he and Colin had a walk around at Minjungbal Aboriginal Museum and Cultural Centre before attending today's AAC meeting. They identified a sandy area near the car park which could be a good area to use and would not impact on the area too much as no trees would need to be removed to access it.

Naida enquired whether there may be the need to relocate other Scarred Trees and if so, whether we should be building a bigger enclosure. Des advised that the Minjungbal Aboriginal Museum wouldn't take any other Scarred Trees; and only took the Kirkwood Road Scarred Tree because of its proximity and significance.

Jason to arrange for an inspection at the Minjungbal Aboriginal Museum with Des of suitable sites as it will be necessary to obtain a survey of the site. The AAC will also need to determine the size of the structure.

(b) Plaque

The AAC advised Jason Young that the draft plaque wording was adopted at the AAC meeting on 13 April 2012 and updated at today's meeting. AAC members will be seeking endorsement by their organisations, with a view to it being adopted at the next AAC meeting.

Action: Gabby Arthur to provide draft wording to Jason Young.

(c) AHIP

Jason Young advised the AHIP with the variation following the discovery of the items on the western area and the relocation of the items has been registered on OEHL's website. Jason will contact OEHL next week and request a copy as Council doesn't appear to have a copy.

Action: Jason Young to provide copy of the AHIP with the variation to the AAC.

General Business:

GB1. Chinderah Foreshore Jetty

Cr Milne raised the possibility of members of the AAC attending the public meeting at Chinderah regarding the Chinderah foreshore jetty.

Jason Young and Colin Gregor left the meeting at 2.03pm.

GB2. Model Code of Conduct for Local Councils in NSW "Your obligations as a council committee member"

Distribution of Model Code of Conduct for Local Councils in NSW "Your obligations as a council committee member" dated March 2013 was tabled and handed out to members. Council's Manager Corporate Governance Unit, Neil Baldwin to attend November AAC meeting to address the Code.

GB3. Budd Park - Tweed River Interpretative Signage and The Tweed Book

Draft items from Andy Reimanis of Caldera Art regarding Budd Park - Tweed River Interpretative Signage and The Tweed Book were tabled and handed out to members. Andy Reimanis will be addressing the AAC meeting on 4 October 2013.

Incoming correspondence

1. Letter from TBLALC to Office Environment and Heritage dated 16 September 2013 re 'Complaint River Heights Lot 1 DP 1168904 Tweed Heads South'

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held on Friday 4 October 2013.

The meeting closed at 2.11pm.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Adopted 25 September 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.

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37 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 1 November 2013

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

- 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:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 1 November 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Aboriginal Advisory Committee Meeting held Friday 1 November 2013 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:
 - A4. Eviron Road Quarry and Landfill project - David Hannah (Tweed Shire Council) and Mick Donohoe (Public Works)

That Council notes that the Aboriginal Advisory Committee provides in-principle support for the Heritage Management Plan for Eviron Road Quarry and Landfill prepared by Council and dated October 2013 to be submitted to OEH.

REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 1 November 2013 are reproduced in the body of this report for the information of Councillors.

Venue:

Tweed Byron Local Aboriginal Land Council

Time:

9.00am

Present:

Aunty Joyce Summers (Canowindra representative), Jackie McDonald (Tweed Wollumbin Aboriginal Consultative Group representative) (left at 11.21am), Glenda Nalder (Tweed Wollumbin Aboriginal Consultative Group representative) (arrived at 11.24am), Leweena Williams (Tweed Aboriginal Corporation for Sport representative), Larissa Smyth (Tweed Byron Local Aboriginal Land Council representative), Cr Katie Milne (Tweed Shire Council) (arrived at 11.10am)

Ex-officio:

Naida Tattersall (Tweed Shire Council), Rob Appo (Tweed Shire Council), Gabby Arthur (Tweed Shire Council)

Guests (in order of arrival):

Ken McIntosh Aboriginal Affairs (arrived at 10.04am), Neil Baldwin (Tweed Shire Council) (arrived at 10.05am), Ian Fox (arrived at 10.55am), David Hannah (Tweed Shire Council) (arrived at 11.30am), Mick Donohoe (Public Works) (arrived at 11.30am), Andy Reimanis (Caldera Art) (arrived at 1.00pm), Tim Robins (Everick) (arrived at 1.34pm)

Apologies:

Des Williams (Tweed Byron Local Aboriginal Land Council representative), Barry Longland (Mayor of Tweed Shire), Desrae Rotumah (Tweed Aboriginal Co-operative Society), Anne McLean (Tweed Shire Council), Jackie McDonald (left at 11.21am)

In the absence of a quorum, the Code of Conduct presentation by Manager Governance proceeded for those present.

Neil Baldwin arrived at 10.05am

A2. Code of Conduct Information for Committee Members - Neil Baldwin (Tweed Shire Council)

Neil Baldwin's presentation included advice that Council has adopted a new *Model Code of Conduct* in March 2013.

Document entitled *Your Obligations as a Council Committee Member - March 2013* was tabled and distributed to members. A copy of this document had been provided to the members at the previous meeting.

He also pointed out that:

- The *Code of Meeting Practice* sets out the type of business that should be discussed at meetings. It contains the guidelines in which members should act, discusses conflicts of interest, conduct of committee members and the interaction between each other, staff and guests - which should always be done with due respect.
- The AAC has been established by Council. Council has resolved the positions and members need to abide by the rules of the *Code of Conduct* and *Code of Meeting Practice*. All recommendations of the AAC have to be resolved by Council.
- As part of its Integrated Planning and Reporting, Council has developed several documents including the *Community Strategic Plan 2013-2023* which lists the objectives and strategies of the Council. It is a 10 year document and each newly elected Council has to revisit it. Council also has a four year Delivery Program which is for the term of the Council and a one year Operational Plan which is linked to the budget.
- Council's *Resourcing Strategy* supports the *Community Strategic Plan 2013-2023* and includes the Workforce Management Plan.

Gabby undertook to provide a copy of the *Community Strategic Plan 2013-2023* and the supporting *Resourcing Strategy* to each of the AAC members.

A question was asked as to whether there is a Code of Conduct for people who attend community access meetings. Neil referred to Council's Code of Meeting Practice which covers community access (page 43). It is at the Mayor's discretion to advise a person attending community access meetings whether they can proceed with what they are saying.

Neil Baldwin left at 10.55am
Ian Fox arrived at 10.55am
Cr Milne arrived at 11.10am

A quorum was achieved at 11.10am.

Chair: Aunty Joyce Summers
Moved: Leweena Williams
Seconded: Jackie McDonald

RESOLVED that the Chair was declared vacant and nominations were called. Aunty Joyce Summers was nominated and was unanimously elected to Chair the meeting.

Aunty Joyce Summers opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Leweena Williams
Seconded: Jackie McDonald

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 20 September 2013 be accepted as a true and accurate record of the proceedings of that meeting with the exception that:

1. The amendment made at the meeting held on 20 September 2013 to the Minutes of 5 August 2013 (accepted AAC meeting held on 20 September 2013) to Item

A7(a) under Business Arising (page 2) it was noted that the preferred wording for that amendment would read: *Cobaki Lakes Development - The Tugun Cobaki Alliance is considering making a submission to the State and Federal Government to have the site identified as a site of national significance because of the significant dates recorded in the excavation reports and the known Aboriginal Heritage values of the site.*

2. A2 Murwillumbah Pace - Learning Our Way (page 4): sentence to be added *Des Williams nominated Jackie McDonald to assist with the project.*
3. A2 Murwillumbah Pace - Learning Our Way (page 4): the second sentence of paragraph 4 be amended to read *Jackie McDonald is providing a list of words for the project so that the flashcards and resource kit will contain local Aboriginal words where possible.* The following sentence to be removed.
4. A4(a) Clarrie Hall Dam (page 6): the last sentence to be deleted *Jackie confirmed that the panels should include artwork only, not photographs.*
5. A4(c) Chinderah Foreshore - Due Diligence (7 page) - the first sentence to be amended to read: *Cr Milne advised at the Council meeting on 19 September 2013 it was proposed to move the jetty down 45m.*

Business Arising:

BA1. Finalisation of draft wording for Kirkwood Road plaque

Jackie McDonald advised that the TWAECG approved the draft wording at its general meeting on 14 October 2013. Members requested to follow up with their organisations and to confirm at next meeting that wording has been endorsed.

BA2. Murwillumbah Pace - Learning Our Way (Kids Caring for Country After School Program)

Jackie McDonald advised that as an outcome of the recommendation by Des Williams nominating her to help out with the program, Jackie has assisted the mothers and has done her best to locate and replace the Aboriginal words in the booklets. Jackie will send out a copy to AAC members. It was agreed that the disclaimer should be included in each of the booklets which are inside the resource folder.

Action Item: Jackie McDonald will recommend to Murwillumbah Pace that the disclaimer be included in each of the booklets which are inside in the resource folder.

Agenda Items:

A1. Welcome to Rob Appo - Community Development Officer - Aboriginal (Tweed Shire Council)

The AAC congratulated Rob Appo on his appointment and welcomed him to the meeting. Council confirmed that Rob will be liaising with the community as part of his role.

Jackie McDonald left at 11.21am

There was no quorum until Glenda Nalder arrived at 11.24am. In the interim, Ian Fox introduced his scheduled presentations.

A3. Ian Fox

(a) Clarrie Hall Dam - Interpretative signage

Ian Fox advised that the only progress on this item has been the collection of some more cultural stories. Ian will be meeting with Aunty Joyce in the next couple of weeks and will bring some drafts back to the next AAC meeting.

Ian has located images of the two cultural sites (the grinding groove and scarred tree) that were covered by the dam. Ian was requested to liaise with Des Williams regarding the image of the scarred tree before including it on any signage.

Glenda Nalder arrived at 11.24am

A quorum was present at 11.24am. Ian Fox continued his presentation.

