



TWEED
SHIRE COUNCIL

Mayor: Cr G Bagnall

Councillors: P Youngblutt (Deputy Mayor)
C Byrne
B Longland
K Milne
W Polglase

Agenda

Planning Committee Meeting Thursday 6 August 2015

held at Murwillumbah Cultural and Civic Centre
commencing at 5.00pm

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.

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Items for Consideration of Council:

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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 1 [PR-PC] Development Application DA14/0904 for a 28 Townhouse Development at Lot 2 DP 566095 No. 47 Champagne Drive, Tweed Heads South

SUBMITTED BY: Development Assessment and Compliance

FILE REFERENCE: DA14/0904 Pt1

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

SUMMARY OF REPORT:

Consent is sought for the construction of 28 Town houses on Lot 47 DP 566095; 47 Champagne Drive Tweed Heads.

The site represents a heavily sloping, thus constrained site within a R1 General Residential zoning under the Tweed Local Environmental Plan 2014.

The development comprises a 28 town house development. The development is proposed to accommodate three dwelling types (Type A, B and C, as nominated on Drawing No DA-13, DA-14 and DA-15, Issue B, drawn by Reddog Architects and dated 24/04/2015).

Dwelling type A includes 13 dwellings located along the northern elevation (highest part) of the site.

Dwelling type B includes eight dwellings located south (lower) of the proposed dwelling Type A.

Dwelling type C includes seven dwellings which are also located south (lower) of the proposed dwelling Type A.

A Request for further information was sent to the applicant 17 February 2015.

Council requested that given the abovementioned non-compliances, the extent of further information requested by Council's and the NSW Rural Fire Services and the anticipated amount of time required supplying this information to a satisfactory standard, that the

application be withdrawn. The applicant did not wish to withdraw the application and subsequently submitted amended plans and further information requested.

The fundamental issues with regard to the subject application are:

- The low level of amenity provided to the subject development, including poor natural light and no cross ventilation for the lower levels of dwellings 1-13, which are proposed to have the lower level constructed below natural ground level;
- The bulk and scale of the development, given its location on the ridgeline, including the dominance of the ridgeline by hardstand;
- The visual impacts, (again due to the bulk and location of the development) from the adjoining ridgeline, and the surrounding areas, including overlooking and loss of views between properties
- The extent of variations sought to Section A1 of Council's DCP 2008. There is in some 20 variations sought, 17 of which are addressed further within this report and are considered to contribute to the reasons for refusal of this application.

To date a satisfactory response is still required in relation to contaminated lands. In accordance with Clause 7(1) *contamination and remediation to be considered in determining a development application of the State Environmental Planning Policy (SEPP) 55 – Remediation of Land* a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. Accordingly, in the absence of the requested contaminated lands investigation, Council is not in a position to consent to the proposed development.

The development application was originally advertised and notified for a period of 14 days, from Wednesday 14 January 2015 to Wednesday 28 January 2015. During this period a total of 12 submissions (objections) were received.

The application was re-notified for a period of fourteen (14) days from Wednesday 6 May 2015 to Wednesday 20 May 2015.

During this period a further 14 submissions (objections) were received.

A Councillor workshop was held with the applicants on Thursday 9 July 2015.

The subject application was called up to Council for determination by Councillors Byrne and Youngblutt.

The officers' recommendation is for refusal.

RECOMMENDATION:

That Development Application DA14/0904 for a 28 townhouse development at Lot 2 DP 566095; No. 47 Champagne Drive TWEED HEADS SOUTH be refused for the following reasons:

- 1. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(iii) – the provisions of any**

Development Control Plan in that the development is inconsistent with the Development Control Plan Section A1 – Residential Development Code.

- 2. The development does not satisfy Clause 7(1), contamination and remediation of the State Environmental Planning Policy 55 – Remediation of Land.**
- 3. The development does not satisfy Section 79C of the Environmental Planning and Assessment Act, particularly Section (a)(e) - *the public interest* in that the development is not considered to be in the public interest.**

REPORT:

Applicant: PRC Developments Pty Ltd
Owner: Mrs Margaret A Turnbull & Mr Neil T Turnbull
Location: Lot 2 DP 566095; No. 47 Champagne Drive TWEED HEADS SOUTH
Zoning: R1 - General Residential
Cost: \$5,200,000

Background:

Consent is sought for the construction of 28 Town houses on Lot 47 DP 566095; 47 Champagne Drive Tweed Heads.

The site represents a heavily sloping, thus constrained site within a R1 General Residential zoning under the Tweed Local Environmental Plan 2014.

The subject site is shown below.



The development proposes a 28 town house development, with a total of 63 onsite parking spaces (including the provision of five visitor spaces), a communal BBQ area and refuse/trailer storage area. The development is proposed to accommodate three dwelling types (Type A, B and C), the particulars of each dwelling type are further described below.

Dwelling Type A:

Dwelling type A includes 13 dwellings located along the northern elevation (highest part) of the site. The Dwellings are two storeys, have two bedrooms and are proposed to be partially attached. The development is comprised of three blocks containing three adjoining dwellings and one block of containing four attached dwellings.

The lower floor plan is comprised:

- Bedroom one, ensuite and sleep out
- Stacked carport

The lower floor level is proposed to be constructed below natural ground level.

The upper floor plan is comprised:

- Kitchen, dining and living
- Laundry/bathroom
- Bedroom 2
- Study
- Terrace (rear, northern elevation)
- Deck (front, southern elevation)

Dwelling Type B

Dwelling type B includes eight dwellings located south (lower) of the proposed dwelling Type A. The Dwellings are two storeys, have two bedrooms, are proposed to be partially attached and are comprised of a pole construction.

The lower floor plan is comprised:

- Bedroom one
- Bedroom two, with ensuite
- Bathroom
- Laundry
- Deck (southern elevation)

The upper floor plan is comprised:

- Kitchen, dining and living
- Study
- Terrace (rear, northern elevation)
- Double carport (front of dwelling, northern elevation)
- Deck (front, southern elevation)

Dwelling Type C

Dwelling type C includes seven dwellings which are also located south (lower) of the proposed dwelling Type A. The dwellings have two bedrooms and a bedroom/study, are proposed to be partially attached and are comprised of a pole construction.

The lower floor plan is comprised:

- Bedroom one
- Bedroom, with ensuite
- Bathroom
- Laundry
- Deck (southern elevation)

The upper floor plan is comprised:

- Kitchen, dining and living
- Study/Bedroom 3
- Double carport (front of dwelling, northern elevation)
- Toilet
- Deck (front, southern elevation)

The configuration of the lower level of buildings is a mix of dwelling type B and C and is comprised of two blocks containing three attached dwellings, one block containing four attached dwellings and one block containing five attached dwellings.

Given the site has limited frontage to the Champagne Drive road reserve, access to the site is proposed to be via single a 6m wide driveway located approximately 2.5m from the site's eastern boundary, with a 1.8m high acoustic fence situated along the eastern boundary, adjoining the rear boundaries of 88-94 Vintage Lakes Drive.

Given the site's limited road frontage, none of the proposed dwellings have a street frontage, all dwellings will be accessed from the shared internal driveway, with each of the proposed dwellings front façades being oriented internally to the proposed driveway.

The demolition of the existing dwelling on site will be sought under a separate application.

The site is currently comprised of a single dwelling house, associated carport and cattle holding yard. The site has a frontage of approximately 131m, however only some 25m of the frontage adjoin the existing Champagne Drive road reserve. The site has an overall land area of 2.553 hectares and slopes from the front to the rear with a maximum slope of between 25 and 35 degrees, though the Geotechnic Report, accompanying the subject application; prepared by Morrison Geotechnic, reference number 16857 and dated 28 April 2014 (Appendix B of the subject application) advises that the site typically ranges between a 15 and 25 degree gradient.

The fundamental issue with regard to the subject application is the low level of amenity provided to the subject development; the bulk and scale of the development, given its location on the ridgeline of the site, which is highly visible from both the adjoining ridgeline and the surrounding areas and the extent of variations (in excess of 20) sought to Section A1 of Council's DCP 2008 (which are discussed further within this report).

With regard to the background of the subject application, the following is advised:

- In January 2003 a Development Assessment Panel Meeting was held for a proposed subdivision of the subject site, the minutes quoted to applicable legislation and controls for consideration and advised that the applicant was open to lodge a Development Application for consideration.
- In 2008 a further enquiry from Opus Qantec McWilliam was received by Council in relation to a proposed 11 lot subdivision (with four lots being serviced by a right of carriage way). Council's Development Engineer reviewed the proposed development and advised that the proposal was an overdevelopment of the site. Stating that the topography of the site warranted a maximum of four lots.

A response was sent to the customer in November 2008 advising the following:

- *Eleven lots is considered an overdevelopment of this site given the steep topography.*
- *The concrete access road with adjoining lots is not an appropriate design solution for this constrained site.*
- *The design does not comply with Council's standard for cul-de sacs and non cul de sac kerb frontages.*

- *Filling will result in removal of stormwater detention capacity, accordingly it is doubtful that Q100 overland flow from the site, including flow from Champagne Drive could be conveyed to a legal point of discharge.*
 - *Options should be considered for minimising the fill on the site including integration of the subdivision with house design.*
 - *Measures for minimising the impact of the proposed road on existing adjacent dwellings will need to be considered.*
- In May 2014 a Development Assessment Panel Meeting was held which included a proposal for 27 units on the subject site. The applicant was advised (but not limited to) the following:
 - cut and fill should be minimised,
 - the orientation of the dwellings should take into consideration of solar aspects as well as views,
 - view analysis should be submitted with the application at lodgement,
 - a Contamination report addressing previous site uses is to accompany the Development Application in accordance with Council's Contaminated Land Policy.

Prior to the subject application no formal Development Applications were lodged with Council.

The surrounding area predominately contains single dwelling houses.

The development application was originally advertised and notified for a period of 14 days, from Wednesday 14 January 2015 to Wednesday 28 January 2015. During this period a total of 12 submissions were received.

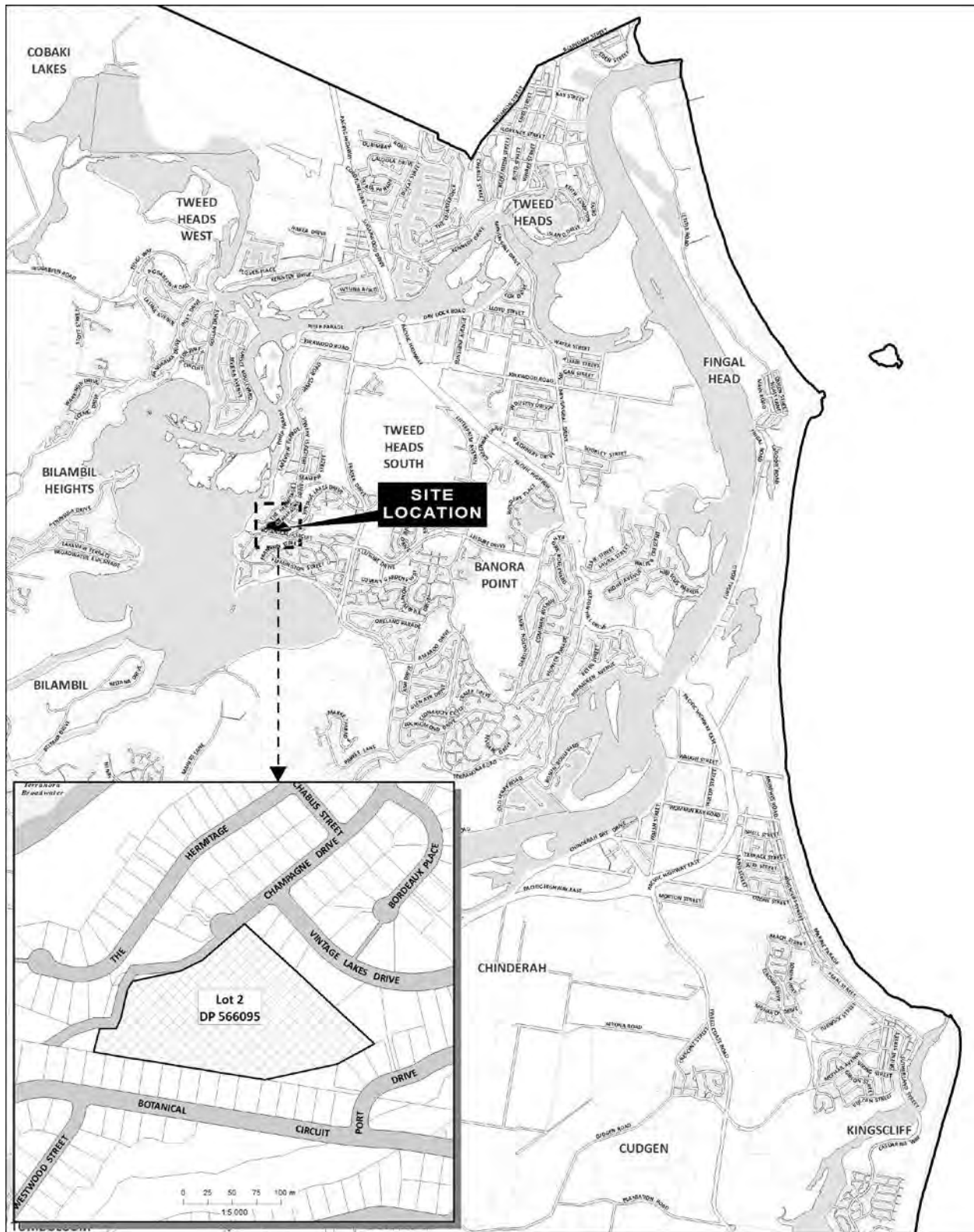
As advised under the summary section of this report, amended plans were submitted by the applicant and the application was re-notified for a period of fourteen (14) days from Wednesday 6 May 2015 to Wednesday 20 May 2015. During this period a further 14 submissions were received.

The matters raised in all submissions are addressed later in this report.

The subject application was called up to Council for determination.

It is recommended that the application be refused.

SITE DIAGRAM:



Locality Plan

Lot 2 DP 566095
No.47 Champagne Drive, Tweed Heads South

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Cadastral 21/07/2015
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Boundaries shown should be considered approximate only.