(c) Chinderah Foreshore - Due Diligence

Ian Fox advised that he has met with the relevant organisations and has provided them with a draft of the Due Diligence Report. Ian has yet to follow up with Desrae Rotumah.

Following a public meeting on 15 October 2013 about the Chinderah pontoon, Tom Alletson of Council advised Ian that the size of the pontoon is to be reduced and it is to be moved 45m downstream.

Larissa Smyth left at 11.26am

There being no quorum, the meeting was unable to proceed. Ian Fox proceeded with his presentation; it was noted that any recommendations/resolutions would need to be delayed until a quorum was present.

(c) Chinderah Foreshore - Due Diligence (cont)

Evidence of the old European crossing has been located and recorded in the Due Diligence Report. There is no evidence of any Aboriginal Cultural Heritage where the anchor points are for the pontoon.

The final Due Diligence Report will now be submitted to Council.

David Hannah and Mick Donohoe arrived at 11.30am

(b) Murwillumbah Museum - Display panels

Ian reminded the AAC that this project includes the traditional Aboriginal place names being recorded on a map to be displayed in the foyer of the Murwillumbah Museum. Ian has located four additional cultural names and has updated the list. Ian is seeking feedback from the AAC as to any changes, errors or additions required to the names on the list.

Ian has undertaken further research on the background of Billy Moore. He confirmed that Murwillumbah Museum holds Billy Moore's king plate and may also have his boomerang. The boomerang hasn't yet been formally identified as Billy's however it is the only one that the Museum holds which is traditional and from that era.

Ian tabled copies of the proposed wording and map for Council's website and requested feedback. As the copyright holder of the map, Ian would give permission to Council to have it on its website along with other text that the AAC feels appropriate. It was noted that Ian has put the wording in the first person however this can be changed.

Aunty Joyce suggested that reference to "owners" should be changed to "custodians".

Ian requested that AAC members circulate the wording in preparation for discussion at the next AAC meeting; however, they can provide Ian with feedback at any time.

A4. Eviron Road Quarry and Landfill project - David Hannah (Tweed Shire Council) and Mick Donohoe (Public Works) and Ian Fox

David and Mick were advised that there being no quorum, the presentation could proceed regarding Eviron Road Quarry and Landfill project; however, the AAC would be unable to make any recommendations until a quorum was achieved.

Ian Fox advised that he has consulted with all AAC members regarding the draft Cultural Heritage Management Plan since the site visit. Ian requested that the AAC provide in-principle support to send the draft Cultural Heritage Management Plan to OEH. It was noted that the report was altered following the site inspection with AAC members in September 2013.

Kelly Fox's Honours Project - Holocene palaeogeography for the Tweed and its link with Indigenous cultural sites (Ian Fox)

Ian Fox advised that Kelly Fox has completed her Honours Project entitled *Holocene palaeogeography for the Tweed and its link with Indigenous cultural sites*. Rob Appo has a copy which can be supplied to AAC members and retained for Council records. Ian advised that Kelly would like to be included on the next AAC agenda to present the outcome of her study.

Ian Fox, Mick Donohoe and David Hannah left at 12.01pm.

A5. Introduction and OCHRE document - Ken McIntosh (Aboriginal Affairs)

Ken McIntosh acknowledged the traditional owners of the land and introduced himself. He advised that Reuben Robinson was unable to attend today and sends his apologies.

Ken advised that the OCHRE Report was prepared following 44 consultations across the State. He will provide Leweena with some copies of the OCHRE Report for distribution to members when she is next in Coffs Harbour. In the meantime, the OCHRE Report can be downloaded from the Aboriginal Affairs' website.

Aboriginal Affairs has prepared a tender for the formation of an Aboriginal decision-making consortium; and if funded, it will work with Aboriginal Affairs government and non-government policies. The outcome of the tender will be known at the end of the year.

Ken advised that the AECG is the lead agency with consultations in the Bundjalung language nest. That forum will assist schools to include Bundjalung into the school curriculum.

Larissa Smyth returned at 1.00pm

A quorum was present at 1.00pm. Ken McIntosh continued his presentation.

Ken requested that he be able to attend future AAC meetings. If the AAC has any concerns regarding restructures within government departments, he is happy to make enquiries on their behalf and report back to the AAC.

Ken advised that both Kyogle and Coffs Harbour Councils have requested Aboriginal Affairs to be involved in development of their Aboriginal Employment Strategies. Ken provided examples of other areas where he has been able to form partnerships on projects including:

- working with TAFE to establish a kitchen which will be able to be used for bread and jam making
- a café in Casino;
- working with Destination NSW to develop Aboriginal cultural tourism.

Andy Reimanis arrived at 1.00pm

Ken advised that in been involved in development of Reconciliation Action Plans.

Ken suggested that Rob may like to make contact with Lloyd Linwood - Aboriginal Liaison Officer at Coffs Harbour Council to discuss some of the programs they are running including the Grace Roberts Award.

Ken advised that he will forward to Gabby at Council the electronic link to the OCHRE report and also the five projects.

A4. Eviron Road Quarry and Landfill project - David Hannah (Tweed Shire Council) and Mick Donohoe (Public Works)

Moved: Leweena Williams

Seconded: Larissa Smyth

RECOMMENDED that the Aboriginal Advisory Committee provides in-principle support for the Heritage Management Plan for Eviron Road Quarry and Landfill prepared by Council and dated October 2013 to be submitted to OEH.

Leweena Williams left at 1.15pm

Ken McIntosh left at 1.16pm

There being no quorum, the meeting was unable to proceed.

A6. Yulgeri project at Fingal - Owen Mitimeti (Nortec)

TBLALC will be managing this project with Nortec. The AAC will not be involved in this project.

A7. Andy Reimanis (Caldera Art)

Andy was advised that there being no quorum, the presentation could proceed regarding the Budd Park signage and The Tweed Book; however, the AAC would be unable to make any recommendations until a quorum was achieved.

(a) Budd Park signage

Andy advised that he has been engaged by Council to prepare some interpretive signage for Budd Park in Murwillumbah. Four signs will be erected - River of Plenty (Aboriginal Cultural value), River of Time (geology, hydrology and catchment), River of Life (biodiversity), River of Change (community river-care and amenity).

Leweena Williams returned at 1.24pm

A quorum was present at 1.24pm. Andy Reimanis continued his presentation.

Assistance is requested from the AAC regarding the content of the River of Plenty sign. Andy tabled a draft of the wording and advised:

- the first paragraph is a reproduction of Council's Acknowledgement.
- the second and third paragraphs were derived from a display poster produced in 1988 that used to be on display at the Visitor Centre.
- the last paragraph was taken from the Minjungbal brochure "Minjungbal Aboriginal Nature Walk".

Colleen Forbes arrived at 1.26pm

Aunty Joyce advised that in the "Minjungbal Aboriginal Nature Walk" brochure, the date of 1977 is incorrect. It appears that this document was prepared for Minjungbal Aboriginal Museum and Cultural Centre.

Tim Robins arrived at 1.34pm

Andy advised that there is an urgent timeframe as they are trying to get the signage up for the Tweed River Festival on 8 November 2013.

Aunty Joyce advised that as there aren't any traditional owners at the meeting today, Rob to email a copy of the document to Jackie and to liaise with Jackie so that they can get the information back to Andy urgently. Andy advised that Council's signwriters have indicated they would like to print the signs on Tuesday 5 November.

The artwork on the proposed sign was painted by Luke Close. It was noted that Luke Close is an Aboriginal Artist but he is from Lismore not the Tweed.

(b) *The Tweed* book

The Tweed book is a Caldera Art initiative. It is a mini table-book of the Tweed. Andy circulated a draft concept copy of *The Tweed* book for the AAC members to view.

Andy referred to pages 14 and 15 of *The Tweed* book and requested assistance from the AAC with the information. He advised that the *Tweed Coast Environment Guide 2007* and *Mount Warning National Park* were used as references.

Larissa Smyth left at 1.45pm

There being no quorum, the meeting was unable to proceed. Andy Reimanis proceeded with his presentation; it was noted that any recommendations/resolutions would need to be delayed until a quorum was present.

Andy was advised that the Mitchell Library would need to be acknowledged for the photographs used from the Thomas Dick Collection. It was noted that the photographs used were taken in Port Macquarie and not the Tweed and it was queried as to the appropriateness of using photographs and artwork from outside of the Tweed.

Leweena Williams left at 1.50pm

Aunty Joyce advised that the contents of pages 16 and 17 were correct and there were no changes required.

Action: Andy to be invited to attend the next AAC meeting.

Andy Reimanis left at 1.59pm
Leweena Williams returned at 2.00pm

A8. Tim Robins (Everick)

Tim was advised that there being no quorum, the presentation could proceed regarding Tweed City, Cobaki Lakes and River Heights; however, the AAC would be unable to make any recommendations until a quorum was achieved.

(a) Tweed City

Tim advised that:

- the Development Application will be submitted to Council in the near future.
- test excavations need to be carried out in the area of the extensions and it is proposed to make eight test pits as deep as possible. Some of the test pit sites could potentially be very old.
- the AHIP has been lodged and Everick are awaiting approval from OEH which is expected just before Christmas.
- once Everick are advised the approval is on its way, they will contact TBLALC to arrange site monitors.

Tim advised he has emailed copies of the Cultural Heritage Assessment and Excavation Strategy to Gabby and requested she forward the email and attachments to AAC members. Tim was requested to send a hard copy of the report to Jackie.

The AAC asked that the architect be requested to incorporate Aboriginal artwork into the architectural design of the extension.

(b) Cobaki Lakes

Tim advised that Cobaki Lakes is progressing in stages. Leda wanted to carry out cut and fill in Precincts 13 and 16 however the Aboriginal community does not agree.

In relation to the sand ridge, there are a number of potential cultural heritage parks which are the areas identified by Everick as containing artefacts of up to 1000 years old sitting on the surface and older further down. Tim advised the artefacts would need to be buried as

you can't have the artefacts above the ground in a residential area. He also informed the meeting that Leda would like to put 1.0m to 1.5m of fill across the parks. It was noted that if Leda is protecting the land, it doesn't have to do the archaeological research on the site. The Aboriginal community needs to decide whether it is acceptable to bury and change the landscape.