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1:50,000 @ A4 Portrait
DO NOT SCALE
COPY ONLY - NOT CERTIFIED
Map Projection: Universal Transverse Mercator
Geoid Datum: Geoid of Australia 1994
Grid: Map Grid of Australia, Zone 56

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DEVELOPMENT/ELEVATION PLANS:

2411-229 CHAMPAGNE DRIVE



SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2486

RPO
LOT NO 2 ON DP466905

SITE AREA
2.53 H

ZONE
R1 GENERAL RESIDENTIAL

LOCAL COUNCIL
TWEED SHIRE COUNCIL

DRAWING SET

- DA-01 COVERAGE
- DA-02 SITE ANALYSIS
- DA-03 PROPOSED SITE ANALYSIS
- DA-04 SITE PLAN
- DA-05 LOWER FLOOR PLAN
- DA-06 UPPER FLOOR PLAN
- DA-07 UPPER FLOOR / ROOF PLAN
- DA-08 SECTION A & B
- DA-09 SECTION C
- DA-10 SECTION 1
- DA-11 SECTION 2
- DA-12 ELEVATIONS 1
- DA-13 ELEVATIONS 2
- DA-14 TOWNHOUSE TYPE A - 2 BED
- DA-15 TOWNHOUSE TYPE B - 2 BED
- DA-16 TOWNHOUSE TYPE C - 3 BED
- DA-17 TOWNHOUSE SPECIFICATIONS
- DA-18 PERSPECTIVES
- DA-19 SERVICES PLAN
- DA-20 SUN STUDY - 21st JUNE
- DA-21 SUN STUDY - 21st DECEMBER
- DA-22 SUN STUDY - 22nd MARCH

COVERPAGE

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ISSUE	DATE	BY	DESCRIPTION	CHRD	SITE ADDRESS
A	08/12/2014	LO	RA APPLICATION	RP	47 CHAMPAGNE DRIVE TWEED HEADS SOUTH NSW, 2486
B	21/04/2015	RS	COUNCIL RESPONSE	RP	LOT NO 2 ON DP466905 TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE



PROJECT NO. 2411-229
DRAWING NO. DA-01
ISSUE B



CHAMPAGNE DRIVE

SITE ADDRESS
 47 TERRANORA DRIVE
 TERRANORA NSW 2486

CHRD
 RP
 RP

ISSUE
 A
 B

DATE
 08/12/2014
 21/04/2015

BY
 LG DA APPLICATION
 RS COUNCIL R RESPONSE

PROJECT NO.
2411-229

DRAWING NO.
DA-02



ISSUE
B

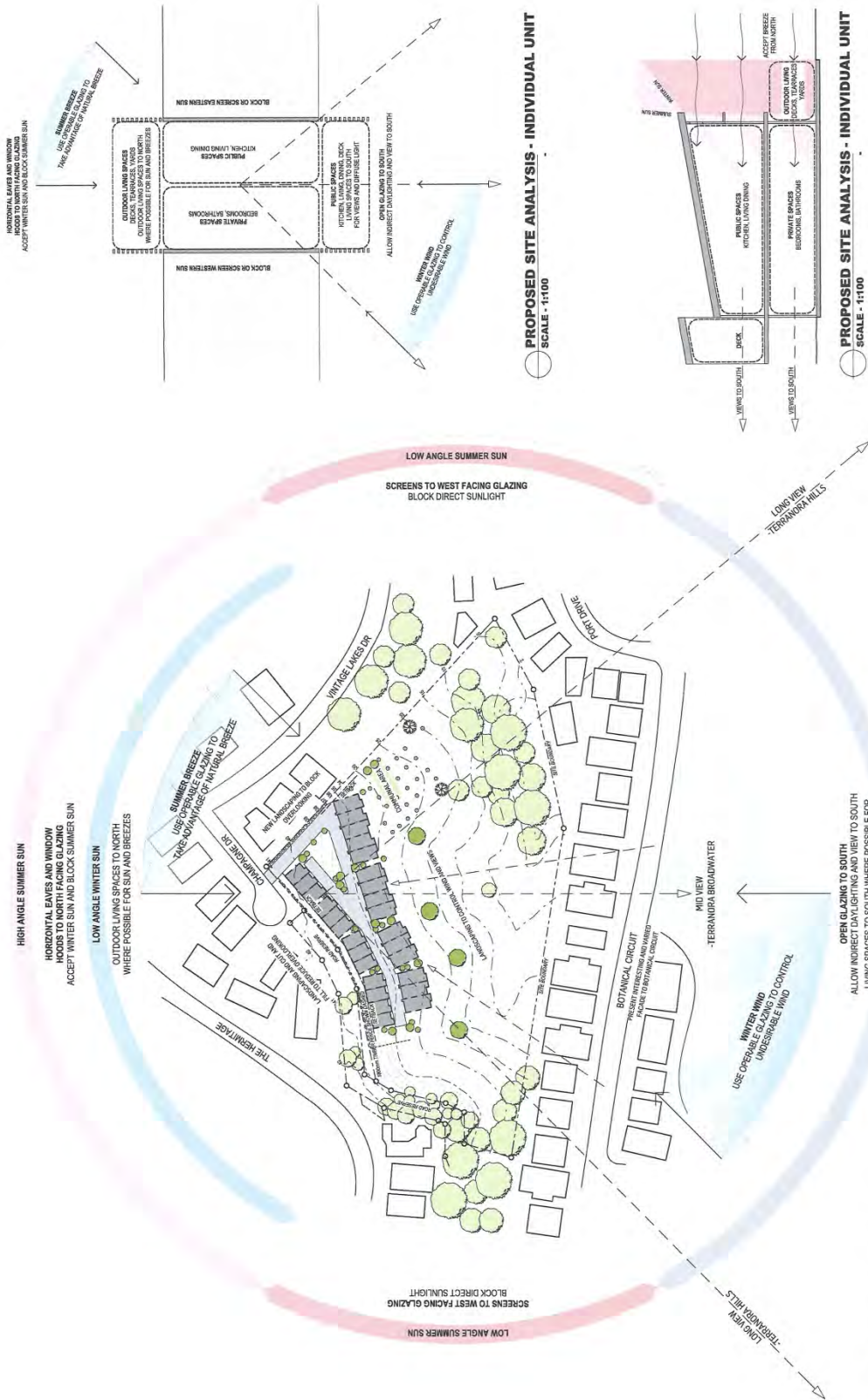
LOT NO 2 ON DP958085

TWEED SHIRE COUNCIL

EXISTING SITE ANALYSIS

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PROPOSED SITE ANALYSIS

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ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/12/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

CHAMPAGNE DRIVE

PROJECT NO. **2411-229** DRAWING NO. **DA-03** ISSUE **B**





DEVELOPMENT DATA

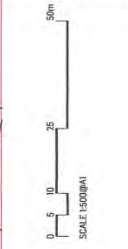
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	2 BED UNITS - TYPE B (8 Number)
	3 BED UNITS - TYPE C (7 Number)
TOTAL	28 UNITS

CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2466

ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/01/2015	RS	COUNCIL RESPONSE	RP

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND RLs ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL. MAY VARY TO THOSE INDICATED.
 - LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



SITE PLAN

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PROJECT NO. **2411-229** DRAWING NO. **DA-04** ISSUE **B**





DEVELOPMENT DATA

■ 2 BED UNITS - TYPE A (13 Number)	
■ 2 BED UNITS - TYPE B (6 Number)	
■ 3 BED UNITS - TYPE C (7 Number)	
TOTAL	28 UNITS

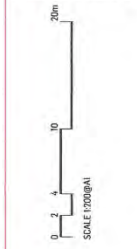
CHAMPAGNE DRIVE

PROJECT NO. **2411-229** DRAWING NO. **DA-05** ISSUE **B**

ISSUE	DATE	BY	DESCRIPTION	CHD	SITE ADDRESS
A	08/12/2014	LG	DA APPLICATION	RP	TWEED HEADS SOUTH
B	21/04/2015	RS	COUNCIL RESPONSE	RP	NSW, 2486

LOT NO 2 ON DP596085
TWEED SHIRE COUNCIL

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-15-19) FOR FURTHER DETAIL
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND RISES ARE DESIGN HEIGHTS AND SUBJECT TO APPROVAL BY THE COUNCIL
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



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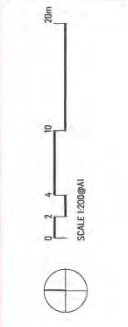
LOWER FLOOR PLAN



DEVELOPMENT DATA

	2 BED UNITS - TYPE A (13 Number)
	2 BED UNITS - TYPE B (6 Number)
	3 BED UNITS - TYPE C (7 Number)
TOTAL	28 UNITS

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R/L'S ARE DESIGN HEIGHTS AND SUBJECT TO APPROVAL BY THE COUNCIL
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



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GROUND FLOOR PLAN

CHAMPAGNE DRIVE

SITE ADDRESS
 17 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2486
 LOT NO 2 ON DP568085
 TWEED SHIRE COUNCIL

ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

PROJECT NO. **2411-229**
 DRAWING NO. **DA-06**
 ISSUE **B**





DEVELOPMENT DATA

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 3 BED UNITS - TYPE C (7 Number)
TOTAL 28 UNITS

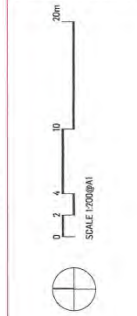
CHAMPAGNE DRIVE

PROJECT NO. **2411-229** DRAWING NO. **DA-07** ISSUE **B**

SITE ADDRESS
 17 CEDAR FORE DRIVE
 TWEED HEADS SOUTH
 NSW, 2488
 LOT NO 2 ON DP586095
 TWEED SHIRE COUNCIL

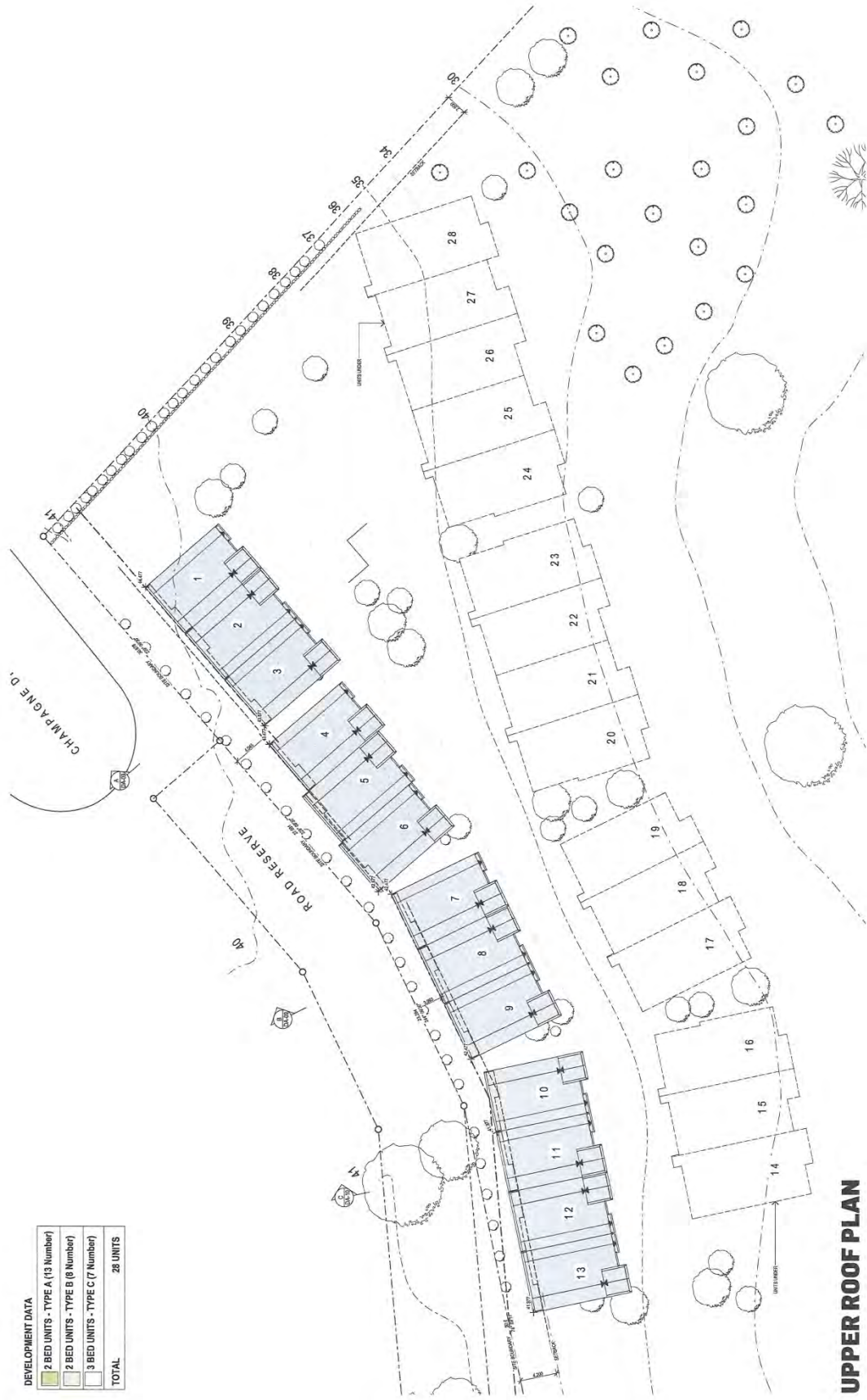
ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL IN RESPONSE	RP

NOTE:
 - REFER TO INDIVIDUAL TOWNHOUSE UNIT SHEETS (DA-15-16) FOR FURTHER DETAIL
 - REFER TO TOWNHOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R.L.S ARE DESIGN HEIGHTS AND SUBJECT TO VERIFICATION BY THE LOCAL AUTHORITY
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



UPPER FLOOR / ROOF PLAN

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DEVELOPMENT DATA

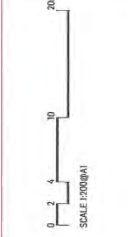
2 BED UNITS - TYPE A (13 Number)	
2 BED UNITS - TYPE B (8 Number)	
3 BED UNITS - TYPE C (7 Number)	
TOTAL	28 UNITS

CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2488
 LOT NO 2 ON DP56805
 TWEED SHIRE COUNCIL

ISSUE	DATE	BY	DESCRIPTION	CHNO
A	09/02/2014	LG	DA APPLICATION	RP
B	20/04/2015	RS	COUNCIL RESPONSE	RP

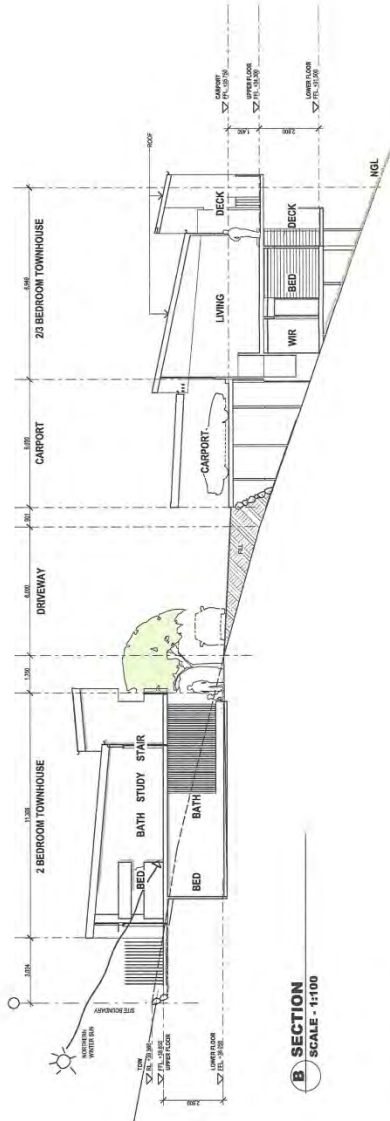
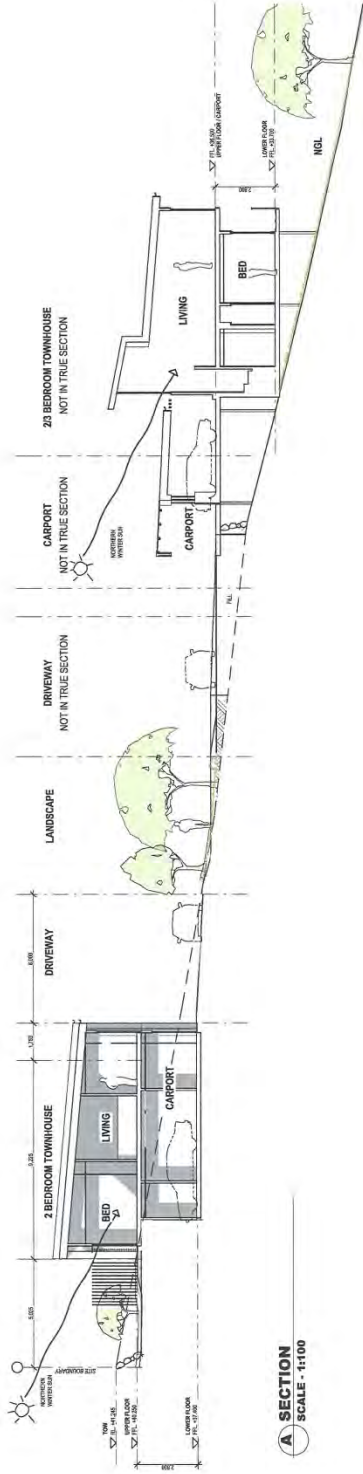
NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 FOR FURTHER DETAIL HOUSE SPECIFICATIONS (DA-16) FOR
 MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R/L'S ARE DESIGN HEIGHTS AND SUBJECT
 TO FURTHER DETAIL MAY VARY TO THOSE INDICATED.
 - LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



UPPER ROOF PLAN

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PROJECT NO. **2411-229** DRAWING NO. **DA-08** ISSUE **B**



NOTE:
 - REFER TO NSW RESIDENTIAL TOWNHOUSE UNIT SHEETS (DA-15-19)
 FOR PERMITTED HEIGHTS AND APPLIANCE SPECIFICATIONS
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR
 MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND RLS ARE DESIGN HEIGHTS AND SUBJECT
 TO VERIFICATION BY THE ARCHITECT
 - LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO
 LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



SECTION A & B

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CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 WINDERMERE NSW 2466
 LOT NO 2 ON DP568095
 TWEED SHIRE COUNCIL

CHD
 RP
 RP

ISSUE
 A
 B

DATE
 08/12/2014
 27/04/2015

BY
 LG
 RS

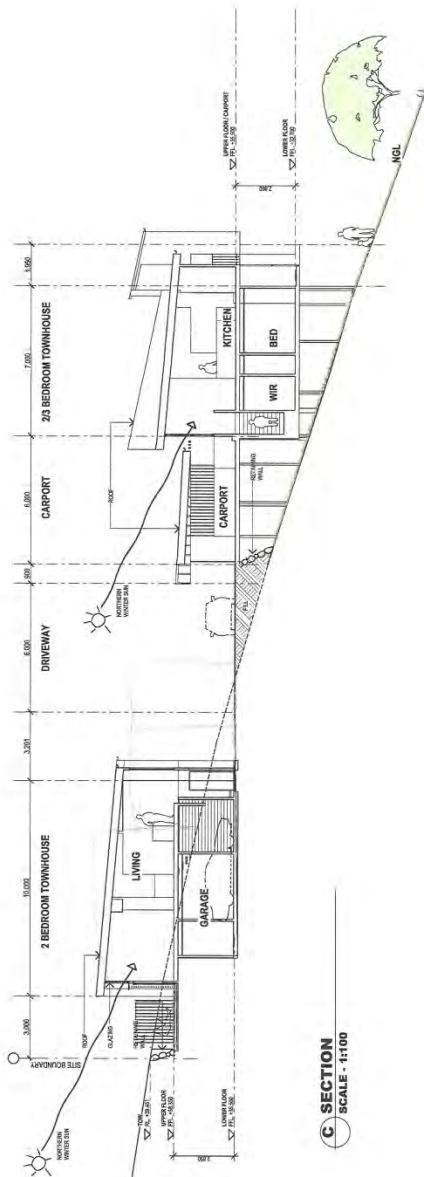
DESCRIPTION
 DA APPLICATION
 COUNCIL RESPONSE



PROJECT NO.
2411-229

DRAWING NO.
DA-09

ISSUE
B



C SECTION
SCALE - 1:1100

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
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 LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



CHAMPAGNE DRIVE
 PROJECT NO. **2411-229**
 DRAWING NO. **DA-10**
 ISSUE **B**

ISSUE	DATE	BY	DESCRIPTION	CHKD	SITE ADDRESS
A	09/02/2014	LG	DA APPLICATION	RP	47 CHAMPAGNE DRIVE TWEED HEADS SOUTH NSW, 2486
B	21/04/2015	RS	COUNCIL RESPONSE	RP	LOT NO 2 ON DP568895 TWEED SHIRE COUNCIL

SECTION C

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01 SOUTH ELEVATION - DRIVEWAY ELEVATION
SCALE - 1:200



02 NORTH ELEVATION - DRIVEWAY ELEVATION
SCALE - 1:200



03 SOUTH ELEVATION - UNITS 14-28
SCALE - 1:200

ELEVATIONS 1

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NOTE:
- REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-15-15) FOR FURTHER DETAIL
- REFER TO TOWN HOUSE SPECIFICATIONS (DA-16) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
- ALL HEIGHTS AND R/S ARE DESIGN HEIGHTS AND SUBJECT TO APPROVAL BY THE LOCAL COUNCIL
- LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.

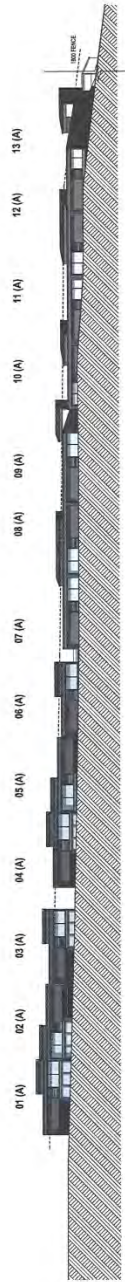


ISSUE	DATE	BY	DESCRIPTION	CHD
A	09/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL IR RESPONSE	RP

CHAMPAGNE DRIVE
PROJECT NO. **2411-229** DRAWING NO. **DA-11** ISSUE **B**



SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2466
LOT NO 2 ON DP566095
TWEED SHIRE COUNCIL



01 NORTH ELEVATION - UNITS 1-13
SCALE - 1:200



03 EAST ELEVATION - UNITS 1 & 21
SCALE - 1:200

02 WEST ELEVATION - UNITS 13 & 14
SCALE - 1:200

NOTE:
 - REFER TO INDIVIDUAL TOWN HOUSE UNIT SHEETS (DA-13-15)
 - REFER TO TOWN HOUSE SPECIFICATIONS (DA-18) FOR MATERIAL, FITTINGS AND APPLIANCE DETAILS
 - ALL HEIGHTS AND R/S ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL MAY VARY TO THOSE INDICATED TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.



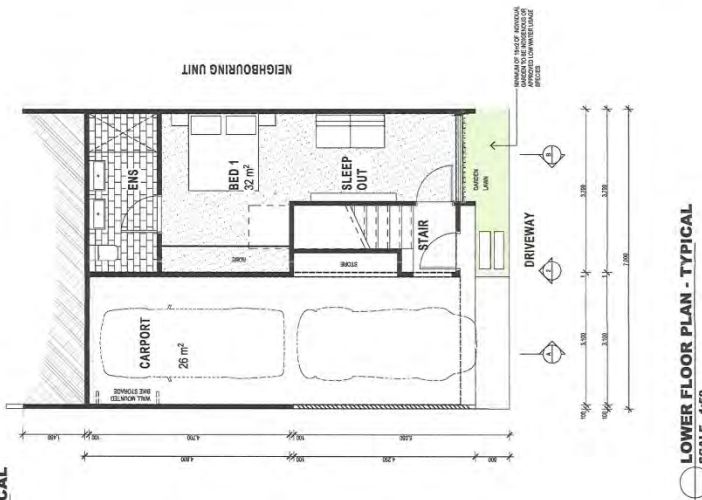
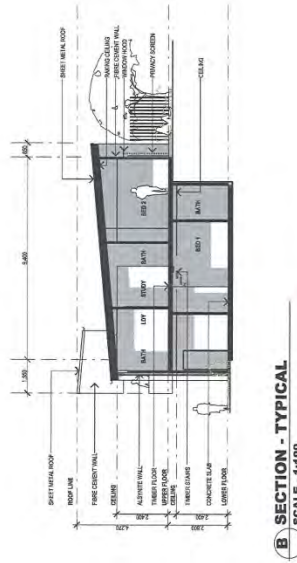
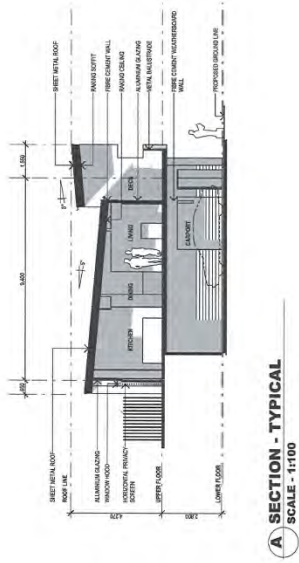
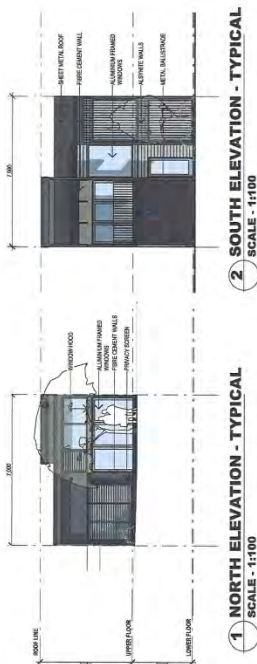
ISSUE	DATE	BY	DESCRIPTION	CHD	SITE ADDRESS
A	08/02/2014	LG	DA APPLICATION	RP	27 CHAMPAGNE DRIVE MOSMANS SOUTH NSW, 2468
B	21/04/2015	RS	COUNCIL RESPONSE	RP	LOT NO.2 ON DP568095 TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE

PROJECT NO. **2411-229** DRAWING NO. **DA-12** ISSUE **B**

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ELEVATIONS 2



TOWNHOUSE - TYPE A
88m² INTERNAL
10m² EXTERNAL
+ 32m² CARPORT

CHAMPAGNE DRIVE

SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2468

LOT NO 2 UN DP686895
TWEED SHIRE COUNCIL

CHD
RP

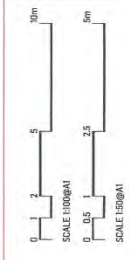
DESCRIPTION
DA APPLICATION
COUNCIL RESPONSE

BY
LG
RS

DATE
08/12/2014
21/04/2015

ISSUE
A
B

NOTE:
REFER TO TOWNHOUSE SPECIFICATIONS (DA-18) FOR MATERIAL FITTINGS AND APPLIANCE DETAILS
- LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.
- ALL HEIGHTS AND RISERS ARE DESIGN HEIGHTS AND SUBJECT TO FURTHER DETAIL, MAY VARY TO THOSE INDICATED.



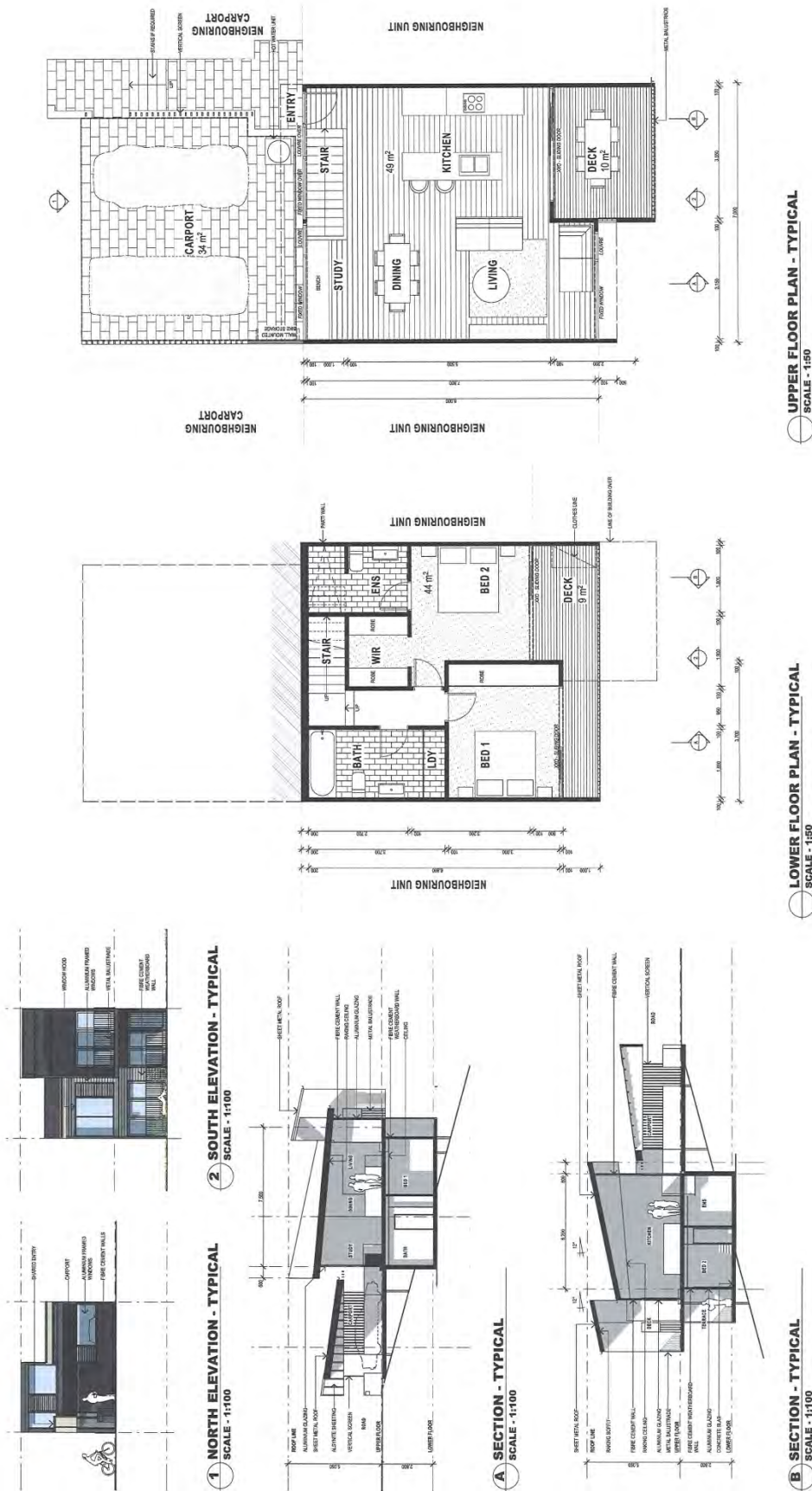
TOWNHOUSE TYPE A - 2 BED

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PROJECT NO.
2411-229

DRAWING NO.
DA-13

ISSUE
B



TOWNHOUSE - TYPE B
18M2 INTERNAL
10M2 EXTERNAL
+ 34M2 CARPORT

CHAMPAGNE DRIVE

2411-229
DA-14
ISSUE B

PROJECT NO. 2411-229
DRAWING NO. DA-14
ISSUE B

LOT NO 2 ON DP558095
TWEED SHIRE COUNCIL

47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2486

DATE 21/04/2015
BY LG
DESCRIPTION DA APPLICATION
COUNCIL RESPONSE

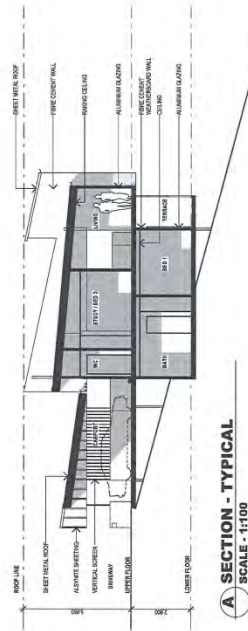
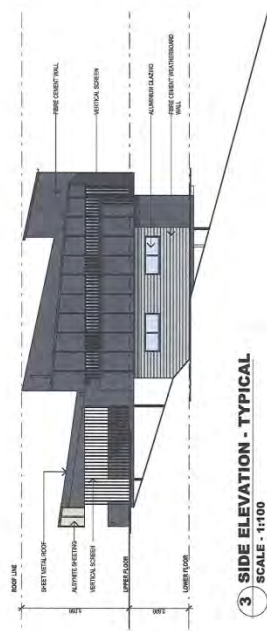
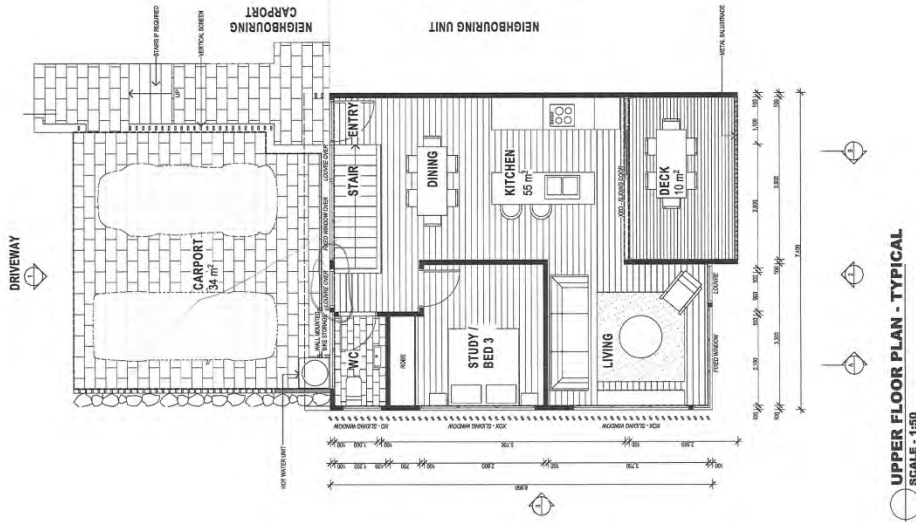
CHD RP

NOTE: REFER TO TOWN HOUSE SPECIFICATIONS (DA-10) FOR MATERIALS AND FINISHES.
- LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL.
- AREAS ARE APPROXIMATE ONLY.
- DIMENSIONS ARE APPROXIMATE AND SUBJECT TO FURTHER DETAIL VARY FROM THOSE INDICATED.