Leweena advised that TBLALC has views as to how this matter should move forward however further discussions are required.

It was queried as to whether there would be any heritage grants available for Council to access. Everick advised that it will cost \$50,000 or \$60,000 to enable the dating to be carried out. Everick advised it could apply for grants to assist with the funding.

Tim advised the AAC that Reg van Rij is the person to meet with at Leda regarding the site and a well articulated proposal would need to be put forward.

Tim advised that if a cultural heritage park were developed, it would be entered into the AHIMS register. Colleen advised that Council would need to provide development consent.

Any consent to fill the land would require a landscape design (not just concept design) and Council would then have to agree.

(c) River Heights

Tim advised that Everick has been unable to contact the developer for an update so he is unable to provide an update to the meeting.

Colleen Forbes was requested to provide an update of the status from Council's perspective. Colleen advised that information has been resubmitted and it has been referred to Council's internal staff for comment. No internal comments have been received as yet.

TBLALC has lodged a formal complaint with OEH re moving of artefacts and is currently following up on some information. TBLALC is dissatisfied with the draft report prepared by Everick and the issues around the artefacts.

Everick has been requesting OEH to attend a site meeting. OEH has advised that Council has not referred the matter to them and OEH would only get involved if they received a referral. Colleen advised that the matter has been referred to OEH.

It was noted that if the Aboriginal community wrote to the Minister making an allegation of harm then OEH would need to get involved.

Leweena Williams left at 2.49pm
Leweena Williams returned at 2.52pm
Larissa Smyth returned at 2.54pm

A quorum was present at 2.54pm. Recommencement of Agenda Items.

Inwards Correspondence:

IC1. Letter from Tweed Valley Relay for Life dated 17 October 2013 re Request for
Welcome to Country

Letter from Tweed Valley Relay for Life dated 17 October 2013 tabled. Discussion regarding requests for *Welcome to Country* and the requirement for a register of names and an agreed standard fee to be produced. Rob to liaise with organisations to prepare a list of names for *Welcome to Country*.

Moved: Aunty Joyce Summers

Seconded: Larissa Smyth

RESOLVED that:

1. Rob Appo to prepare a register of names of people eligible to perform a *Welcome to Country*.
2. A standard fee for performing a *Welcome to Country* to be set.

IC2. Invitation to AAC to attend launch of Council's Platypus Project on 8 November 2013

Invitations distributed to AAC members.

General Business:

GB1. Nomination of Delegate forms

Rob to collect the completed Nomination for Delegate forms from organisations next week. It was noted that TWAECG has already submitted its form.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held Friday 6 December 2013.

The meeting closed at 3.17pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

A4. Eviron Road Quarry and Landfill project - David Hannah (Tweed Shire Council) and Mick Donohoe (Public Works)

That Council notes that the Aboriginal Advisory Committee provides in-principle support for the Heritage Management Plan for Eviron Road Quarry and Landfill prepared by Council and dated October 2013 to be submitted to OEH.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Adopted 25 September 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.

38 [SUB-TCKAG] Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held Tuesday 19 November 2013

SUBMITTED BY: Community and Natural Resources



Caring for the Environment

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

4	Caring for the Environment
4.2	Conserve native flora and fauna and their habitats
4.2.1	Promote the protection of native vegetation and wildlife habitat of high conservation value, social or cultural significance in Tweed Shire

SUMMARY OF REPORT:

The Minutes of the Tweed Coast Koala Advisory Group Meeting held Tuesday 19 November 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed Coast Koala Advisory Group Meeting held Tuesday 19 November 2013 be received and noted.

REPORT:

The Minutes of the Tweed Coast Koala Advisory Group Meeting held Tuesday 19 November 2013 are reproduced as follows for the information of Councillors.

Venue:

Canvas and Kettle Meeting Room

Time:

1.00 pm

Present:

Cr Katie Milne (TSC), Mark Kingston (TSC), Scott Hetherington (TSC), Rhonda James (community rep), Anita Mudge (community rep), Lorraine Vass (Friends of Koala Inc.), Marama Hopkins (TSC), Jennifer Hayes (Team Koala Inc.), Tony Thompson (Team Koala Inc.; observer only).

Apologies:

Steve Jensen (DP&I), John Turbill (OEH), Ralph Kraemer (community rep), Iain Lonsdale (TSC)

1. Minutes of Previous Meeting:

Moved: Rhonda James

Seconded: Jennifer Hayes

RESOLVED that the Minutes of the Tweed Coast Koala Advisory Group Committee meeting held Tuesday 3 September 2013 be accepted as a true and accurate record of the proceedings of that meeting (subject to adoption at next Council meeting).

Note: See first item under Business Arising.

BUSINESS ARISING:

1. Kings Forest PAC Approval

Anita Mudge advised of a potential conflict of interest in this item. As such, the item was deferred until the end of the meeting.

2. Endangered Population Nomination

Marama advised that Sally Jacka (TSC) has drafted a response to the NSW Scientific Committee's request for additional information regarding certain aspects of the Tweed Brunswick Coast Koala Endangered Population Nomination. Lorraine provided information on the health status of the population which has been incorporated into the response. The additional information is to be finalised and submitted shortly.

AGENDA ITEMS:

3. Koala Connections update

Scott Hetherington, Koala Connections Project Manager, provided the following update on the progress of the project to date.

Overall project summary

Eighty property assessments have been carried out, 15 Site Action Plans have been drawn up and works have been undertaken on 22 sites. In total, 9,300 trees have been planted. A further 25-30 sites and 15,000 trees are to be planned for and planted in Autumn 2014.

Tweed project summary

Properties for inclusion in the project have been prioritised based on location, with key linkage areas and mapped koala populations, including clusters of smaller properties within these areas. Within the identified priority areas, over 600 landholders have been invited to participate. Of these, 160 were interested in participating, 29 were potentially interested and 103 were not interested.

The total property size of interested landholders is currently 1,800ha, including properties totalling 220ha east of the Pacific Highway.

Requests for quotes have been issued to contractors for undertaking landholder engagement, site assessment and planning for plantings in Autumn 2014. The focus areas for this are Farrants Hill, Palmvale, Cudgera Creek and Sleepy Hollow.

Invasive species monitoring and management update

Remote infrared camera monitoring is continuing throughout coastal bushland (private properties, Council-managed land and Nature Reserve) and highway underpasses. The project is gathering a significant dataset on feral & native animals, some of which is being analysed currently by a student from Point Loma Nazarene University, San Diego.

Byron's trapping contractor has trapped 30 dogs, 16 foxes and 11 cats between May and October 2013.

Invasive species monitoring and management works are being done in collaboration with University of New England, Biosecurity Qld, Invasive Species Cooperative Research Centre with data contributing to various research projects.

Community engagement

The project has been promoted at numerous events and associated media coverage, including the Friends of the Koala AGM, Great Koala Count, Agricultural Shows, Tweed River Festival, Farmers Markets, Council presentations and committees, Koala Beach Community Day.

Planting of the 10,000th tree for the project is due to occur in the next couple of weeks. An event is planned to celebrate this milestone, and project promotion will be incorporated into this event.

Fire project

Consultation with NCC, Rural Fire Service, National Parks and Wildlife Service and Koala Connections Steering Committee has been undertaken in relation to the draft brief being developed by Northern Rivers Fire and Biodiversity Consortium koala working group

There has been interim acknowledgement by the Rural Fire Service and the Bush Fire Management Committee of the koala's threatened status and accordingly a decision to treat the koala as a recognised asset under Far North Coast Bush Fire Risk Management Plan. The plan is to be updated next year, with these changes to be incorporated. This decision redirects focus for funding to on-ground actions that contribute directly to capacity to avoid wildfire in Tweed Coast koala habitat such as fire management trail upgrades and/or other access.

4. CKPOM Draft operational provisions

Marama tabled draft chapters outlining sets of operational provisions relating to Habitat Restoration, Roads, Fire, Dogs and Koala Care and Welfare. These provisions set out Council's responsibilities outside of the development assessment provisions to minimise and mitigate the major threats to population recovery.

Considerable time was taken going through and discussing the draft provisions. Group members provided feedback on various sections of the draft provisions, which will be incorporated where appropriate. Group members to provide additional detailed feedback where necessary as soon as possible via email.

Anita Mudge left the meeting at 3:55pm.

1. Kings Forest PAC Approval

Cr Katie Milne declared a non-significant, non-pecuniary interest in this item.

Mark advised that Council had received a letter from Project 28 Pty Ltd regarding the minutes of the Koala Advisory Group meeting of 3 September 2013 as recorded in Council Meeting minutes of 17 October 2013. In the abovementioned letter, Project 28 highlight a number of statements made in relation to the Planning Assessment Commission (PAC) determination that they believe are inconsistent with the terms of the approval.

The perceived inconsistencies identified by Project 28 relate to the following TCKAG minutes.

2) the developer will be responsible for funding the implementation of all environmental management plans (including the KPOM) in perpetuity;

The group was advised that the submission from Project 28 highlighted Concept Plan Conditions A13 and B7, stating that neither condition made reference to funding in perpetuity.

In the Planning Assessment Commission's formal description of the Concept Plan Approval Modification Mod 2 06_0318, the following statement is made regarding management in perpetuity:

a new term of approval requiring the proponent to implement all management and maintenance activities in the environmental management plans in perpetuity.

Conditions A13 and B7 give effect to this modification. It is considered that the above statement is not inconsistent with the terms of approval.

6) Any hand over of environmental lands to Council (app 200ha) shall be associated with development stages and subject to agreement regarding costs of long-term management;

Project 28 highlighted Project Approval Condition 132 and Concept Plan Condition B5, stating that neither make reference for the need for an agreement regarding costs of long-term management.