SCALE 1:100(A)
SCALE 1:50(B)

TOWNHOUSE TYPE B - 2 BED

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TOWNHOUSE - TYPE C
99m² INTERNAL
14m² EXTERNAL
+ 34m² CARPORT

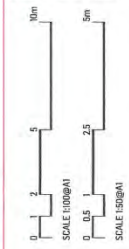
CHAMPAGNE DRIVE

SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2468

LOT NO 2 ON DP596805
TWEED SHIRE COUNCIL

ISSUE	DATE	BY	DESCRIPTION	CHNG
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL IN RESPONSE	RP

NOTE:
REFER TO TOWNHOUSE SPECIFICATIONS (DA-16) FOR MATERIAL FITTINGS AND APPLIANCE DETAILS
LANDSCAPE SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE ARCHITECTS DRAWINGS FOR FURTHER DETAIL
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TOWNHOUSE TYPE C - 3 BED

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PROJECT NO. **2411-229**
DRAWING NO. **DA-15**
ISSUE **B**

MATERIALS & FINISHES

ROOF
 TIMBER FRAME
 30° PITCH METAL ROOFING
 R10 FOIL BACKED BULK INSULATION
ROOF SOFFIT
 FIBRE CEMENT SHEETING
UPPER LEVEL FLOOR SOFFIT (OPEN BELOW)
 FIBRE CEMENT SHEETING WITH R2.0 BULK INSULATION
INTERNAL LININGS
 BANKING PLASTERBOARD (LIVING AREAS) WITH
 R2.0 BULK INSULATION
 PLAT PLASTERBOARD, CEILINGS (WET AREAS & BEDROOMS) WITH
 R2.0 BULK INSULATION
EXTERNAL CLADDING
 TIMBER FRAME WITH R2.0 FOIL INSULATION
 FIBRE CEMENT SHEETING
 FIBRE CEMENT WEATHERBOARDS
 ALSYNITE SHEETING
 BLOCKWORK WITH REFLECTIVE FOIL
INTERNAL LININGS
 TIMBER FRAME
 PLASTERBOARD LININGS
PART WALL
 PLASTERBOARD LININGS

UPPER FLOOR
 TIMBER FRAME
 CARPET
 INTERNAL TIMBER FLOORING
 EXTERNAL DECKING
LOWER FLOOR
 CONCRETE SLAB
 CARPET
 INTERNAL TILES
 EXTERNAL TILES
CARPOT
 CONCRETE SLAB
GLAZING
 ALUMINIUM FRAME
 SOUTH - Uw-6.6 SIGCw 0.74
 NORTH - Uw-5.0 SIGCw 0.38
 WEST - Uw-5.0 SIGCw 0.38
 EAST - Uw-5.0 SIGCw 0.38
SCREENS & BALUSTRADES
 HORIZONTAL PRIVACY SCREEN - FIXED
 VERTICAL SCREEN - FIXED
 HORIZONTAL WINDOW HOOD
 TIMBER BOUNDARY FENCE

COLOURBOND
 WALLBAY
 PAINT FINISH
 RESENE ECRU WHITE
 PAINT FINISH
 RESENE ECRU WHITE
 PAINT FINISH
 RESENE GUSTENING WHITE
 RESENE GUSTENING WHITE
 PAINT FINISH
 RESENE ZILLU &
 RESENE ECRU WHITE
 RESENE ECRU WHITE
 EVERLITE OPAL
 RESENE ZILLU
 PAINT FINISH
 RESENE GUSTENING WHITE
 PAINT FINISH
 RESENE GUSTENING WHITE

ENERGY
 HEAT PUMP AIR SOURCED HOT WATER UNIT
 CEILING FANS & INSULATION TO LIVING
 CEILING FANS & SINGLE PHASE AIR CONDITIONING TO BEDROOMS
 ELECTRIC COOKTOP & ELECTRIC OVEN
 WELL VENTILATED FRIDGE CAVITY
LIGHTING
 KITCHEN
 LAUNDRY
 HALLWAY
 BATHROOM
WATER
 SHOWER HEAD
 BATHROOM TAPS
 BATHROOM TAPS
 WATER CLOSET
GLAZING
 NATURAL ANODISED
 CLEAR
 LOW E - TINTED GREY
 LOW E - TINTED GREY
 LOW E - TINTED GREY
SCREENS & BALUSTRADES
 NATURAL ANODISED
 HORIZONTAL PRIVACY SCREEN - FIXED
 VERTICAL SCREEN - FIXED
 HORIZONTAL WINDOW HOOD
 TIMBER BOUNDARY FENCE

21-25 RECS
 EER 3.5-4.0
 EER 3.5-4.0
 EER 3.5-4.0
 NATURAL & ARTIFICIAL LIGHTING
 ARTIFICIAL LIGHTING
 ARTIFICIAL LIGHTING
 3 STAR
 4 STAR
 5 STAR
 4 STAR

FIXTURES & FITTINGS

HEAT PUMP AIR SOURCED HOT WATER UNIT
 CEILING FANS & INSULATION TO LIVING
 CEILING FANS & SINGLE PHASE AIR CONDITIONING TO BEDROOMS
 ELECTRIC COOKTOP & ELECTRIC OVEN
 WELL VENTILATED FRIDGE CAVITY
LIGHTING
 KITCHEN
 LAUNDRY
 HALLWAY
 BATHROOM
WATER
 SHOWER HEAD
 BATHROOM TAPS
 BATHROOM TAPS
 WATER CLOSET

COLOURS



SOLAR ABSORPTION

PROPOSED
 WALLS
 ZILLU DARK
 ECRU WHITE - LIGHT
 ROOFS
 SHILE GREY - MEDIUM DARK
 COLOUR SUBJECT TO CHANGE
 RESENE SELECTION
 VALUES TO BE MAINTAINED

REQUIRED
 DARK (0.7)
 LIGHT (0.4)
 MEDIUM DARK (0.7)

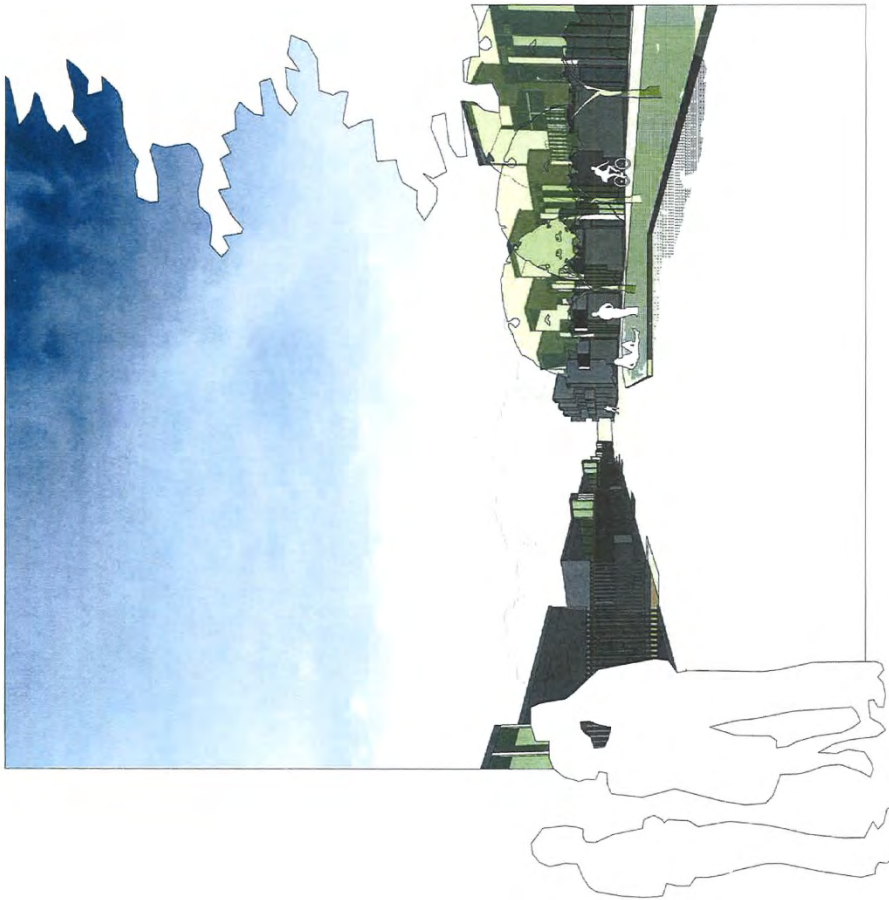
TOWN HOUSE SPECIFICATIONS

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 email@reddiplogarchitects.com

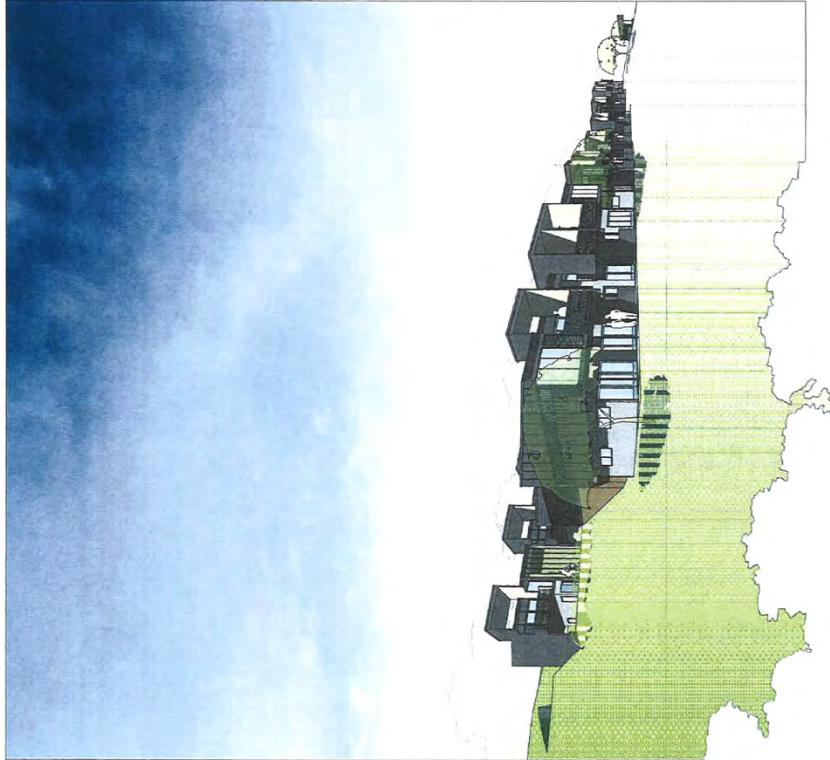
SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2486
PROJECT NO.
 2411-229
DRAWING NO.
 DA-16
ISSUE
 B

CHAMPAGNE DRIVE





DRIVEWAY VIEW - EAST
SCALE - 1:50



SOUTH-WEST VIEW
SCALE - 1:50

PERSPECTIVES

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ISSUE A
DATE 08/12/14
BY LG DA APPLICATION
DESCRIPTION RP
CHD
SITE ADDRESS
47 CHAMPAGNE DRIVE
TWEED HEADS SOUTH
NSW, 2486
LOT NO 2 ON DP566095
TWEED SHIRE COUNCIL

CHAMPAGNE DRIVE

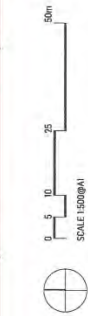
PROJECT NO. 2411-229
DRAWING NO. DA-17
ISSUE A



- DRAINAGE PATHS
- - - EXISTING SEWER
- - - EXISTING WATER
- EXISTING TELSTRA

SERVICES PLAN

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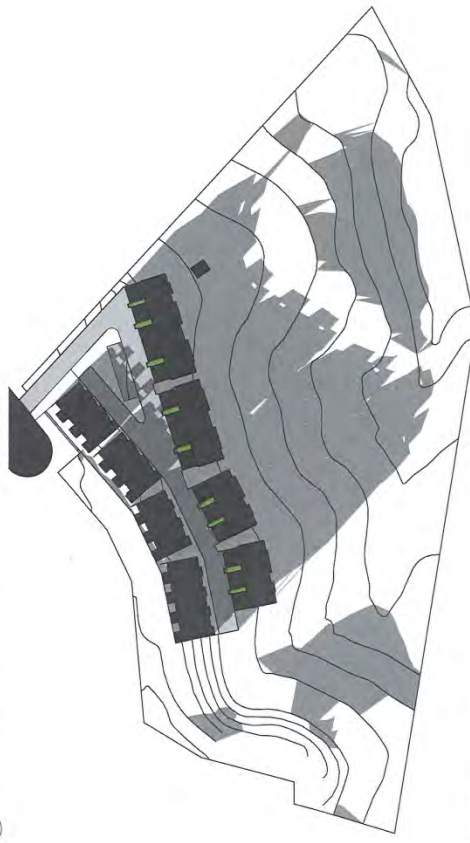
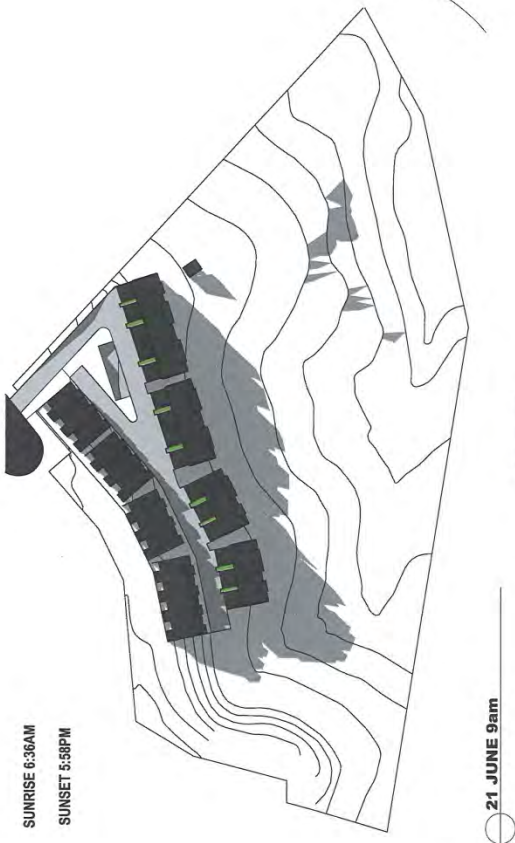
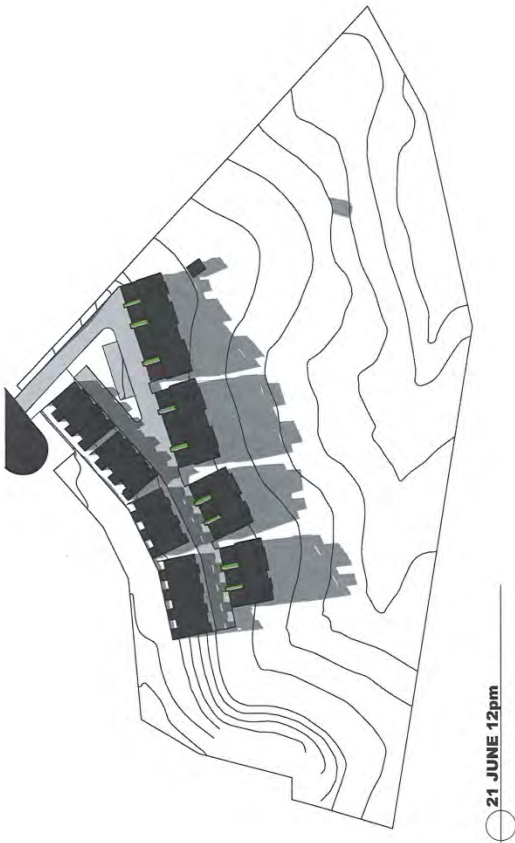
ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2466
 LOT NO 2 ON DP568095
 TWEED SHIRE COUNCIL

PROJECT NO. **2411-229** DRAWING NO. **DA-18** ISSUE **B**





SUNRISE 6:36AM
SUNSET 5:58PM

SUN STUDY - 21st JUNE

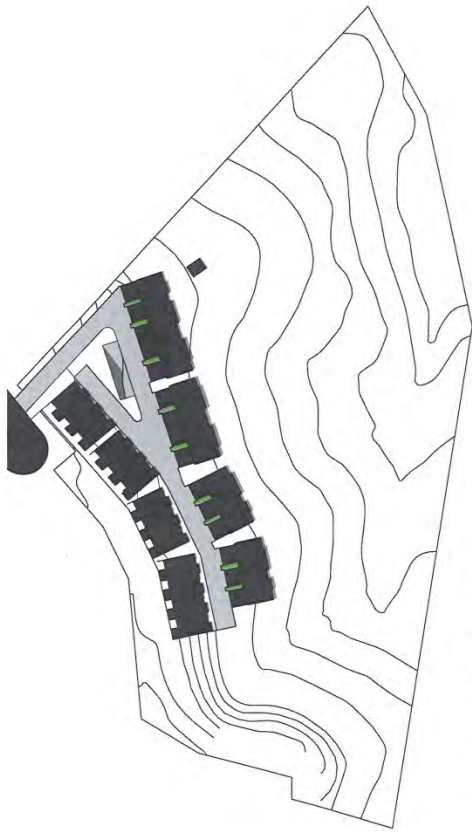
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email@reddogarchitects.com