Mark advised that the potential cost burden to Council associated with the management of environmental lands in perpetuity has been one of the major issues preventing agreement

regarding terms under which Council will accept dedication of environmental lands. The PAC Final Determination Report identifies that dedication of lands to Council will require an agreement regarding the costs of long-term management and implementation of the management plans. The Conditions of Approval recognise the need for such an agreement, which is reflected in Condition B7:

The Proponent is responsible for the management of all land to be dedicated to Council in the future and the 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 Stage 1 project approval (08_0194), until such time that an agreement is reached with OEH and/or Tweed Shire Council regarding the dedication of that land.

the note to Condition B5:

If no agreement is reached the land to be dedicated to Council in the future will not be dedicated to Council and term B7 will continue to apply.

and Project Approval Condition 3:

Within 3 months of the date of this approval, or as otherwise agreed with the Director-General, the Proponent shall:

- a) engage a registered surveyor to prepare a survey plan(s) and permanently mark the boundaries of the land to be dedicated to Council in the future and the Offset Area;*
- b) where relevant, submit amended plans of proposed subdivision to the Director-General for approval that show the land to be dedicated to Council in the future and the Offset Area as separate lots;*
- c) ensure that the boundaries marked by the surveyor remain marked at all times in a permanent manner that allows operating staff, the landowner and inspecting officers to clearly identify those boundaries; and*
- d) submit for the Director-General's approval, a form of dealing(s) to be registered on the title to the land to be dedicated to Council in the future and the Offset Area that must:
 - i. bind all future landowners;*
 - ii. provide for the management of the land to be dedicated to Council in the future and the Offset Area for conservation purposes including the implementation of relevant Environmental Management Plans, in perpetuity;*
 - iii. permit access to the land to be dedicated to Council in the future and the Offset Area by the Department, the OEH and Council at all times for the purpose of monitoring compliance with relevant covenants and the Environmental Management Plans; and*
 - iv. provide for a release of any registered dealings in circumstances where all or part of the land to be dedicated to Council in the future or the Offset Area are transferred to a public authority.**

It is considered that the above comment is not inconsistent with the Conditions of Approval.

12) exclusion fencing and underpasses are to be constructed prior to bulk earthworks

Project 28 highlights Project Approval Condition 64 stating that this condition only relates to environmental protection areas in the southern and/or western development precincts, and also that exclusion fencing and underpasses are not required over the whole of the Kings Forest site within which bulk earthworks are proposed and approved.

In relation to the above, it was advised that in addition to Condition 64, Condition 46(1) & (2) and Condition 147 also refer to the construction of fauna infrastructure.

The conditions of consent specify that the works referred to in Condition 64 are to be completed prior to bulk earthworks, while Condition 46(2) which refers to fauna exclusion

fencing around Precincts 1 and 5 requires construction at the completion of bulk earthworks. Under Condition 147 the fauna underpass at the Depot Rd entry to the development must be completed prior to the release of the subdivision certificate for Precinct 5.

It is considered that the minuted statement regarding exclusion fencing and underpasses is not inconsistent with the approval however it is acknowledged that more precise detail could have been included to reflect all relevant conditions and their timing as noted above.

The KAG unanimously supported the following motion:

Moved: Lorraine Vass

Seconded: Rhonda James

RESOLVED that the above clarifications regarding conditions of approval and detail on timing be noted in the minutes of the TCKAG meeting.

GENERAL BUSINESS:

5. Kings Forest EPBC Act referral

There was a brief discussion on the Kings Forest EPBC Act referral and confirmation that Council would be preparing a submission. Submissions are due 6 December.

6. *Councillor Workshop*

Jenny Hayes reminded the group of a previous resolution to hold a workshop with the new Council for purposes of inform Councillors about Koala issues and the implications of the draft Plan.

Meeting Closed

The meeting closed at 4:35pm.

Next Meeting

Tuesday 11 February 2014.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. **Policy:**

Code of Meeting Practice.

Terms of Reference - 31 March 2010.

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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39 [SUB-TRAG] Minutes of the Art Gallery Advisory Committee Meeting held Wednesday 4 December 2013

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
 - 2.1.1 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:

The Minutes of the Art Gallery Advisory Committee Meeting held Wednesday 4 December 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Art Gallery Advisory Committee Meeting held Wednesday 4 December 2013 be received and noted.

REPORT:

The Minutes of the Art Gallery Advisory Committee Meeting held Wednesday 4 December 2013 are reproduced as follows for the information of Councillors.

Venue:

Tweed River Art Gallery

Time:

5.00pm

Present:

Clr Warren Polglase, Clr Phil Youngblutt, Hobie Porter, Louise Devine, Robert Appo, Hobie Porter, Judith Sutton, Lyn Stewart (Friends' President), Stephen Senise, Katrina Primikiri-Mackney, Robert Dagworthy, Susi Muddiman (Gallery Director), Anne Schardin (Assistant Gallery Director).

Apologies:

Dr Daena Murray, Joanne Nimmo.

Minutes of Previous Meeting:

Moved: Robert Dagworthy

Seconded: Judith Sutton

RESOLVED that the Minutes of the Art Gallery Advisory Committee meeting held 4 December 2013, with a correction that Shirley Kennedy be recorded as present at the meeting, be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

None.

Director's Report

Susi Muddiman reported that the Margaret Olley Art Centre recreation is coming together. The Yellow Room has been fitted with well matched cornice and ceiling rose. The recreation of the exterior of the building is well underway. The Library and the Education Workshop are both well underway and the woodwork in both is well finished.

The Café Pavilion is behind schedule and it is anticipated it will now be completed in January.

An LED upgrade of Gallery lighting is underway and it is expected that there will be a substantial saving on electricity and energy costs.

A new position Curator Margaret Olley Art Centre and Collection Manager has attracted 28 applications. Applicants will be interviewed on Friday 13 December 2013.

A call for new volunteers through the Friends of the Gallery recent mail out resulted in 72 expressions of interest. On Tuesday 3 December a Volunteer Induction was held for the new Reception Volunteers and Gallery Guides.

Eleven new artworks have been accessioned including five photographs from the Olive Cotton Award for photographic portraiture 2013.

Moved: Lyn Stewart
Seconded: Judith Sutton

RESOLVED that 11 new acquisitions as per attachment are endorsed by the committee.

General Business:

Clr Warren Polglase reported that the proposal of the Rail Trail walking bicycle track is being investigated by Council and is gaining support.

Clr Warren Polglase invited committee members to bring up community projects for Council to consider.

Louise Devine commented that the new Gallery Shop and counter layout looks very good.

Next Meeting:

The next meeting of the Art Gallery Advisory Committee will be held Wednesday 19 February 2014 at 5.00pm.

Further meetings for 2014:

11 June
10 September
2 December

The meeting closed at 6.10pm

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Nil.

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PO Box 816 Murwillumbah NSW 2484 | ABN 90 178 732 496
tweedart@tweed.nsw.gov.au | www.tweed.nsw.gov.au/artgallery
The Gallery and Café is open from Wednesday to Sunday 10am – 5pm (C&ST)



Report of the Art Gallery Director submitted to the Art Gallery Advisory Committee
Wednesday 4 December 2013

Subject: Officer's Report
Author: Susi Muddiman
Manager: Naida Tattersall, Acting Manager Community and Cultural Services

Recommendation:

That the report by the Art Gallery Director be received for information.

VISITORS TO THE ART GALLERY

For the period since the previous meeting of the AGAC on 14 August, the Gallery welcomed 16,490 visitors. This figure includes the two week closure period during which time the Gallery offices and retail area were refurbished.

The following information covers the period 9 August – 29 September which covers the exhibition period which showcased the *Olive Cotton Award for photographic portraiture, Leaf and Limb: Valentina Polonen* and the continuing exhibitions *Ben Quilty: After Afghanistan, Artists of the region* and *Drawing Margaret: Nicholas Harding*. The *Olive Cotton Award* is held biennially with a major acquisitive prize of \$20,000, funded by the family of Olive Cotton, one of Australia's leading twentieth century photographers. The Friends of the Tweed River Art Gallery Inc. sponsor Director's Choice acquisitive awards to the value of \$4,000. The Award is an important vehicle for the inclusion of photographic portraiture in the Gallery's collection. The 2013 Judge was Helen Ennis, Associate Head, ANU School of Art. The OCA is a Gallery initiative.

Exhibition period open to the public for **38 days**
(The exhibition period included School Holidays in Queensland & NSW)

Opening Function **210**

Community Groups **376** – Byron Bay Garden Club (17), Alstonville RSL (50), Palm Beach Legacy Laurel Club (20), GCCAG volunteers (30), Runaway Bay Village (24), Golden Crest Manors (22), Southport Anglicare (15), West Mermaid Beach Probus Club (18), Greenhills Retirement Village (10), The Buttery (22), Terry's Tours (30), Kirra/Tugun Probus Club (29), Ballina Art Club (29), RAAF Coffs Harbour (40), Forsythes (20).

Education Groups **260** – Currumbin Special School (13), Australian-Asian Creative Exchange (20), St Johns' College (18), Wollumbin HS (12), Banora Point HS (37), Somerset College (55), U3A (35 & 35), Moreton Bay College (35).

Total Attendances: **10,422**

EDUCATION

Our Education & Audience Development Officer Robyn Sweaney has trained a further seven new Volunteer Gallery Guides. The guides graduated on 28 November and will be joining our team of volunteers. They have worked hard throughout their training period and having attended some of their 'trial runs', I am delighted with these most recent graduates.

One of the existing guides Anne Riddell has expertly collated much information for the Education Resource being published for the upcoming exhibition *Private Assembly: a private collection*. This has been a massive task for Anne and she has done a wonderful job.

Each of the guides have also been assigned a work from the Gallery's collection currently on exhibition. This information will prove invaluable for the Gallery's new collection management system.