CHAMPAGNE DRIVE

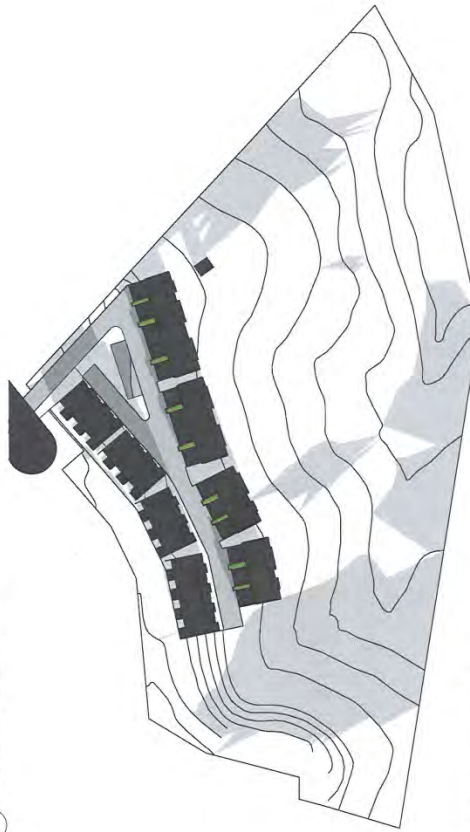
ISSUE	DATE	BY	DESCRIPTION	CHD	SITE ADDRESS
A	09/02/2014	LG	DA APPLICATION	RP	47 CHAMPAGNE DRIVE TWEED HEADS SOUTH NSW 2466
B	21/06/2015	RS	COUNCIL RESPONSE	RP	LOT NO 2 ON DP566005 TWEED SHIRE COUNCIL



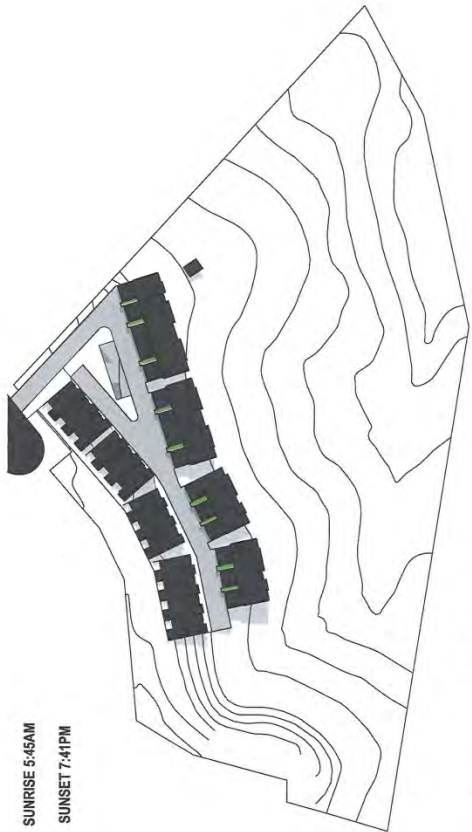
PROJECT NO. **2411-229**
DRAWING NO. **DA-19**
ISSUE **B**



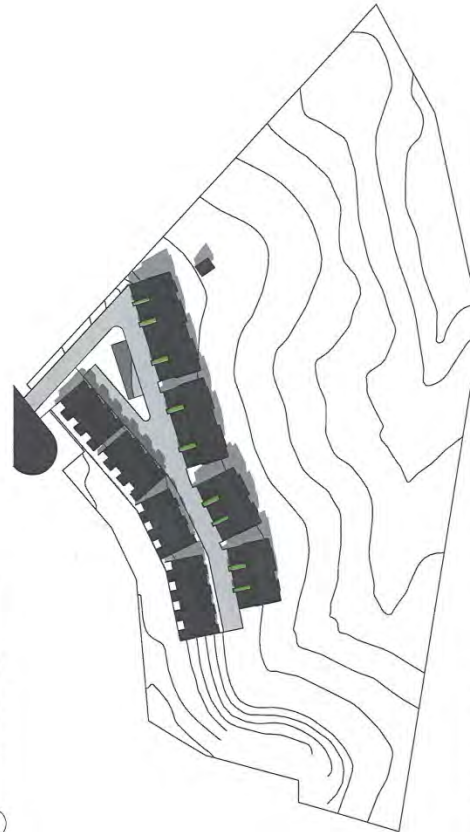
21 DECEMBER 12pm



21 DECEMBER 6pm



21 DECEMBER 9am



21 DECEMBER 3pm

SUN STUDY - 21st DECEMBER

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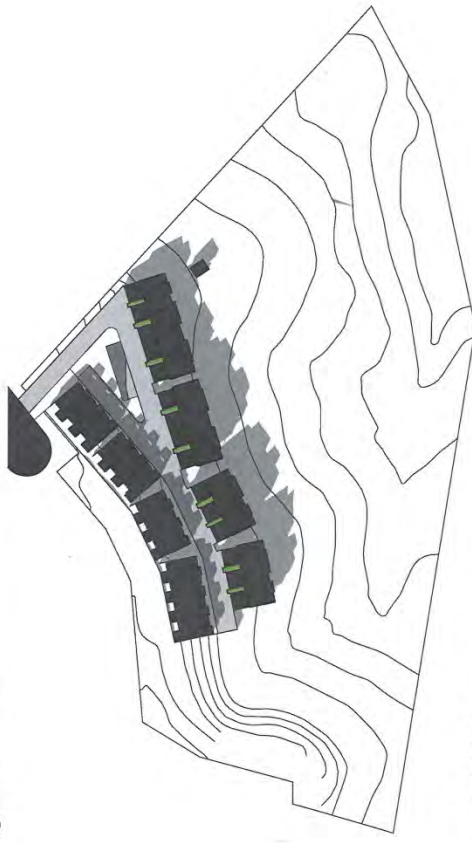
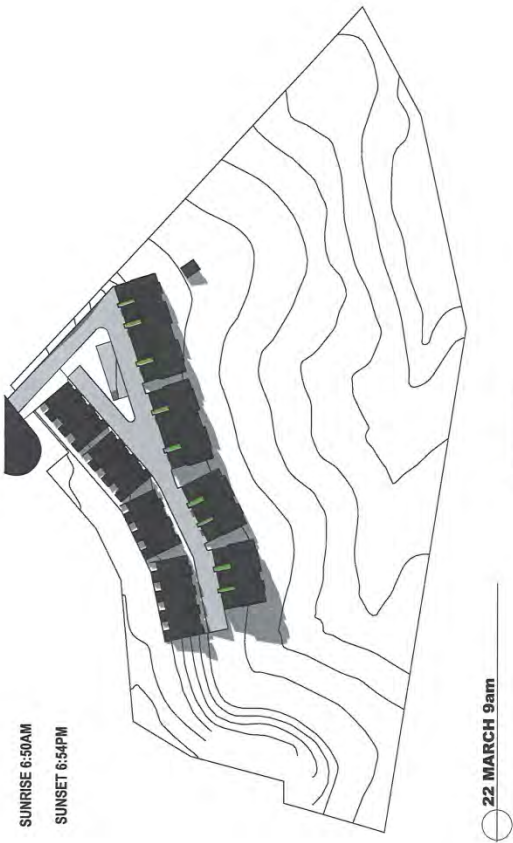
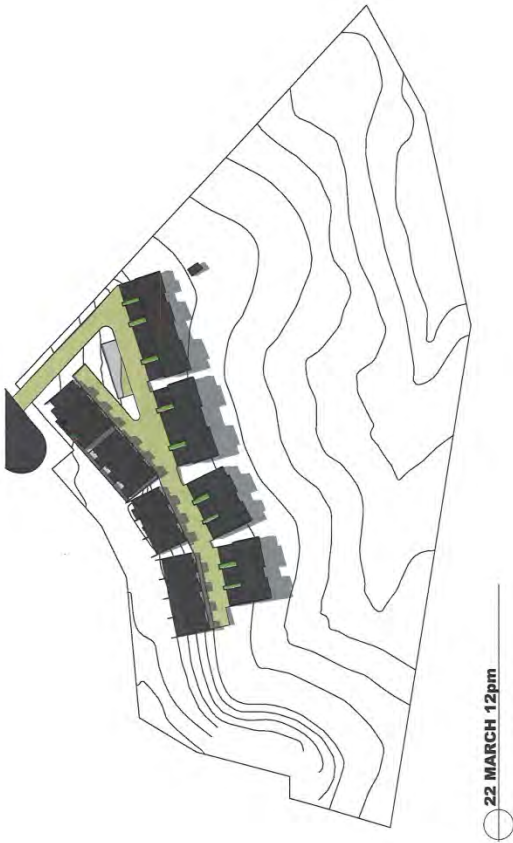
ISSUE	DATE	BY	DESCRIPTION	CHD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

CHAMPAGNE DRIVE

SITE ADDRESS
 47 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2486
 LOT 1 NO 2 ON DP568695
 TWEED SHIRE COUNCIL



PROJECT NO. **2411-229**
 DRAWING NO. **DA-20**
 ISSUE **B**



SUN STUDY - 22nd MARCH

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ISSUE	DATE	BY	DESCRIPTION	CHKD
A	08/02/2014	LG	DA APPLICATION	RP
B	21/04/2015	RS	COUNCIL RESPONSE	RP

CHAMPAGNE DRIVE

SITE ADDRESS
 CHAMPAGNE DRIVE
 TWEED HEADS SOUTH
 NSW, 2485
 LPT NO 2 ON DP5960055
 TWEED SHIRE COUNCIL



PROJECT NO. 2411-229
DRAWING NO. DA-21
ISSUE B

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 2014

Clause 1.2 – Aims of the Plan

This plan aims to make local environmental provisions for land within the Tweed Heads area in accordance with the relevant standard environmental planning instrument under Section 33A of the Act.

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, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
- (b) *to encourage a sustainable local economy and small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed,*
- (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage,*
- (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
- (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
- (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
- (g) *to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed,*
- (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*
- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

It is considered that the proposal would be consistent with the aims of the plan, in the facilitation of a form of medium density residential development.

Clause 2.3 – Zone objectives and Land use table

The subject site is located within the R1 General Residential zone. The objectives of this zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the provision of tourist accommodation and related facilities and services in association with residential development where it is unlikely to significantly impact on amenity or place demands on services beyond the level reasonably required for residential use.*

The development provides medium density accommodation within an appropriately zoned location. Accordingly, is considered to be consistent with the zone objectives. Residential Accommodation (multi-dwelling housing) is permitted with consent in the zone.

Clause 4.3 - Height of Buildings

The objectives of this clause are as follows:

- (a) *to establish the maximum height for which a building can be designed,*
- (b) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
- (c) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
- (d) *to encourage greater population density in less car-dependant urban areas,*
- (e) *to enable a transition in building heights between urban areas comprised of different characteristics,*
- (f) *to limit the impact of the height of a building on the existing natural and built environment,*
- (g) *to prevent gross overshadowing impacts on the natural and built environment.*

This clause states that the height of any building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. In this instance the subject site is mapped as having a maximum building height of 13.6m.

The proposed development has a maximum stated height of 10.5m. Accordingly, the proposed development complies with this regard.

Clause 4.4 – Floor Space Ratio

The objectives of this clause are as follows:

- (a) *to define the allowable development density of a site and for particular classes of development,*
- (b) *to enable an alignment of building scale with the size of a site,*
- (c) *to provide flexibility for high quality and innovative building design,*
- (d) *to limit the impact of new development on the existing and planned natural and built environment,*
- (e) *to encourage increased building height and site amalgamation at key locations in Tweed.*

This clause states that the maximum floor space ratio (FSR) for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space

Ratio Map. The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. In this instance the applicable floor space ratio is (2:1) over the entire site.

The subject site has a total area of 2.533 hectares and a proposed Gross Floor Area of 3,823m². This results in an approximate FSR of 0.15:1 which is much less than the permitted maximum. The proposal is acceptable in this regard.

Clause 5.5 – Development within the Coastal Zone

This clause states that development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered the following:

- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
 - (i) *maintaining existing public access and, where possible, improving that access, and*
 - (ii) *identifying opportunities for new public access, and*

The subject application does not propose any amendments to existing public access to or along the coastal foreshore.

- (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
 - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
 - (ii) *the location, and*
 - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*

The proposed development is permissible on the subject site and is generally consistent with the prescribed development requirements as outlined throughout this report. As such the proposal is considered to be acceptable at this location.

- (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
 - (i) *any significant overshadowing of the coastal foreshore, and*
 - (ii) *any loss of views from a public place to the coastal foreshore,*

The proposed development is located in excess of 500m from the coastal foreshore and is therefore not considered to impact on the amenity of the

foreshore by virtue of overshadowing or a loss of views. The subject application is considered to be acceptable having regard to the above considerations.

(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

The proposed development is not considered to compromise the scenic qualities of the coast as it represents an acceptable development on appropriately zoned land. Beyond this, the subject development is not considered to generate any specific opportunities to protect the visual amenity and scenic qualities of the coast due to its nature and scale.

(e) how biodiversity and ecosystems, including:

(i) native coastal vegetation and existing wildlife corridors, and

(ii) rock platforms, and

(iii) water quality of coastal waterbodies, and

(iv) native fauna and native flora, and their habitats, can be conserved, and

The proposal is to be undertaken on a previously developed land which is currently utilised for residential purposes. The proposed development would result in the removal of some landscaping vegetation within the existing site. It is considered that this vegetation provides amenity landscaping rather than having a specific ecological value.

It is noted that replacement landscaping is to be provided to the site. It is considered that the proposal will have a minimal impact on the local biodiversity or ecosystems in this regard.

(f) the cumulative impacts of the proposed development and other development on the coastal catchment.

The proposed development is not considered to result in an unacceptable cumulative impact on the coastal catchment given the sites zoning and the permissibility of the development at this location.

This clause goes on to further state:

(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:

(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and

As outlined elsewhere in this report, the proposal will not impede or diminish the right of access of the public either to or along the public foreshore.

- (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

The subject site would maintain connection to Council's reticulated sewer system.

- (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*

It is noted that the application has been reviewed by Council's Engineering Unit with respect to stormwater, who has advised that the townhouse development site relies on two downstream easements through private allotments for the legal discharge of stormwater. Hydraulic investigation and design was required to determine the spare capacity of these services to accept increased runoff from the development (and any external contributing catchments) in minor and major storm events, and any upgrades and/or stormwater detention facilities necessary to protect downstream development.

Further information in this regard was received from the applicant, with Council's Flooding and stormwater Engineering raising no further concerns subject to conditions being applied.

Having regard to the above, it is considered that the subject application would be in accordance with the above controls, with no untreated stormwater being discharged to the sea, beach or the like.

- (d) *the proposed development will not:*
- (i) *be significantly affected by coastal hazards, or*
 - (ii) *have a significant impact on coastal hazards, or*
 - (iii) *increase the risk of coastal hazards in relation to any other land.*

The proposed development is considered to be acceptable having regard to coastal hazards as outlined above due to its nature, permissibility and the spatial separation between the site and coastal hazards at this location.

Having regard to the above assessment the proposal is considered to be acceptable with respect to the provisions of this clause.

Clause 5.9 – Preservation of Trees or Vegetation

The subject site is not subject to a TPO and comprises limited vegetation. It is considered that the proposal raises no major implications in respect of this clause.

Clause 5.10 - Heritage Conservation

The subject site is not mapped as being within a Heritage Conservation area.

Clause 5.11 - Bush fire hazard reduction

The subject site is mapped as being bushfire prone land. A Bushfire Report has been prepared and included with the application. The application was referred to the NSW Rural Fire Service in accordance with section 91 of the Environmental Planning and Assessment Act 1979. The NSW Rural Fire Service did not object to the proposal and issued applicable conditions.

Clause 7.1 – Acid Sulfate Soils

Class 5 Acid Sulfate Soils are identified on the subject site.

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

Council's Environmental Health Officer has reviewed this aspect of the proposed development and has not returned any objections on this basis. As such, the proposed development is considered to be acceptable having regard to Acid Sulfate Soils.

Clause 7.2 - Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

There are considerable earthworks required to facilitate the proposed development, namely excavation for the construction of dwellings 1-13, where the extent of cut exceeds 2.0m, with Units 4-13 requiring some 2.8m of cut (as referenced in the earthworks plan, submitted to Council 2 June 2015).

Clause 7.2(3)(a)-(i) outlines matters which require consideration when assessing an application.

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,
- (i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.

The proposed development seeks consent to undertake substantial earthworks for the construction of Units 1-13 and the driveway. The proposed development includes cut of up to 2.85m within the building footprint of dwellings 1-13. The area of works is approximately 100m wide by approximately 30m into the site.