VOLUNTEERS

The Gallery recently released Expressions of Interest from the public to become Gallery volunteers. We require many new volunteers to assist us when the Olley Centre opens. A call for new volunteers was included in the Friends' recent mail out to members and the response was excellent. Over 60 (and counting) expressions of interest were received in a short period of time. An induction session will be held on 3 December to register and induct our newest volunteers in line with Council's new operational procedures for volunteer management.

At this session, the Gallery's Education & Audience Development Officer will present some information regarding enrolment in the next training program for Gallery Guides. We imagine that we will be inundated with requests for guided tours from numerous tourism companies once the Olley Centre opens. New guides will be trained, as will volunteers for reception desk duties, in preparation for the opening.

MARGARET OLLEY ART CENTRE

Construction of the Olley Centre is unfortunately behind schedule. Alder Constructions are working towards a renewed completion date of 16 December. Given delays with design, changes in staff personnel at Alder and numerous pricing variation requests, it is doubtful that this date will be met. The building company has been informed that the unpack of Margaret Olley's home studio must commence in early January in order for the Gallery to retain the services of our Project Co-ordinator Sally Watterson. The instruction has been directed by Council for the builders to complete the MOAC as a priority in order to facilitate this.

I am pleased to report that progress on the construction of the Pavilion is beginning in earnest now, which is very pleasing given that this addition to the Café has been funded by private donors and additional financial assistance from the Gallery's Foundation.

Progress on the new front entrance air lock portico is slow, as is work on the Artist in Residence Studio. It was hoped that the front entrance would be completed during the Gallery's recent two week closure period, but unfortunately this did not eventuate. Alder will now have to work around the Gallery's Monday/Tuesday closure periods to begin and complete this work.

Gallery and Council officers have also been working on a project to retrofit all existing light fittings in Stage I and II of the Gallery to LED. The change will substantially lower our energy bill, upgrade the facility and increase the sustainability of the building dramatically. LED technology is now at the advanced stage, with many public facilities now converting from expensive halogen

lighting. In addition, Federal Government legislation has been passed some time ago which requires public facilities to adhere to more sustainable practices. The conversion to LED is expensive. The Gallery has been looking at it for a few years now, but as the government gave public cultural facilities some leeway in terms of time, we waited for the technology to improve, and to source funding for the project. Council applied to a Federal Government Waste and Sustainability Improvement fund for financial assistance in covering this large cost, and to assist with the cost of purchasing the new chiller for the air conditioning system upgrade as part of the MOAC build. We were very lucky to be awarded \$254,000 towards these costs. \$100,000 was allocated towards the chiller, leaving \$154,000 available to put towards the LED conversion.

A breakdown of costs is as follows:

176 x ERCO 72820 12w LED wall washer	= \$121,352 ex GST
	= \$133,484 inc GST
60 x ERCO 72804 12w LED spotlight	= \$41,028 ex GST
	= \$45,130 inc GST
10 x ERCO 33433 12w ceiling wash	= \$8,400 ex GST
	= \$9,240 inc GST
TOTAL:	\$170,780 ex GST
	\$187,854 inc GST

Further to these costs, the lighting track system needs to be converted from Leading Edge technology to Trailing Edge technology. When Stage II was constructed, only some areas were changed, so the remaining systems require upgrading so that all areas are Trailing Edge compatible.

Conversion from Leading Edge to Trailing Edge technology:

Approximately \$20,000

A request was put to the Foundation to release some of the funds raised through selling naming rights to the new building to cover the shortfall towards these costs. The Foundation agreed to release funds of \$50,000 to cover the shortfall and additional labour cost and freight costs. I consider this an excellent investment of funds as it will drastically reduce the Gallery's energy bills and bring the Gallery into line with major institutions. Combined with the new airlock portico to be constructed at the entry door, and the new chiller, the building will operate much more efficiently in terms of energy.

Tender documents for the supply of the LED light fittings were posted on Council's website and tenders invited. A separate tender will be posted for the conversion from Leading Edge to Trailing Edge technology. As this process will be managed by Council, the GST component will be covered.

ACQUISITIONS TO THE COLLECTION





The Committee is asked to ratify the acquisition of 11 artworks to the collection. Please refer to the attached report outlining the acquisitions.

Susi Muddiman
Gallery Director
27 November 2013




TWEED REGIONAL GALLERY - 11 NEW ACQUISITIONS AGAC DECEMBER 2013

<p>887 Registration No AG2013.0070.0000 Dauida Allen <i>Kangaroos</i> 2007 oil on board Donated through the Australian Government's Cultural Gifts Program by the artist, 2013</p>	
<p>888 Registration No AG2013.0071.0000 Natasha Bieniek <i>Untitled</i> 2013 oil on wood Purchased by the Friends of the Tweed River Art Gallery and the Tweed River Art Gallery Donation Fund, 2013</p>	
<p>889 Registration No AG2013.0072.0000 Euan Macleod, Lloyd Jones, Ron McBurnie <i>Hearsay</i> 2013 artist book etching and relief print on paper Gift of the Tweed River Art Gallery Foundation and the Friends of the Tweed River Art Gallery, 2013</p>	
<p>890 Registration No AG2013.0073.0000 Rene Bolten <i>Pear on plate</i> 2013 oil on canvas Acquired through the Tweed River Art Gallery donation Fund, 2013</p>	

TWEED REGIONAL GALLERY - 11 NEW ACQUISITIONS AGAC DECEMBER 2013

<p>891 Registration No AG2013.0074.0000 Trent PARKE <i>Candid portrait of a woman on a street corner</i> 2013 photographic pigment print on paper Acquired as the winner of the Olive Cotton Award for photographic portraiture, 2013</p>	
<p>892 Registration No AG2013.0075.0000 Raimond de Weerd <i>Self portrait with cactus and telephone</i> 2013 photograph digital lambda print Acquired as the Director's Choice through the Olive Cotton Award for photographic portraiture funded by the Friends of the Tweed River Art Gallery, 2013</p>	
<p>893 Registration No AG2013.0076.0000 Russell Shakespeare <i>Bob Katter MP</i> 2011 photograph on cotton rag paper Acquired as the Director's Choice through the Olive Cotton Award for photographic portraiture funded by the Friends of the Tweed River Art Gallery, 2013</p>	
<p>894 Registration No AG2013.0077.0000 Imogen Hall <i>Barry Jones and the ancestor</i> 2012 type C digital print on Fuji lustre paper Acquired as the Director's Choice through the Olive Cotton Award for photographic portraiture funded by the Friends of the Tweed River Art Gallery, 2013</p>	

TWEED REGIONAL GALLERY - 11 NEW ACQUISITIONS AGAC DECEMBER 2013

<p>895 Registration No AG2013.0078.0000 Sahlan Hayes <i>Noah</i> 2013 digital print Acquired as the Director's Choice through the Olive Cotton Award for photographic portraiture funded by the Friends of the Tweed River Art Gallery, 2013</p>	
<p>929 Registration No AG2013.0112.0000 Anthony Joy <i>Just a thought</i> 2012 synthetic polymer paint on paper Gift of the artist, 2013</p>	
<p>896 Registration No AG2013.0079.0000 Margaret OLLEY <i>France</i> 1950 watercolour Gift of the Margaret Olley Estate, 2013</p>	

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Reviewed 21 August 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.

40 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 5 December 2013

SUBMITTED BY: Design



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 on Thursday 5 December 2013 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 on Thursday 5 December 2013 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

A1. [LTC] Marine Parade, Kingscliff

That the "No Parking Buses Excepted" signage applying to the off road space adjacent to the Kingscliff Community Centre be removed.

A2. [LTC] Tweed Valley Way, Murwillumbah

That a convex safety mirror be installed on Tweed Valley Way to assist drivers exiting the shared driveway from numbers 425/425A subject to associated installation and maintenance costs being borne by the applicant.

A3. [LTC] Tweed River High School, Heffron Street, Tweed Heads

That:

- 1. The existing bus zone signs west of the pedestrian refuge on Heffron Street be altered to read "No Parking" during morning school hours 8.00-9.30am and bus zone 2.30-4.00pm". This represents a distance of approximately 80 metres.***

- 2. The School be encouraged to pursue funding for suitable on-site facilities to cater for parents and/or buses.***

REPORT:

The Minutes of the Local Traffic Committee Meeting held on Thursday 5 December 2013 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, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Ray Clark (Chairman), Mr Trevor Harris, Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Ms Liz Smith, Roads and Maritime Services of NSW, Snr Constable Ray Wilson, NSW Police, Mr Thomas George MP, Member for Lismore, Mr Col Brooks (alternate member for Mr Thomas George MP), Mr Geoff Provest MP, Member for Tweed, Mr Michael Kenny, Mr David Bonner.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 7 November 2013 be adopted as a true and accurate record of proceedings of that meeting.

FOR VOTE - Unanimous

The Chairperson advised the meeting of comments received from Mr W McKennariey regarding Item B1 Fraser Drive, Banora Point from the meeting held 7 November 2013.

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC-SOR] Schedule of Outstanding Resolutions - 5 December 2013

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 7 November 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).

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: *That Item B1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 7 November 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

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Marine Parade, Kingscliff

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3222735; Traffic - Committee; Parking Zones; Signs - Traffic Issues;
Transport - Bus Services - Stops; Marine Parade, Kingscliff

SUMMARY OF REPORT:

Request received for the removal of the "No Parking Buses Excepted" signage adjacent to the Kingscliff Community Centre on Marine Parade, Kingscliff.

"I request the sign be removed outside the Community Hall. We have been the Managers here for the Kingscliff Holiday Park now for 5 years and a bus has not stopped out the front for at least 3 years. It would make more sense if we could get rid of the No Parking Sign and make use of it as a normal car park for the people who use the Community Hall and patriots of the Holiday Park. There is only 3 car spots for both the Holiday Park and for People who use the community Hall which is not enough.

People who cannot get a park out the front end up parking on the yellow lines where the Caravans are to park when they check in. This makes it hard for Caravans to get into the Park."

COMMITTEE ADVICE:

That the "No Parking Buses Excepted" signage applying to the off road space adjacent to the Kingscliff Community Centre be removed.