The extent of works is considered to have an impact on the amenity of the surrounding residences, however this would be limited to the duration of works. No impact on drainage is envisaged and should the application have been recommended for approval further information in relation to the quality of the fill excavated would have been required.

Whilst the development meets the provisions of Clause 7.2, the extent of cut required for the proposed development is not supported under the provisions of the Section A2 of the Tweed DCP.

Clause 7.3 – Flood Planning

The subject sites south eastern corner is mapped as flood prone land. The site has a 1 in 100 year level of 2.6m AHD and an adopted minimum floor level of 3.1m AHD and a Probable Maximum Flood level (PMF - worst case scenario event) of RL 5.7m AHD. The site's elevation ranges from RL 2 to RL 40m AHD.

The subject application was referred to Councils Flooding and Stormwater Engineer who advised the following.

The PMF is the largest flood event that could conceivably occur.

The lower fringe of the site is classified as flood liable due to the inundation from flood events up to and including the PMF. However the majority of the site including the proposed development envelope is well above the PMF inundation posing no issue from a flood perspective.

Accordingly, Clause 7.3 is considered satisfied.

Clause 7.4 - Floodplain risk management

Multi-dwelling housing is a permissible form of development within the R1 zone. It is considered that the proposal is consistent with the objectives of the zone, providing medium density development on land zoned for such purposes.

Clause 7.5 - Coastal risk planning

The subject land is not identified as being subject to coastal risk.

Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties.

It is noted that the application has been reviewed by Council's Engineering Unit with respect to stormwater, who raised no concerns in relation to stormwater management subject to conditions being applied.

Clause 7.8 – Airspace operations

The development will not impact on airspace operations.

Clause 7.9 - Development in areas subject to aircraft noise

The development is not located in an area subject to aircraft noise.

Clause 7.10 - Essential Services

All essential services are made available to the subject site.

Other Specific Clauses

There are no other specific clauses applicable to the subject application.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

In accordance with Clause 1.9 Application of SEPPs of the Tweed Local Environmental Plan 2014 the North Coast Regional Environmental Plan does not apply to the subject site.

Clause 1.9 Application of SEPPs (TLEP 2014)

- (1) This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.
- (2) The following State environmental planning policies (or provisions) do not apply to the land to which this Plan applies:
 - *State Environmental Planning Policy No 1—Development Standards*
 - *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development (clause 6 and Parts 3 and 4)*
 - *State Environmental Planning Policy No 60—Exempt and Complying Development*
 - *North Coast Regional Environmental Plan*

SEPP No. 44 - Koala Habitat Protection

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

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

The applicant advised that the site has two small areas of potential Koala habitat mapped on the subject site (under the Tweed Coast Koala Habitat Study). The first area is located in the south-east corner and is identified as secondary habitat, the second nominated area is within the far west corner of the subject site and is also nominated as potential secondary habitat. The Tweed Coast Koala Habitat Study does not identify any koala activity.

The areas nominated under the Tweed Coast Koala Habitat Study are not within the proposed development area. Further the application was referred to Council's Biodiversity Planner raised no concerns with this regard.

SEPP No. 55 - Remediation of Land

In Council's original request for further information (dated 17 February 2015) the applicant was requested to submit a preliminary contamination investigation of the land in accordance with the relevant provisions of the NSW contaminated land planning guidelines. The investigation was required to be carried out by a consultant that has appropriate experience in the investigation of contaminated land and the provision of contamination reports in accordance with the provisions of the NSW contaminated land planning guidelines and other relevant NSW contamination guidelines.

Further to the above the applicant was advised that if on the basis of the findings of the preliminary contamination investigation it is determined that a detailed contamination investigation is required, the consultant shall carry out such investigation in accordance with the relevant provisions of the NSW contaminated land planning guidelines and submit a detailed contamination report to Council's Environmental Health Officer for further consideration and approval.

A response to Council's request was provided by P.R.C Developments Pty Ltd reference PCD01/L027/pnc and dated 26 May 2015.

This response contains the following conclusions:

1. *The earthworks areas located within the residual 1962 disturbed area were most likely borrow pits that eventually functioned as water collection ponds.*
2. *The absence of sediments in the sub-surface soils where these ponds were located within the development land indicate that such sediments that would have contained possible contaminants had been removed and most likely some time prior to 1976.*

3. *The ponds were not filled in prior to 1976 as there is no geotechnical evidence of fill within the residual area.*
4. *It cannot be discounted that some contaminants may have leached into the residual soils below the bases of the ponds.*
5. *It also cannot be discounted that the large shed that existed from 1962 to some time prior to 1987 housed farm chemicals, fertilizer and like products.*
6. *It is prudent to assume that there is a small potential for contamination within the 1962 residual segment within the development land.*
7. *Residential development has taken place in the 1962 disturbed cropping area north and east of the site. This development occurred after 1987 and at a time where the requirements for establishing the presence of and remediation of contaminants had to have been addressed. It is sufficient to recognise that development occurred in that land and that meant that either there was no contamination found, or that any contamination found was readily remediated.*

Council's Environmental Health officer reviewed the applicant's response and has advised the following:

Of particular relevance are conclusions 4, 5 and 6, which indicate that there is some potential for the site to be contaminated.

The P.R.C report proposes that council places a condition of Consent requiring a Detailed Site Contamination Investigation of the development land in the residual 1962 area to establish any actual contamination present and that may require remediation. The Detailed Site Investigation report would be provided to council for approval prior to the issue of a Construction Certificate for the development.

The original further information request required the following in the event that the preliminary contamination investigation determined that a detailed contamination investigation is required:

If on the basis of the findings of the preliminary contamination investigation it is determined that a detailed contamination investigation is required, the consultant shall carry out such investigation in accordance with the relevant provisions of the NSW contaminated land planning guidelines and submit a detailed contamination report to council's Environmental Health Officer for further consideration and approval.

In accordance with Clause 7(1) *contamination and remediation to be considered in determining a development application of the State Environmental Planning Policy (SEPP) 55 – Remediation of Land* a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. Accordingly, in the absence of the requested contaminated lands investigation, Council is not in a position to consent to the proposed development.

Notwithstanding the above, it should be noted that whilst Council has verbally advised the applicant of this requirement a formal request for further information has not been sent with this regard. The reasoning for this is that the response

was received by Council sometime after the amended plans were received and the re-notification period had ceased. Accordingly, the comments received back from Council's Environmental Health Unit came after the reassessment of the amended plans, at which point Council's assessing officer had resolved to recommend the application for refusal.

SEPP No. 65 - Design Quality of Residential Flat Development

The proposed development will comprise of a Class 1a building under the Building Code of Australia. Therefore is excluded from the definition of a residential flat building, as defined under SEPP 65.

Pursuant to Clause 4, the policy does not apply.

SEPP No 71 – Coastal Protection

SEPP 71 applies as the site is located in the coastal zone, though it is not in proximity to the coastal foreshore (and not within a sensitive coastal location).

(a) The aims of this Policy set out in Clause 2:

The proposed development is considered to be consistent with the aims of the policy as set out in clause 2.

(b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.

The proposed development will not alter or restrict the public's access to the foreshore reserve areas located adjacent to the Pacific Ocean.

(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.

The proposal does not generate any additional opportunities to improve public access to foreshore reserve areas and the like, nor are there any physical opportunities to do so given the spatial separation between the site and foreshore reserve.

(d) The suitability of the development given its type, location and design and its relationship with the surrounding area.

Whilst the proposed development is sited and designed in general accord with the relevant Council controls, there are variations sought to the controls (detailed below under the DCP assessment of this report) and visual impacts from the adjoining residential areas and the opposing ridgeline. Accordingly, the development is considered likely to have an adverse imposition upon the immediate area in terms of size and scale.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal

foreshore and any significant loss of views from a public place to the coastal foreshore.

The proposal is not considered to generate any detrimental impact on the public foreshore, given its spatial separation.

- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities*

The proposal is unlikely to impact upon the scenic quality of the NSW coast, with the development being spatially separated from the Beach and Ocean. The proposal is consistent with the built environment of the Tweed Heads area and the general desire for future built development in the locality.

- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats;*

The proposal will not have an adverse impact upon threatened species. The subject site has been developed over time for urban purposes and contains minimal vegetation or native habitat.

- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.*

The proposal is unlikely to have an adverse impact upon marine environments or habitats.

- (i) *existing wildlife corridors and the impact of development on these corridors,*

The proposal will not have an adverse impact upon wildlife corridors or the like.

- (j) *the likely impact of coastal process and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards;*

The subject site is not located within an area affected by Coastal Erosion (WBM Coastline Hazard Definition Study), and is inland of the defined Coastal Erosion Zones. The development is unlikely to have an adverse impact upon Coastal Processes or be affected by Coastal Processes.

- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities;*

Not applicable.

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals;*

The subject site is not identified as a cultural place or similar.

(m) *likely impacts of development on the water quality of coastal waterbodies,*

The proposal is unlikely to adversely impact upon the water quality of nearby waterways. Appropriate erosion and sediment controls will be put in place to ensure no sediment impacts on the surrounding area.

(n) *the conservation and preservation of items of heritage, archaeological or historic significance,*

The subject site is not identified as land containing items of heritage, archaeological or historical significance.

(o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities;*

Not applicable.

(p) *only in cases in which a development application in relation to proposed development is determined:*

(i) *the cumulative impacts of the proposed development on the environment; and*

No cumulative impacts are likely as a result of the proposed development.

(ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

A BASIX certificate has been prepared as part of this application which demonstrates the proposal would be acceptable having regard to the above.

The proposal is considered to be consistent with the matters for consideration within clause 8. The proposal will have no impact on access to and along the foreshore and will not result in overshadowing of the foreshore. The proposal is consistent with the desired future character for the area. It is considered the proposed development does not compromise the intent or specific provisions of State Environmental Planning Policy No. 71 – Coastal Protection.

SEPP (Building Sustainability Index: BASIX) 2004

The propose development comprises 'dwellings' and accordingly the proposal is a "BASIX affected development". A BASIX certificate has been obtained and was lodged with the subject application.

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

There is no draft EPI.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

A complete A1 assessment has been undertaken and is appended to the DA file. The subject application seeks a range of variations to Section A1 of Councils DCP, namely:

Chapter 1 - Building Types

Control i: Town housing is to provide a mix of dwelling sizes and diversity in the number of bedrooms per dwelling.

The proposed development seeks consent for the construction of 28 town houses, comprised of three different dwellings.

Type A: 2 bed, 91m² internal floor area, 17m² external living area and 32m² carport

Type B: 2 bed, 93m² internal floor area, 19m² external living area and 34m² carport

Type C: 3 bed, 99m² internal floor area, 22m² external living area and 34m² carport

Whilst it is acknowledged that the proposed development is comprised of three different dwellings types, it is not considered that the development offers a real mix in size or diversity in the number of bedrooms per dwelling. The only difference between dwellings types is a minor variation between internal floor areas and dwelling type C offering a third bedroom/study. and type B is a two bedroom unit, with types A and C being three bedrooms.

Chapter 2 – Site and Building Design Controls

Design Control 1 – Public Domain Amenity, Public Views and Vistas

Control b: The location and height of new development is to be designed so that it does not unnecessarily or unreasonably obscure public district views of major natural features such as the water, ridgelines or bushland.

The redesign submitted to Council in response to Council's request for further information (whilst reducing the required cut for the proposed development) has proposed to bring the footprint for the proposed dwellings 1-13 further up the site, which results in a further impact on the existing views from the Champagne Drive area and existing dwellings.

The applicant submitted a view analysis and included the below plan.



Site View 1 - Development Context & View Corridors

The large brown solid arrow extending from 54 Champagne Drive represents the broad vista available to that dwelling from its southern wall and yard. That view will be across the top of the rooflines of the upper level units.

The thinner green solid arrows represent view lines that are available to No 52 Champagne Drive via the gaps between the upper units. A more distant vista is available from the front yard of this dwelling in the south-west direction across the tops of the upper units 9 to 13.

The grey solid arrow represents the vista available to 48 Champagne Drive from the front yard of that dwelling.

The broad unfilled red arrow represents the fairly unrestricted views available to No 90 Vintage Lakes Drive.

The DCP states that the location and height of any new development is to be designed so that it does not unnecessarily or unreasonably obscure public district views of major natural features such as the water, ridgelines or bushland. The proposed development is considered to impact on the views of existing residences and from the public domain of Champagne Drive.

The location of the proposed development is also considered to have a visual impact from the opposing ridgeline and surrounding residential area, in response to the bulk of the development (this is discussed further within this report).

Design Control 2 – Site configuration, Above Ground living areas

Control a: Above ground external living areas are to have a minimum depth of 2.5m and a minimum area of 10sqm.

The proposed development is not consistent with the minimum 10m², or minimum 2.5m depth requirements for above ground external living areas. Dwelling Type A (13 dwellings, located along the northern boundary of the site) include an above ground external living area of only 7m² external living area, with a non-compliant depth of 2.4m

Design Control 2 – Site configuration, Topography, cut and fill

Control a: Building siting is to relate to the original form of the land.

The proposed development is not considered to relate to the original land form, in particular proposed dwellings 1-13 (Type A), and located

on the northern elevation of the site, require a cut at the deepest point 2.85m in height and are proposing to building the rear of the lower level below natural ground level.

Control b: Alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling as a result of raft slab, construction would be inappropriate. Example of alternative construction includes: Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design.

Dwellings 1-13 (Type A) propose a slab on-ground design, with part of the lower level being built below the natural ground level. The development includes, at the deepest point cut of 2.85m. The DCP requires that Alternatives to slab on ground construction are to be encouraged where it is obvious that due to the gradient and characteristics of the site, major excavation or filling as a result of raft slab, construction would be inappropriate. The DCP nominates Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design as being alternative construction designs.

Control c: On sloping sites step buildings or utilise site excavation and suspended floors to accommodate changes in level rather than levelling the site via cut and fill.

The amended plans for Dwellings 1-13 (dwelling type A), still requires a cut of between 1.5m to 2.85m and also includes the construction of part of the lower level being beuilt below natural ground level. The development of Dwelling Type A does not offer any form of stepping or suspended flooring to accommodation the changes in level.

Control d: Dwellings must not be designed to be on a contiguous slab on ground type if the building site has a slope of greater than 10%. Development on such land is to be of pole or pier construction or multiple slabs or the like that minimise the extent of cut and fill.

The subject site is mapped as having a slope in the range of 8 to greater than 18 degrees where the works are proposed. The elevation ranges from RL 2 to RL 40m AHD. Control d prescribes that dwellings must not be designed on slab on ground type on a site of greater than 10%. Accordingly, the development of units 1-13 is not consistent with control d and should be of a pole or pier construction, or multiple slabs, to minimise the extent of fill.

Control e: Site excavation / land reforming is to be kept to a minimum required for an appropriately designed site responsive development.

The proposed development, in particular dwellings 1-13, includes excessive cut and below ground construction methods, which is not considered to keep site excavation to a minimum. Accordingly, dwellings 1-13 are not considered to be an appropriate design, which is site responsive.

Control f: The maximum level of cut is 1m and fill is 1m except for areas under control j.

The proposed development exceeds the maximum cut of 1.0m and is not development referred to under control j (see further response below).

Control h: Cut areas are to be set back from the boundaries at least 900mm; fill areas are to be setback from the boundary a minimum of 1.5m.

The proposed cut areas for Dwellings 1-13 adjoin the northern boundary, which is not consistent with the setback requirement of 900mm under control h.

Control j: Excavations in excess of one metre within the confines of the building and on driveways may be permitted, to allow for basement garages providing the excavations are adequately retained and drained, in accordance with engineering details.

Control j states that excavations in excess of one metre within the confines of the building and on driveways may be permitted, to allow for basement garages, the subject application seeks a variation to this control in relation to dwellings 1-13, no basement parking is proposed and the excavations within the confines of the buildings are up to a maximum height of approximately 2.85m. Accordingly, the variation of 1.85m is not supported.

Control m: The top of any battered cut (or retaining wall) and the toe of any battered fill (or retaining wall) is not to be closer than 900mm for cut and 1.5m for fill to any property boundary, where the overall height at any point exceeds 500mm.

The proposed retaining wall for the cut areas behind units 6-13, is to retain cut between 500mm and 1.0m. The retaining wall adjoins the northern boundary. Accordingly, does not comply with the 900mm setback requirement under control m.

Design Control 5 – Building Footprint and attics, orientation and separation
Building separation

Control e: 4m minimum separation between walls containing primary windows/doors of living rooms (on any level of the building) to shared driveways.