RECOMMENDATION TO COUNCIL:

That the "No Parking Buses Excepted" signage applying to the off road space adjacent to the Kingscliff Community Centre be removed.

FOR VOTE - Cr Barry Longland, Rod Bates

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Nil

A2 [LTC] Tweed Valley Way, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3206986; Traffic - Committee; Traffic - Safety; Pedestrian Safety; Tweed Valley Way, Murwillumbah

SUMMARY OF REPORT:

Request received for the installation of a traffic mirror so that residents and the school can safely turn onto Tweed Valley Way from the access road on 425/425A Tweed Valley Way, Murwillumbah as well as cross the road safely:

"I am lodging a request for a traffic mirror or some safety feature so that the residents and the Infants school can safely turn onto Tweed Valley Way from the access road on 425/425A Tweed Valley Way, Murwillumbah as well as cross the road safely.

I am the owner of 425a Tweed Valley Way and I feel that it is unsafe to enter into the traffic on Tweed Valley Road (sic) from the driveway due to:

- It is a blind spot due to the curve in the road. We can only turn left out of the driveway due to the angle of the driveway and the curve of the road.*
- Telegraph pole on the south corner of the driveway that obscures the already limited view of the road.*
- Cars travelling over the speed limit.*
- It is a narrow part of the road, so if there is a problem, there is nowhere to manoeuvre away from an accident except to the other side of the road into incoming traffic...*

It is dangerous turning onto the road and I am very concerned for the people that don't use the driveway often. Some of us have nearly been hit by cars when we have pulled out onto the road, thinking that there was no traffic. But due to the limited view, a car can be just around the corner.

If the council (sic) put in a traffic mirror or another appropriate device or system, it would make it less dangerous and much safer for the residents, visitors, school contractors, road users and pedestrians.

Please consider installing a traffic mirror or assessing the problem in your next traffic council meeting (sic)."

COMMITTEE ADVICE:

That the applicant be advised that convex safety mirror images cannot be relied upon at speeds greater than 50km/h.

RECOMMENDATION TO COUNCIL:

That a convex safety mirror be installed on Tweed Valley Way to assist drivers exiting the shared driveway from numbers 425/425A subject to associated installation and maintenance costs being borne by the applicant.

FOR VOTE - Cr Barry Longland

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Rod Bates

A3 [LTC] Tweed River High School - Heffron Street, Tweed Heads

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3214092; Traffic - Committee; Traffic - School Zones; Traffic - Safety;
Heffron Street; Schools; Tweed River High; Tweed South Primary

SUMMARY OF REPORT:

A request has been received by the school:

"It would seem the most logical and cost effective solution would be to install a marked zebra crossing from the northern curb to the southern curb at one of several proposed locations on Heffron Street. It is further suggested that a safety fence be installed on the southern footpath for a distance of not less than 5 meters on either side of the crossing in order to funnel pedestrians to the crossing point. A concrete median could be constructed on the northern curb between the end of the crossing and the footpath to facilitate access to the footpath.

An examination of the legislation surrounding the installation of zebra crossings and marked children's crossing points reveals the proposed solution meets all the criteria required for a crossing to be installed. Whilst traffic numbers at present may not quite meet the required 300 movements morning and afternoon for a crossing supervisor, the school's and P&C's position is that a marked crossing should be installed regardless."

There are currently 2 pedestrian refuge points provided along Heffron Street to service both Primary and Secondary Schools. An on site investigation revealed that students cross Heffron Street in an adhoc manner with the minority using these crossing points.

This issue could be mitigated by the alteration of the current bus zone signage for the area west of the Tweed River High School pedestrian refuge on Heffron Street Tweed Heads to read "No Parking during morning school zone times and bus zone for the afternoon school zone times."

This will minimise the current practice of parents performing "U" turns prior to setting down passengers on the northern side of Heffron Street removing the need for students to cross Heffron Street.

COMMITTEE ADVICE:

That the existing bus zone signs west of the pedestrian refuge on Heffron Street be altered to read "No Parking" during morning school hours 8.00-9.30am and bus zone 2.30-4.00pm". This represents a distance of approximately 80 metres.

RECOMMENDATION TO COUNCIL:

That:

1. The existing bus zone signs west of the pedestrian refuge on Heffron Street be altered to read "No Parking" during morning school hours 8.00-9.30am and bus zone 2.30-4.00pm". This represents a distance of approximately 80 metres.
2. The School be encouraged to pursue funding for suitable on-site facilities to cater for parents and/or buses.

FOR VOTE - Cr Barry Longland, Rod Bates

AGAINST VOTE - Nil

ABSENT. DID NOT VOTE - Nil

PRESENT. DID NOT VOTE - Nil

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] Wooyung Road and Kellehers Road Intersection

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 75654412; Traffic - Committee; Speed Zones; Tweed Coast Road, Pottsville and Wooyung

SUMMARY OF REPORT:

Request received for a speed limit reduction on Tweed Coast Road between Pottsville and Wooyung.

"The speed limit on the Tweed Coast Road between Pottsville and Wooyung is currently 100km per hour. As a resident of Pottsville and a frequent user of this road it is my view that consideration should be given to reducing the speed limit to 80km per hour with a reduction to 60km per hour at the Kellehers road intersection. This view is based upon the following factors:

- . There are 26 entry ways in and out of carparks and picnic/fishing spots along the beach and Mooball Creek between Pottsville and Wooyung that have constant usage.*
- . There are a significant number of pedestrians, including numerous unaccompanied children and elderly people, that cross the Tweed Coast Road daily at the Kellehers road intersection to get to the beach at Black Rocks.*
- . The bushland areas and nature reserves along this road are the habitat of abundant wildlife.*

The current speed limit of 100km per hour places additional unnecessary risk on drivers, pedestrians and wildlife. Consideration of this proposal at the next meeting of the Local Traffic Committee would be much appreciated."

This item was previously dealt with by the Local Traffic Committee at its meeting held 17 February 2011 where a speed review of the entire Tweed Coast Road and Wooyung Road was undertaken by the Roads & Maritime Services Authority. These recommendations were adopted by Council and speed zones posted accordingly.

COMMITTEE ADVICE:

A review of the speed limit on Wooyung Road is not supported as this has been conducted recently by the RMS and Council officers will continue to monitor pedestrian activity from Black Rocks to the beach area on Wooyung Road during the busy Christmas period.

B2 [LTC] Kennedy Drive, Tweed Heads

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 75456361; Traffic - Committee; Traffic - Pedestrian Crossings; Traffic - Safety; Kennedy Drive

SUMMARY OF REPORT:

Request received for the installation of a pedestrian crossing outside the "Scales" fish shop on Kennedy Drive.

"Quite a few of us in "Endless Summer" area agree that it would keep people a lot safer if we had a pedestrian crossing outside "Scales" fish shop on Kennedy Drive. We see customers, ourselves included, trying to cross in front of that shop at risk of life and limb.

Kennedy Drive is such a busy Street now, in both directions, it is extremely difficult to cross safely. As quite a few residents in this area are elderly and some rely on "Scales" for their evening meal, it would be a real asset for you to paint a few stripes!!"

Creation of a marked pedestrian crossing in this vicinity would severely impact on kerbside parking due to the requirement of a 20 metre approach and 10 metre departure 'No Stopping' zone. This in itself would impact on the seafood business.

The Committee noted that a speed zone survey is currently being undertaken by the RMS.

COMMITTEE ADVICE:

That new pedestrian surveys be undertaken on Kennedy Drive, Tweed Heads near "Scales" fish shop to ascertain compliance with Roads and Maritime Services warrants for a marked pedestrian crossing.

B3 [LTC] Bawden and Fawcett Streets, Tumbulgum

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 3207245; Traffic - Committee; Traffic - Pedestrian Crossings; Pedestrian Safety; Traffic - School Zones; School - Tumbulgum Public; Bawden Street; Fawcett Street

SUMMARY OF REPORT:

Request received for the installation of pedestrian crossings at the Bawden and Fawcett Street intersection adjacent to Tumbulgum Public School:

"At our recent general meeting it was discussed that there is a need for pedestrian crossings at the Bawden and Fawcett Street intersection adjacent to the Tumbulgum Public School.

The danger in particular to children crossing this intersection is considered to be enough to warrant crossings.

The RTA has informed us that the school zone will be fitted with flashing lights by 2015 to operate during designated times only.

A member of both the P&C Association and the Tumbulgum Community Association would be available to meet with a Traffic Committee member on site."

Discussions have been held with teaching staff in relation to compliance with the road rules and occupation of the bus zone. The School's Traffic Management Plan should be reiterated to drivers to reinforce the School's Traffic Management Plan.

COMMITTEE ADVICE:

That assessments of the site on Bawden Street have indicated low volumes of pedestrian and vehicle activity which would not meet Roads & Maritime Services warrants for a marked pedestrian crossing and the School should therefore encourage parents to drop off and pick up children on the school side of the road.

B4 [LTC] 2014 Meeting Schedule

ORIGIN:
Planning & Infrastructure

FILE NO: Traffic - Committee

SUMMARY OF REPORT:

The following tentative dates are proposed for Local Traffic Committee meetings in 2014 (Thursday):

30 January (if Agenda items require a meeting to be held)

13 February
13 March
10 April
1 May
12 June
17 July
21 August
25 September
30 October
4 December

As Committee members would be aware, Local Traffic Committee meetings will commence at 10.00am and end at approximately 12.00 noon, depending on the extent of the Agenda.