Units 1-13 do not comply with the 4.0m setback requirement under Control e. The units range from as close as 0.5m (Units 1-3) to approximately 2.5, (units 10-13) and a maximum setback of 3.5m (unit 6).

Design Control 6 – Height, Building Height

Control a: 9m is the maximum overall building height.

Dwellings 14-16 and 20-23 exceed the 9m overall building height by a maximum of 1.5m, as a response to the slope, whilst the height is consistent with the TLEP height limit the height of the development is considered to contribute to view loss and the long elevations of hardstand and bulk, which have been raised elsewhere within this report.

Design Control 7 – Building Amenity, View sharing

Control a: Building siting is, as far as it is practical, to be designed to minimise the impact on view sharing between properties.

The location of dwellings 1-13, located along the northern and highest part of the subject site is considered to have an impact on the views from the Champagne Drive road reserve and existing dwellings located in Champagne Drive to the opposing ridgeline and Terranora Broadwater. Whilst impact on views is inevitable on many sloping sites, the design is not considered to step with the site which for dwellings 1-13 has resulted in an impact on view sharing between properties.

Design Control 7 – Building Amenity, Natural ventilation

Control b: Non habitable rooms including kitchen, bathroom & laundry are encouraged to have operable windows.

Dwellings 1-13, include part of the lower level being built below natural ground level. This level is comprised of a single window on the front/southern elevation. The ensuite is to the rear of the building. The distance from the window to the ensuite entrance is approximately 7.0m and 8.5m from the back wall of the ensuite. This raises concern in relation to the amenity, natural light and ventilation afforded to level one (main bedroom).

Control c: The plan layout, including the placement of openings, is to be designed to optimise access to prevailing breezes and to provide for cross-ventilation.

Again as discussed above, the lower floor levels for Units 1-13, as located on the northern elevation are built up to one storey below natural ground level and are also only serviced by a single window, located on the southern elevation. This raises concern in relation to the amenity, natural light and ventilation afforded to level one (main bedroom).

In summary the proposed development seeks a range of variations to Section A1. The main issues being:

Bulk and scale

- Bulk and scale of development, which results in:
 - Hardstand dominance of the ridgeline;
 - Overlooking;
 - Loss of views between properties
 - Loss of green canopy of ridgeline (as viewed from opposing ridgeline)

Amenity

- Poor amenity, as a result of:
 - Construction part of level 1 (habitable room) below natural ground level
 - No cross ventilation, as a result of attached dwellings (at a large scale)
 - Poor natural light, again as part of the dwellings 1-13 are constructed below natural ground level and attached.

A2-Site Access and Parking Code

Parking:

In relation to on site car parking, parking provision is established by Section A2 of the Tweed DCP. Section A2 sets out the following rates:

- 1.5 spaces per 2 bedrooms;
- 2 spaces for 3 or more bedrooms; and
- 1 space per 4 units for visitor parking.

The proposed development is comprised of 21 two bedroom units and seven three bedroom units (28 units). Based on the requirements of Section A2, a total 45.5 spaces (rounded to 46 spaces) is required for the units and seven spaces for visitor parking.

The proposed development includes a total of 61 spaces, which exceeds the requirements, however only allocates five spaces for visitor parking, in lieu of the required seven spaces.

Councils Traffic Engineer reviewed the proposed application and advised the following:

*DCP A2 requires visitor carparking at a rate of one space for four units. The development proposes 5 spaces which is two spaces short for the proposed 28 units. Therefore, a condition should be included:
A minimum of seven visitor car parks, conforming to AS2890.1, are to be provided on site.*

Access:

With regards to access arrangements Councils Traffic Engineering Unit raised no concerns with the following advised:

It is considered that the adjacent road network will cater for the additional traffic generated by this development with no road or intersection upgrades required. The proposed driveway gradient conforms to Council's Driveway Access to Property Design Specification minimum requirements.

A3-Development of Flood Liable Land

The subject sites south eastern corner is mapped as flood prone land. The site has a 1 in 100 year level of 2.6m AHD and an adopted minimum floor level of 3.1m AHD and a Probable Maximum Flood level (PMF - worst case scenario event) of RL 5.7m AHD. The sites elevation ranges from RL 2 to RL 40m AHD.

The subject application was referred to Council's Flooding and Stormwater Engineer who advised the following.

The PMF is the largest flood event that could conceivably occur.

The lower fringe of the site is classified as flood liable due to the inundation from flood events up to and including the PMF. However the majority of the site including the proposed development envelope is well above the PMF inundation posing no issue from a flood perspective.

A11-Public Notification of Development Proposals

The development application was originally advertised and notified for a period of 14 days, from Wednesday 14 January 2015 to Wednesday 28 January 2015. During this period a total of 12 submissions were received.

As advised under the summary section of this report, amended plans were submitted by the applicant and the application was re-notified for a period of fourteen (14) days from Wednesday 6 May 2015 to Wednesday 20 May 2015. During this period a further 14 submissions were received.

The matters raised in all submissions are addressed later in this report.

A15-Waste Minimisation and Management

A Waste Management Plan was submitted with the application and referred to Council's Waste Management Unit for comments. Council's Waste Management Unit responded who advised that the refuse area is too small to service 28 units, there is not enough area along the Champagne Drive road reserve to service 56 bins at a time (on both waste and recycling service weeks) and the site is not capable of accommodating a waste vehicle enter and collect from a bulk service.

A16-Preservation of Trees or Vegetation

The subject site is subject to a Tree Preservation Order.

B3-Banora Point West- Tweed Heads South

The subject site is mapped as being 'Residential A', on the map 2 of B3. Accordingly, the following clauses of Section B3 are applicable:

- B.3.3 Land Uses & Components of this Section, subclause B3.3.1 Residential
- B.3.8 Housing

B.3.3.1 Residential

As mentioned above, Section B3 of the Tweed DCP nominates the subject site for "Residential A". Development under this category is to predominately comprise of conventional detached housing; (although dual occupancies may be permitted within this land use category in accordance with Section A12, of this DCP).

The proposed development is not considered to be consistent with the nominated development type under Section B3 of the Tweed DCP 2008, as the site is nominated as “residential A” which is nominated as single dwelling house allotments.

B3.8. Housing

This section of the DCP requires consideration of the objectives for residential development and the associated guidelines.

The objectives of B3.8.1 are:

- *Encourage sufficient variety of housing forms, sizes and locations so that residential choice in the area is possible within the limitations of market forces;*
- *Ensure convenient access from the dwellings to destinations outside the area and to all necessary resources within the area;*
- *To preserve existing landscape features and to use these features harmoniously; and*
- *To encourage efficient use of land to facilitate more economical arrangement of building, circulation systems and utilities.*

The Guidelines are (B3.8.2):

- a) *The development standards relating to residential development are contained within Section A5 - Subdivision Manual and Section A1 – Multi-Dwelling Housing of this DCP.*
- b)
 - i. *No building within the residential area shall exceed two (2) storeys in height;*
 - ii. *The provisions contained within State Environmental Planning Policy No 6 – Number of Stories in a Building should be used when designing residential flat buildings on sloping sites.*

The proposed development is not considered to be consistent with the guidelines applicable to housing developments in the B3 DCP. These guidelines generally refer to Section A1 of the Tweed DCP and limit the building height to two storeys. The subject application seeks a range of variations to the controls pertained under Section A1, however comply with the two storey height requirement for residential development under B3.

B9-Tweed Coast Strategy

Not applicable to the subject application.

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

Clause 92(1)(a)(ii) Government Coastal Policy

The development does not contravene the Government Coastal Policy, being landward of any defined erosion zones. The proposed development would not overshadow any foreshore open space or impede public access to any such areas.

Clause 92(1)(b) Applications for demolition

Demolition of the existing dwelling will be required and consent for same will be sought under separate application.

Clause 93 Fire Safety Considerations

Council's Building Surveyor has applied appropriate conditions with regard to fire safety.

Clause 94 Buildings to be upgraded

There are no buildings to be upgraded. Construction will be reliant on the demolition of the existing dwelling.

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

The site is not covered by a coastal zone management plan.

Tweed Shire Coastline Management Plan 2005

The land is not subject to this plan.

Tweed Coast Estuaries Management Plan 2004

The land is not subject to this plan.

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

The land is not subject to this plan.

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

Context and Setting

The proposed development, whilst, at a higher density than the surrounding lower density development is considered to offer a diversification of housing type to that in the surrounding areas, whilst still being a compatible land use. Accordingly, the development is considered to be consistent with the surrounding residential context of the site.

Bulk and Scale

Given the site's elevation, the proposed development will be highly visible from the opposite ridgeline and surrounding residential areas. The character of development located along ridgelines will comprise a continuous green landscape with intermittent built form and roofs penetrating the 'green space', consistent with the requirements of Design Control 1- Public domain amenity, of section A1 of the

Tweed DCP 2008. The subject application includes long continuous elevations and relatively narrow landscape breaks between the lower level buildings (containing dwellings 14-28). The development is considered to have a negative impact in terms of bulk and scale, given its located along the ridgeline.

Access, Transport and Traffic

Access to the site is proposed to be via a single 6.0m wide driveway, located off Champagne Drive. The site is located within an existing urban area and the proposed residential development is permissible within the zoning. Council's Traffic Engineer raised no concerns in relation to the subject application advising the following:

It is considered that the adjacent road network will cater for the additional traffic generated by this development with no road or intersection upgrades required. The proposed driveway gradient conforms to Council's Driveway Access to Property Design Specification minimum requirements.

Flora and Fauna

The subject application was referred to Council's Biodiversity Planner who advised the following:

The proposed development has been shown on the plans to be restricted to the northern section of the Lot avoiding direct impact on any native vegetation (with exception of potential issues with stormwater treatment). Trees to be removed along the road reserve comprise exotic species of relatively low ecological value. Future communal facilities would likely have an impact on the existing Macadamia Nut orchard however given that the trees are not considered to be naturally occurring, planted for agricultural production and do not comprise the listed Macadamia tetraphylla.

Notwithstanding the likely loss of exotic/planted vegetation to the north those remaining remnant units of native vegetation to the south-east and west should be afforded adequate protection during the construction and operational phase of the development. Whilst it is acknowledged that the applicant has submitted a landscape plan showing these areas to be 'Retained'; given the value of these patches of vegetation as habitat for those more urban resilient/tolerant fauna species Councils Natural Resource Management (NRM) unit are of the opinion that the integrity of these areas should be improved and potentially expanded through the exclusion of cattle and weed control works as part of the long term management of the site. As such the applicant is requested to provide a habitat restoration plan for those remaining areas of native vegetation and provide commitment to the management of the area in the long term.

A connection between the south-eastern unit to the west via a reconstructed vegetated corridor was initially considered by NRM however due to the potential to increase bushfire risk (increasing the fire run of existing hazard to the west) to neighbouring residents to the south, and both having regard for the merits of the proposal and those expected impacts NRM do not believe that a connection is warranted.

Stormwater Treatment

As shown on Dwg. No. DA-18 Issue A Services Plan dated 08/12/2014 prepared by Reddog Architects a broad area to the south of the site is described as 'Natural Drainage Mitigation Area'. A section of this area is occupied by native vegetation as detailed above (TVMS 207). From review of the application material there does not appear to be a detailed hydraulic/stormwater management plan clearly detailing the role/design of the 'Natural Drainage Mitigation Area'.

Where a stormwater device is required (by Council's Flooding & Stormwater Engineer) that would involve re-profiling/earthworks within this general area of the site, NRM may have concerns about the impact of any such works on native vegetation. As such the applicant is requested to consider the long term retention of existing vegetation during the design phase of any such stormwater treatment devices/measures.

In conclusion Council's NRM unit raised no significant issues and advised that the requirement for a brief habitat restoration plan either as a stand-alone plan or component of the landscape plan detailing the following could have be conditioned:

- Approaches and methods to improve the integrity of these two units and allow for expansion of each unit into adjacent pasture i.e. environmental weed control, cattle exclusion; and
- Long term management arrangements and demonstrated commitment to restoration and maintenance.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is located within an existing and established residential area, in Tweed Heads South. The surrounding area predominately contains single dwelling houses.

Topography

The subject land slopes from the northern boundary (Champagne Drive) to the south (where the site adjoins residences in the Point Vue development). Site levels vary from approximately RL 40m along the northern boundary to RL 2m along the southern boundary.

Aboriginal Cultural Heritage

The subject site is not mapped as being in a location of cultural significance or a location with a higher probability for containing sites of Cultural Significance under the Cobaki and Terranora Broadwater Aboriginal Cultural Heritage Management Plan, dated August 2006, nor is the site identified under the Draft Aboriginal Heritage mapping.

Geotechnical/Earthworks/Land forming

The maximum cut required for the proposed development is some 2.8m which is proposed for dwellings 1-13, along the northern boundary. Further site works will include the provision of fill in excess of 1.5m deep, located along the front elevation of proposed dwellings 21-23 and ranging from 0.5m to 1.5m for the proposed driveway.

Services

The site is in within an existing urban area and all required services are available.

Demolition

Demolition of the existing dwelling will be required with approval under separate cover.

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

During the initial advertising period in January 2014 12 submissions (objections) were received.

The applicant provided a copy of the submissions and provided a comprehensive response to Council dated 5 March 2015.

Following the original advertising period the proposed application was amended and re-notified. During the re-notification period a further 14 submissions (objections) were received. Matters raised as part of the re-notification included new concerns in relation to the amended application and also a repeat of those originally raised. All concerns are addressed below, again noting that the applicant has also provided a response.

Matters raised (repeat of matters raised under original advertising):

- land is unsuitable for the proposed development,
- the site earthworks for the development result in excess amounts of cut
- The access driveway and design is too close to existing dwellings located along Vintage Lakes Drive
- The proposed development includes the removal of trees of environmental value and impacts on fauna (including birds and possums),
- The waste disposal arrangements will have noise impacts for existing residences at collection days
- The existing roads are inadequate to provide access for the proposed development and will result in other traffic issues,
- The development is not in keeping with the neighbourhood character.
- The developments density is too high for the area
- The noise generated by the development, including as a result from the extra traffic and location of the communal will negatively impact adjoining residences
- The development only includes five visitor spaces, this is not enough visitors will park in the Champagne Drive Cul-de-sac.
- The site is unstable to accommodate construction works and the developments

- The development type is of an inferior construction and should be brick and tile in keeping with the surrounding area
- The proposed development will impact on property values,
- There is a speed hump located on the proposed driveway; this will cause noise issues for existing residents.
- The development will result in the loss of views, for the existing residents
- The development will have a negative impact on the existing resident's quality of life as a result of increased population impacts, noise, traffic increase, loss of play area for children, loss of views, noise pollution and an impact on fauna.
- The development will result in a further traffic hazard, as there is existing concealed driveways, off Vintage Lakes Drive, any additional traffic will have further implications with this regard.

Further matters raised:

- The proposed communal/playground area is located on a sloping section of the site and does not provide an adequate area for use as a playground. This area is also located in close proximity to the adjoining residences and has the potential to impact on the amenity of existing residents.
- The proposed development does not comply with the requirements for front setbacks or deep soil zone requirements.
- The construction stage has the potential to result in dangerous boulders rolling down the site and causing damage to people and properties located to the south of the site.
- The proposed amendment brings the dwellings proposed along the northern elevation higher, which results in reduced public views and vistas, in particular of the opposite ridgeline and Terranora Broadwater.
- The proposed development is not a consistent with the residential development, in accordance with Councils plans for the area.
- The proposed development is bulky and does not include an area of "greenness" that Council had generally maintained in the area.
- The development will cause damage to the existing road network. How will the developer pay for damage caused to the existing road system.
- The site is comprised of reactive clay which is extremely susceptible to landslip, the required construction of retaining walls will take years and cause ongoing noise issues.
- The proposed acoustic fence will not provide any assistance in relation to noise management.

Council's response:

Traffic/driveway

The site is located within an existing urban area and the proposed residential development is permissible within the zoning. The area is currently comprised of an existing road network servicing the established residential development areas. The proposed development is permitted on the site and would attract any applicable Section 94 contributions under the Tweed Road Contribution Plan.

The location of the driveway is setback approximately 2.5m from the boundary and the applicant has included a 1.8m high acoustic fence and landscaping, running the length of the proposed driveway.

The application was referred to Council's Traffic Engineer who raised no concerns in relation to the subject application.

Land stability

The applicant submitted a Geotechnic report by a suitably qualified engineer. The report included under 16.0 Guidelines for the proposed development in response to the site findings.