COMMITTEE ADVICE:

That the following meeting schedule be endorsed for Local Traffic Committee meetings in 2014:

30 January (if Agenda items require a meeting to be held)
13 February
13 March
10 April
1 May
12 June
17 July
21 August
25 September
30 October
4 December

B5 [LTC] Upper Burringbar Road, Burringbar

ORIGIN:
Planning & Infrastructure

[LTC] Upper Burringbar Road, Burringbar

FILE NO: ECM 3053499; 3219446; Burringbar Road; Upper Burringbar Road; Traffic - Committee; Traffic - Safety; Traffic - Speed Zones; Traffic - Pedestrian Safety

SUMMARY OF REPORT:

Advice received from NSW Roads & Maritime Services dated 8 November 2013 that a speed zone review of Upper Burringbar Road, Burringbar has been completed that:

- "1. The existing 80km/h speed limit on Upper Burringbar Road is reduced to 60km/h from 200m east of the eastern railway crossing point to 400m west of the western railway crossing point, a total distance of 1.4km."*

For the Committee's information, this item was originally listed for LTC at its meeting on 16 May 2013 and is reproduced as follows:

"Request received in relation to the speed of vehicles on Burringbar Road particularly between the two rail crossings.

"..... writing to inform you of our community problem we are having with speeding cars between the two rail crossings, there have been numerous accidents on this particular stretch of road as the youth are using these corners as a race track, the road has been widened which allows more speed, there are numerous driveways on this stretch . There are children riding there bikes to school everyday , and there seems to be a ten fold increase in P PLATE drivers, last week i rang the police on a speeding car that nearly hit me while i was just across the bridge between guard rail and the road , he was travelling so fast, swerved to miss me with inches to spare and kept speeding without slowing down even when he came so close to hitting me, on friday early evening a car ran off the road into the ditch and hit a tree, from going too fast and losing control. The past couple of years there have been many near fatalities, one horror smash in the same place as friday nights accident, where a local man has severe brain trauma and will never recover. We are requesting as we have done in the past to make this area between the two rail crossings a 60 zone, as we neighbors believe the 80 zone is not suitable and not sensible"

A similar item was discussed at the Local Traffic Committee meeting held 21 October 2010 where the following resolution was made:

"That:

- 1. The NSW Police consider dedicating resources to speed enforcement along Upper Burringbar Road.*
- 2. Pedestrian and cyclist warning signage be placed along Upper Burringbar Road at locations deemed appropriate by Council officers.*

COMMITTEE ADVICE:

That:

- 1. Consideration be given to a review of the speed limit on Upper Burringbar Road, Burringbar and supporting information be forwarded to the Roads & Maritime Services.*
- 2. This item be listed on the Schedule of Outstanding Resolutions.*

From Meeting held 7 November 2013:

COMMITTEE ADVICE:

That the Mooball & District Moovers Inc. be advised that a speed zone review of Upper Burringbar Road is currently being undertaken by the RMS."

Current Status: An Inspection has been done and a report is being prepared by the NSW Roads and Maritime Services.

That the Schedule of Outstanding Resolutions Item Upper Burringbar Road, Burringbar, from Local Traffic Committee meeting held 7 November 2013 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 16 May 2013 (Item B1)."

Advice received from NSW Roads & Maritime Services dated 8/11/13 that a speed zone review of Upper Burringbar Road, Burringbar has been completed that:

- "1. *The existing 80km/h speed limit on Upper Burringbar Road is reduced to 60km/h from 200m east of the eastern railway crossing point to 400m west of the western railway crossing point, a total distance of 1.4km."*

COMMITTEE ADVICE:

That the RMS advice that the existing 80km/h speed limit on Upper Burringbar Road is reduced to 60km/h from 200m east of the eastern railway crossing point to 400m west of the western railway crossing point, a total distance of 1.4km be noted and implemented.

B6 [LTC-LATE] Murwillumbah Cycle Club 2014 Racing Season

ORIGIN:
Planning & Infrastructure

FILE NO: Traffic - Committee; Traffic - Safety; Festivals/Events - Other; Bicycle Matters - General; Boyds Lane; Dulguigan Road; Urliup Road; Dungay Creek Road; Tomewin Road; Numinbah Road; Limpinwood Road; Zara Road; Kyogle Road; Tyalgum Road; Brays Creek Road; Upper Crystal Creek Road; Queensland Road; Nobbys Creek Road; North Pumpenbil Road; Old Lismore Road; McAuleys Road; Rayles Lane; Pat Smith Park

SUMMARY OF REPORT:

Request received for approval of the conduct of the 2014 race calendar which relates to roads west of Murwillumbah. The races commence at the entrance off Pat Smith Park on Dulguigan Road and the following courses are utilised during the racing throughout the season:

1. Chillingham and Return
2. Bald Mountain/Chillingham and Return
3. Tyalgum Route
4. Brays Creek and Return

The following Course Extensions may be included in the courses detailed above:

1. Numinbah Creek (Numinbah Road)
2. Upper Crystal Creek Road
3. Nobbys Creek Road
4. North Pumpenbil Road
5. Old Lismore Road
6. Dulguigan Road, Tumbulgum
7. Dulguigan Road, North Tumbulgum
8. Boyds Lane
9. Urliup Road
10. Dungay Creek Road

Racing commences at 2.00pm and is expected to be finished by 5.00pm. Draft calendar dates are expected to be provided for review within the next 2 weeks.

COMMITTEE ADVICE:

That the Murwillumbah Cycle Club 2014 Racing Season be approved subject to the receipt of the dates of activities for 2014 and the following conditions:

1. NSW Police approval being obtained
2. Conformance with a Traffic Management Plan and associated Traffic Control Plans installed and controlled by approved persons
3. Community and affected business consultation be conducted
4. The event organiser notifies Tweed residents of the impact of their events by advertising in the Tweed Link at their expense a minimum of one week prior to the first event taking place. The advertising must include the event name, specifics of any traffic impacts or road closures and times, alternative route arrangements, event organiser, a personal contact name and a telephone number for all event related enquiries or complaints
5. Adequate public liability insurance being held by the event organiser
6. All signage erected for the event to not cause a hazard for motorists or pedestrians and be removed immediately following the completion of the event

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 13 February 2014 in the Mt Warning Meeting Room commencing at 10.00am.

There being no further business the Meeting terminated at 11.35am.

SECTION A - FORMAL ITEMS SECTION - DELEGATIONS FOR REGULATORY DEVICES FOR ENDORSEMENT BY COUNCIL:

A1. [LTC] Marine Parade, Kingscliff

That the "No Parking Buses Excepted" signage applying to the off road space adjacent to the Kingscliff Community Centre be removed.

A2. [LTC] Tweed Valley Way, Murwillumbah

That a convex safety mirror be installed on Tweed Valley Way to assist drivers exiting the shared driveway from numbers 425/425A subject to associated installation and maintenance costs being borne by the applicant.

A3. [LTC] Tweed River High School, Heffron Street, Tweed Heads

That:

1. The existing bus zone signs west of the pedestrian refuge on Heffron Street be altered to read "No Parking" during morning school hours 8.00-9.30am and bus zone 2.30-4.00pm". This represents a distance of approximately 80 metres.
2. The School be encouraged to pursue funding for suitable on-site facilities to cater for parents and/or buses.

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.

41 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Monday 9 December 2013

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 9 December 2013 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 9 December 2013 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

1. Business Plan - Tweed Academy of Sport (TAS)

That, in its 2014/2015 budget, Council consider providing a financial contribution of \$40,000 per annum for a 3 year period to the Tweed Academy of Sport.

4. Black Rocks Sports Fields

That the Sports Advisory Committee wishes Council to note the Committee's concern with the limitations being placed on the use of Black Rocks Sports Fields.

REPORT:

The Minutes of the Sports Advisory Committee Meeting held Monday 9 December 2013 are reproduced in the body of this report 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: Leigh Tynan

RESOLVED that the Minutes of the Sports Advisory Committee meeting held 21 October 2013 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

Nil.

Agenda Items:

1. Business Plan - Tweed Academy of Sport (TAS)

Margie Coleman presented the committee with a business plan for the Tweed Academy of Sport (TAS). The TAS is a not for profit organisation which aims to develop talented junior athletes of the Tweed Region. TAS recently inducted 30 athletes into its program and a squad of approximately 30 athletes have been inducted every year since 2009. The Academy is requesting financial assistance from Council for a 3 year period with the intention of the Academy becoming financially independent.

The Academy proposes employment of operations and administration staff at an annual cost of \$80,000 with Tweed Shire Council funding half of these costs (\$40,000) with the remainder being funded by sponsorships and grants. In summary the Academy is requesting a financial contribution of \$40,000 per annum from Council for a 3 year period.

RESOLVED that the Committee supports in principle the request to financially assist the Tweed Academy of Sport for a financial contribution of \$40,000 per annum from Council for a 3 year period and for Council to consider this favourably in the 2014/2015 budget.

RECOMMENDATION TO COUNCIL:

That in its 2014/2015 budget Council consider providing a financial contribution of \$40,000 per annum for a 3 year period to the Tweed Academy of Sport.

2. Sports Field Licence Fees

Stewart presented the Committee an outline of Council's licence fee structure. It was noted that in circumstances where a licensee uses a field for 1 night per week and the field licence fee is not shared the licensee is charged half fee. The example where this occurs is Touch Football competitions which are run independently of a larger sporting organisation. The rationale being that these are small competitions with very limited use of the fields and charging a full unshared licence fee would render the competition unviable. The Committee endorsed this approach.

3. Sports Field Strategy Update

The consultants undertaking the Sports Field strategy have posted surveys to all clubs within the Tweed and are undertaking an audit of existing facilities. The next stage will involve workshops with nominated sports which will be informed by the survey results.

4 Black Rocks Sports Fields

The Part V application for tennis courts on the Black Rocks Sports Fields was not approved by Council. The Committee discussed the issues surrounding the application.

RESOLVED that the Committee wishes to express concern to Council with the limitations being placed on the use of Black Rock Sports Fields.

RECOMMENDATION TO COUNCIL:

That the Sports Advisory Committee wishes Council to note the Committee's concern with the limitations being placed on the use of Black Rocks Sports Fields.

5 Arkinstall Park Update

Stage 1:

Contracts have been let for the construction of the netball and tennis buildings and construction of the tennis courts. The internal access road from Kirkwood Road and car parking are well advanced.

Stage 2:

Preliminary financial modelling for the proposed indoor facility has been presented by the consultants indicating that the facility could potentially be operated on a cost neutral basis. The concept design for the facility is expected early in the new year.

6. AFL Round Mountain

Council recently met with AFL Queensland and representatives from the Tweed Coast Tigers AFL Club regarding the development of the Barry Shepherd Field Round Mountain as a long term AFL facility. The Club presented a development plan for the site and both the Club and AFL Queensland are providing financial and in-kind contributions to implement the development plan. Prior to the 2014 season AFL Queensland will be project managing the first stage of works which include improvements to drainage and installation of the fencing.

7. Proposed Grandstand at Dave Burns Field and Ron Wilkinson Field

The various sports clubs operating from Fraser Drive Sports Fields which include the Dave Burns Field and the Ron Wilkinson Field have developed a proposal to construct a covered grandstand over the existing clubhouse at the fields. The clubs were advised that this proposal would be considered through the process of developing the Sports Field Strategy.

General Business:

Nil.

Next Meeting:

The next meeting of the Sports Advisory Committee will be held Monday 10 February 2014.

The meeting closed at 6.00pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

1. **Business Plan - Tweed Academy of Sport (TAS)**

Nil.

4. **Black Rocks Sports Fields**

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

1. **Business Plan - Tweed Academy of Sport (TAS)**

That, in its 2014/2015 budget, Council consider providing a financial contribution of \$40,000 per annum for a 3 year period to the Tweed Academy of Sport.

4. Black Rocks Sports Fields

That the Sports Advisory Committee wishes Council to note the Committee's concern with the limitations being placed on the use of Black Rocks Sports Fields.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - as at 21 August 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.

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42 [SUB-EAC] Minutes of the Equal Access Advisory Committee Meeting held Wednesday 18 December 2013

SUBMITTED BY: Community and Cultural Services



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1	Civic Leadership
1.3	Delivering the objectives of this plan
1.3.3	Existing and future community assets will be properly managed and maintained based on principles of equity and sustainability

SUMMARY OF REPORT:

The Minutes of the Equal Access Advisory Committee Meeting held Wednesday 18 December 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Equal Access Advisory Committee Meeting held Wednesday 18 December 2013 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:
 10. Request for funding from Murwillumbah Rotary for Dream Cricket event 2014

That Council approves up to \$2,000 to be paid on submission of receipts from Murwillumbah Rotary Club for the Dream Cricket day to be held at Murwillumbah Cricket Club in 2014 (date to be confirmed) to be funded from the Access program.

REPORT:

The Minutes of the Equal Access Advisory Committee Meeting held Wednesday 18 December 2013 are reproduced in the body of this report for the information of Councillors.

Venue:

Coolamon Centre

Time:

10.00am

Present:

Karen Collins, Suzanne Hudson, Una Cowdroy, Chris Vannucci, Cr. Phil Youngblutt, Bev Kelso, Trevor Harris, Mike Kenny

Apologies:

Michael Armstrong, Milena Morrow, Lee Clark, Ron Douglas (leave of absence for remainder of 2013)

Minutes of Previous Meeting:

Moved: Bev Kelso

Seconded: Suzi Hudson

RESOLVED: that the Minutes of the Equal Access Committee meeting held Wednesday 16 October, 2013 are a true and accurate record

Outstanding Matters Report:

1. Doors to day surgery at Murwillumbah Hospital difficult to access

There are access issues with the entry door to the day surgery section of Murwillumbah Hospital. The doors open outwards and are too heavy inhibiting independent access.

The recommendation that Council writes to Chris Crawford, Director North Coast Health District raising concerns about accessibility through the day surgery doors at Murwillumbah Hospital was passed unanimously at December Council meeting.

Action: Letter to be drafted and sent. This action noted on Outstanding Matters Report.

Action: Letter from Spinal Cord Injuries Australia with photographs regarding access issues to be sent to North Coast District Health Management including CEO Murwillumbah and Tweed Heads Hospital and District Director. Responsibility: Lee Clark, Committee Member
This action will be held over until next meeting.

2. Footpath access following emergencies

Held over.

Action: Contact Chris Chrisostomos from the Rescue Committee to discuss procedures for ensuring safe temporary access and report back to Committee. Responsibility: Karen Collins

3. Affordable entry to Murwillumbah, Kingscliff and South Tweed aquatic centres for people with permanent or temporary disabilities

The trial continues to go well with memberships still selling and being promoted by aquatic centre staff.

4. Road crossing on Chinderah Bay Drive from Homestead Holiday Park to bus stop

Action: Inform Park management and residents of this service option. Responsibility: Karen Collins

5. Kerb ramp on Prowse St, Tweed Heads South

Held over.

6. Process for communicating with the public when building work temporarily blocks footpath

Held over.

7. Connecting path of travel along Sandra and Megan Streets, Tweed Heads South

Residents of five properties that border the nature strip resist Council plans to construct a footpath which would connect the path of travel along these streets assisting access to Tweed City Shopping Centre. There have been numerous requests to connect the gap in the path of travel in this location.

The recommendation that Council writes to the residents of Sandra Street and Megan Street about the importance of connecting paths of travel as a component of universal access was passed unanimously at December Council meeting.

Action: Letter to be drafted and sent. This action noted on Outstanding Matters Report

Agenda Items

1. Access and Inclusion Policy and Action Plan

The Draft Access and Inclusion Policy approved for public comment at November Council meeting. The Draft Policy will be on exhibition for 28 days from 10 December with submissions received for 42 days.

2. All Access Playground

The Regional Development Australia Fund will be replaced by the Community Development Fund under the Coalition Government, Hon. Warren Truss's portfolio. This funding round will be announced in 2014 with potential opportunities for funding for the All Access Playground.

3. Tweed Link monthly Access All Areas column

The theme for the first three months of 2014 will focus on community input on the Draft Access and Inclusion Policy and Action Plan and the Pedestrian Access Mobility Plan.

4. Access funds

To be tabled at February meeting.

The recommendation that an additional beach wheelchair be purchased with access funds to be stored at the Coolamon Cultural Centre and made available for hire was passed unanimously at December Council meeting. An order has been placed for the new beach wheelchair.

General Business

1. Proposed changes to EAAC Terms of Reference

The recommendation that the amended Terms of Reference (attached) for the Equal Access Advisory Committee be adopted was passed unanimously at December Council meeting. The Terms of Reference will be amended and circulated to members.

2. Membership

The terms of reference state that membership of the Equal Access Advisory Committee will be terminated if a member does not attend or apologise for missing three consecutive meetings. Alannah Hunter, from the organisation Synergy, missed the June, August and October meetings without apologies. At the October meeting the Chair requested Karen Collins contact Alannah Hunter to inform her of the terms of reference with an opportunity to continue on the committee if the December meeting was attended. Ms Hunter did not attend the December meeting or send apologies. A letter will advise Alannah that her membership has been withdrawn. A vacancy has been declared which will be filled in 2014 in line with the terms of reference.

3. International Day of People with Disability 2013 Access and Inclusion Awards

The inaugural Tweed Shire Access and Inclusion Awards held at the Tweed Civic Centre on 3 December were considered to be a success by participants and award recipients. Council's website has details of awards winners and a podcast of the event for viewing.

4. Regional Access Committee's Forums for 2013

The next regional Access Committees forum will be held on 7 April at Lennox Head Community and Cultural Centre. Council staff from the participating LGAs will meet on 10 February to plan the forum program. Committee members are invited to submit ideas and suggestions to Tweed Shire Community Development Officer, Aged and Disability before this date.

5. Pedestrian Access Mobility Plan

An update was provided by Michael Kenny, Road Safety Officer. Seven tenders were received to undertake the provision of the PAMP. The consultancy firm GHD was the successful applicant. GHD consultants will meet with the Equal Access Advisory Committee at the February 2014 meeting as part of the community consultation process.

6. Connecting path of travel between bus set down and pedestrian crossing at Tweed Centre

Works are programmed for this area with a reconfiguration of Bay St and Wharf St infrastructure as part of a streetscaping upgrade. Two pedestrian crossings will be relocated and 11 RMS compliant kerb ramps will be installed. These plans have already been through public exhibition for comment but can still be accessed through Council.

7. Bus Stop outside Palms Village on Dry Dock Road

The bus stop is difficult for elderly residents to manage the step down from the bus. The Road Safety Officer advised that there is no easy or safe alternative to the current stopping zone.

8. Act Now 2 Gathering

The recommendation that \$500 from Access funds is provided for an Aboriginal person from Tweed Shire to attend the Act Now 2 gathering was passed unanimously at December Council meeting. Maureen Logan, Aboriginal Disability Network and resident of Tweed Shire has been nominated for the sponsorship.

9. Affordable entry to aquatic centres trial update

Covered in outstanding items report.

10. Request for funding from Murwillumbah Rotary for Dream Cricket event 2014

This event will be held at the Murwillumbah Cricket grounds with Rotary the sponsor for Dream Cricket, an initiative of the Bradman Foundation. Rotary volunteers have been working with local schools to participate in Dream Cricket clinics leading up to the event in early 2014. Rotary has contributed funds and in kind support for equipment and clinics and request financial support for transport and catering for the regional event.

RECOMMENDATION:

Moved: Suzi Hudson

Seconded: Una Cowdroy

That Council approves up to \$2,000 to be paid on submission of receipts from Murwillumbah Rotary Club for the Dream Cricket day to be held at Murwillumbah Cricket Club in 2014 (date to be confirmed).

Next Meeting:

Wednesday 19 February 2014

The meeting closed at 11.35am

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

10. Request for funding from Murwillumbah Rotary for Dream Cricket event 2014

That Council approves up to \$2,000 to be paid on submission of receipts from Murwillumbah Rotary Club for the Dream Cricket day to be held at Murwillumbah Cricket Club in 2014 (date to be confirmed) to be funded from the Access program.

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.

CONFIDENTIAL COMMITTEE

Nil.

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