Vegetation

The subject application was referred to Council's Biodiversity Planner who advised the following:

The proposed development has been shown on the plans to be restricted to the northern section of the Lot avoiding direct impact on any native vegetation (with exception of potential issues with stormwater treatment). Trees to be removed along the road reserve comprise exotic species of relatively low ecological value. Future communal facilities would likely have an impact on the existing Macadamia Nut orchard however given that the trees are not considered to be naturally occurring, planted for agricultural production and do not comprise the listed Macadamia tetraphylla.

Notwithstanding the likely loss of exotic/planted vegetation to the north those remaining remnant units of native vegetation to the south-east and west should be afforded adequate protection during the construction and operational phase of the development. Whilst it is acknowledged that the applicant has submitted a landscape plan showing these areas to be 'Retained'; given the value of these patches of vegetation as habitat for those more urban resilient/tolerant fauna species Councils Natural Resource Management (NRM) unit are of the opinion that the integrity of these areas should be improved and potentially expanded through the exclusion of cattle and weed control works as part of the long term management of the site. As such the applicant is requested to provide a habitat restoration plan for those remaining areas of native vegetation and provide commitment to the management of the area in the long term.

A connection between the south-eastern unit to the west via a reconstructed vegetated corridor was initially considered by NRM however due to the potential to increase bushfire risk (increasing the fire run of existing hazard to the west) to neighbouring residents to the south, and both having regard for the merits of the proposal and those expected impacts NRM do not believe that a connection is warranted.

No objections were received subject to conditions.

Waste disposal

A Waste Management Plan was submitted with the application and referred to Council's Waste Management Unit for comments. Council's Waste Management Unit responded who advised that the refuse area is too small to service 28 units, there is not enough area along the Champagne Drive road reserve to service 56 bins at a time (on both waste and recycling service weeks) and the site is not capable of accommodating a waste vehicle enter and collect from a bulk service.

Earthworks/Cut and fill

It is acknowledged that the subject site seeks variations in relation to cut and fill requirements as determined under Section A1 of the Tweed Development Control Plan 2008. The officers are not supportive of the application with this regard as the development does not comply with the variations to cut and fill permitted under A2.

Construction type/impacts of value of existing residences

The proposed development whilst at a higher density, different building materials and design than the surrounding area, is considered to offer a diversification of housing type to that in the surrounding areas, whilst still be a compatible land use.

Views

The location of dwellings 1-13, located along the northern and highest part of the subject site is considered to have an impact on the views from the Champagne Drive road reserve and existing dwellings located in Champagne Drive to the opposing ridgeline and Terranora Broadwater. Whilst impact on views is inevitable on many sloping sites, the design is not considered to step with the site which for dwellings 1-13 has resulted in an impact on view sharing between properties.

Bulk and scale on ridgeline

The proposed development is considered to have a negative impact in terms of the bulk and scale of the development, located along the ridgeline. Given the elevation, the site is highly visible from the opposite ridgeline and the surrounding residential area. The character of the ridgeline should be a continuous tree canopy following the ridgeline with intermittent built form and roofs penetrating; presenting a landscape dominated visual characters, which are consistent with the principles embedded within DCP A1. The subject scheme, with long continuous elevations and relatively narrow landscape breaks between is not considered to achieve this.

Noise/Amenity/quality of life

The development is located within a residential area and the proposed townhouse development is permissible with Council consent. It is acknowledged that during construction there would be a short term impact on the amenity of the adjoining residents. However once construction had ceased it is not considered that the use of the site for residential occupation would generate a significant impact on the amenity of residents on the adjoining sites. It should also be noted that the applicant included a 1.8m high acoustic fence along the length of the driveway to combat any impacts from the location of the driveway. The application was referred to Council's Environmental Health Officer who raised no concerns with this regard.

Communal open space

The subject application has included a nominated communal open space area, the area has included a possible "future" pool, BBQ and gazebo area and was also proposed to undertake cut to level the area. The development was considered satisfactory with this regard. It should also be noted that the acoustic

fence was proposed to be continued along the sites eastern elevation to alleviate any impacts from the use of this area on adjoining properties.

Setbacks/deep soil zones

The applicant aimed to reduce the amount of cut required, which resulted in the proposed dwellings 1-13, located on the northern elevation seeking a variation to the front setback requirements under Section A1 of the Tweed DCP.

The front setback objectives under Section A1, which are:

- *To establish the desired spatial proportions of the street and define the street edge.*
- *To enable a transition between public and private space.*
- *To create a landscape setting for residential buildings.*
- *To ensure compatibility with other buildings in the street.*
- *To allow for landscaping.*

With the exception of some 25m (which also includes a 2.5m side setback, a 6m driveway and a 4.0m setback from the driveway to Dwelling 1), only Dwellings 1 and 2 adjoin the road reserve, with these dwellings being setback approximately 4.0m from the cul-de-sac reserve, which is a variation to the required 6.0m setback.

Given the site's topography and when considering the objectives behind the front setback controls it is considered that a variation to the front setback requirements can be supported in this instance.

Construction hazards

The application would need to comply with Australian standards for constructions methods and would need to apply separately for an erosion and sedimentation barrier, which would also be subject to inspection.

(e) Public interest

The proposed development is not considered to be appropriate outcome for the site, nor is it considered to be in the public interest.

OPTIONS:

That Council:

1. Refuses the application for specified reasons; or
2. Give in-principle support for the application, and brings back recommended conditions of consent to the September Planning Committee Meeting.

Council officers recommend option 1.

CONCLUSION:

The proposed development is considered not suitable for the site and is recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

The applicant may lodge an appeal in the Land and Environment Court in respect of any determination made by Council.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

2 [PR-PC] Development Application DA15/0422 for a 65 Lot Subdivision at Lot 1147 DP 1115395 Seabreeze Boulevard, Pottsville

SUBMITTED BY: Development Assessment and Compliance

FILE REFERENCE: DA15/0422 Pt2

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

SUMMARY OF REPORT:

The purpose of this report is to seek direction on the assessment of a proposed 65 lot residential subdivision at Seabreeze Estate.

The subject site is Lot 1147 DP 115395 being the 'Potential School Site' pursuant to Section B15 Seabreeze Estate, Pottsville. The proposed subdivision is to be undertaken in two stages being Stage 18A and Stage 18B.

It is noted that Council resolved the following at the Council Meeting dated 14 February 2013:

1. *Receives and notes the further advice received from NSW Department of Education and Communities that the site is not required for departmental education purposes at this time; and*
2. *Receives the proponent's request to amend the Development Control Plan thereby retaining the existing Section B15 of the Tweed Development Control Plan; and*
3. *Reviews the education infrastructure strategies and controls contained within Tweed Development Control Plan, Section B21 Pottsville Locality Based Development Code and this be undertaken as part of the Planning Reform Unit's general maintenance program endorsed in its Work Program 2012-2015, and*
4. *Notes the earmarking of the 'Potential Future School Site' in the existing Section B15 to be reviewed, if requested, no earlier than 2018.*

The application states that...*"the best endeavours of the landowner to secure a purchaser for the land for the purpose of a school have not been successful. The site is not required as a school site, therefore the alternative residential subdivision of the site is now proposed."*

The applicant provided the following documentation in relation to correspondence relating to the Potential School Site.

- “1. Council Officers Report for Council Meeting 14/2/2013 "Civic Leadership"
2. NSW Education on Communities Letter 24/12/2012 to Tweed Shire Council (attached statistics)
3. NSW Education on Communities Letter 4/5/2012 to Newland Developers
4. Newland Developers letter to Minister for Education 16/3/2012 (and attachments)
5. Department of Education & Training NSW letter to Raine & Horne Real Estate dated 16/12/2004
6. Raine & Horne letter to Department of Education & Training NSW dated 8/12/2004
7. Department of Education & Training NSW letter to Raine & Horne dated 24/11/2004

As discussed, we advertised Stage 18 for sale in the Australian Financial Review (Commercial Real Estate/Properties section) on 5/3/2015 and 12/3/2015. The advertisement invited registrations of interest to be directed to North Estate Agents.

North Estate Agents have advised that there was no enquiry from educational institutions however a number of developers enquired regarding development as residential (Report from North Estate Agents to follow).”

It is noted that of the applicant's correspondence listed 1 -7 above, all of these items predate Council's resolution (14 February 2013) and the advertising in the Australian Financial Review, was not provided. Therefore no new information has been provided by the applicant to demonstrate the applicants claim that *"The landowner for many years has endeavoured to secure a purchaser for the "school site". These efforts including prolonged discussions with the NSW Department of Education and Communities and a private school marketing campaign have not been successful."*

In addition to the non-compliance with Section B15 of the Development Control Plan and Council's resolution for the site to remain as a potential school site until at least 2018, the proposed development has raised 41 objections. Internal staff assessments have also raised concerns with regard to buffers (agricultural and sewer) and minimum frontage requirements.

Accordingly, this report requests Council's direction in regards to the subject application, as to whether or not the officers continue with a detailed assessment of the current application, or finalise a determination based on the information provided to date by the applicant.

RECOMMENDATION:

That assessment of Development Application DA15/0422 for a 65 lot subdivision at Lot 1147 DP 1115395 Seabreeze Boulevard, Pottsville be finalised based on the information provided to date by the applicant and reported back to Council for determination.

REPORT:

Applicant: Newland Developers Pty Ltd
Owner: Metricon Qld Pty Ltd
Location: Lot 1147 DP 1115395 Seabreeze Boulevard, Pottsville
Zoning: R2 Low Density Residential
Est Cost: \$2,308,116

Background:

Council has received a development application for a 65 lot residential subdivision of Lot 1147 DP 1115395 being the 'Potential School Site' pursuant to Section B15 Seabreeze Estate, Pottsville. The proposed subdivision is to occur in two stages being Stage 18A and Stage 18B the details of the stages are:

- Stage 18A is located adjacent to Stages 15 and 16, to the western side of the drainage reserve. Stage 18A will provide 14 residential lots.
- Stage 18B is located on the eastern side of the drainage reserve. Stage 18B will provide a total of 50 residential lots and 1 drainage reserve lot.

Stages 1 to 14 of Seabreeze Estate, comprise approximately 500 allotments. These stages have been completed pursuant to Development Consent No. K99/1837 (as modified). On 2 June 2013, Tweed Shire Council issued Development Consent No. DA13/0577 for an 88 lot subdivision of Stages 15 to 18. Under that approval Stage 18 comprised a Master Lot being the 'Potential School Site'. Stages 15 to 18 are currently under construction.

It is noted that Council resolved the following at the Council Meeting dated 14 February 2013:

1. *Receives and notes the further advice received from NSW Department of Education and Communities that the site is not required for departmental education purposes at this time; and*
2. *Receives the proponent's request to amend the Development Control Plan thereby retaining the existing Section B15 of the Tweed Development Control Plan; and*
3. *Reviews the education infrastructure strategies and controls contained within Tweed Development Control Plan, Section B21 Pottsville Locality Based Development Code and this be undertaken as part of the Planning Reform Unit's general maintenance program endorsed in its Work Program 2012-2015, and*
4. *Notes the earmarking of the 'Potential Future School Site' in the existing Section B15 to be reviewed, if requested, no earlier than 2018.*

The application was notified for a period of 30 days from Wednesday 17 June 2015 to Friday 17 July 2015. Council has received a 41 submissions objecting to the proposal. The application is integrated development under the Rural Fires Act 1997 and the Water Management Act 2000, comments from these authorities have not yet been received. The Department of Planning and Environment determined pursuant to clause 18(2) of the State Environmental Planning Policy 71 - Coastal Protection (SEPP 71), that the requirement for a master plan in clause 18(1) be waived.

The application was referred internally to Council's Environmental Health officers, Development Engineer, Flooding Engineer, Traffic Engineer, Water Engineer and Natural Resource Management Unit for comment. To date requests for further information have been received from Council's: Water Engineer, Development Engineer, Environmental Health officer, and include matters in relation to non-compliance with agricultural buffers (150m), Sewer Pump Station buffers (50m) and minimum frontage requirements to proposed Lots 1801, 1834, 1835. An increased APZ buffer (if requested by the NSWRF) may trigger further information request from Council's Natural Resource Management unit.

Given Council's resolution in relation to the potential school site and non-compliances with Section B15 of the Consolidated Development Control Plan, a formal request for further information has been put on hold until such time that Council has provided direction as to how to proceed with assessment of the application.

SITE DIAGRAM:

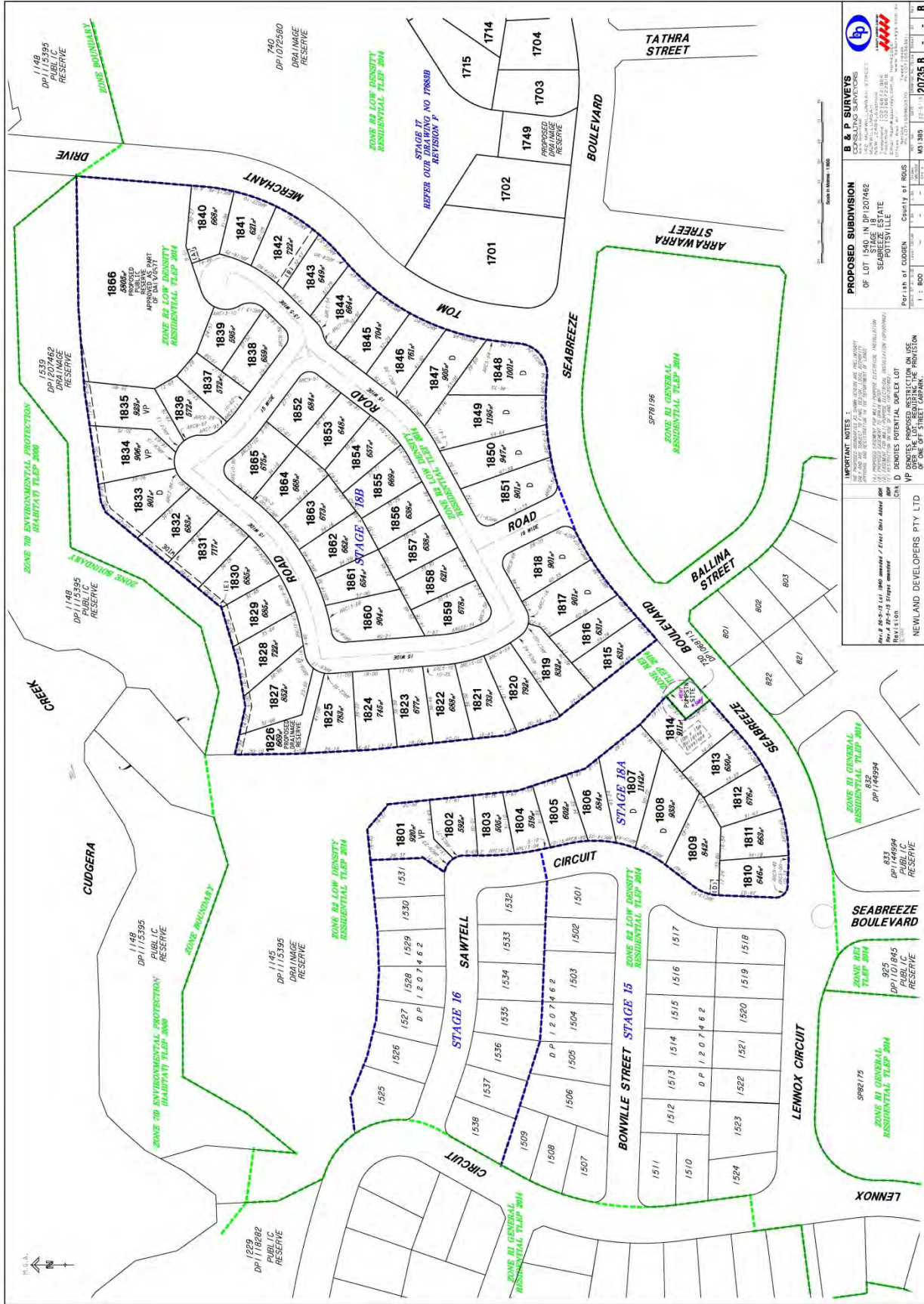


Locality Plan
 Lot 1540 DP1207462
 Seabreeze Boulevard, Pottsville

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SITE LAYOUT PLANS:





B & P SURVEYS
1148 BARRACLOUGH STREET
POTTSVILLE
NSW 2812
Tel: 08 9392 2222
Fax: 08 9392 2223
www.bpsurveys.com.au

PROPOSED SUBDIVISION
OF LOT 1540 IN DP 207482
SEABREEZE STAGE 13
POTTSVILLE

IMPORTANT NOTES:
1. THIS PLAN IS A PRELIMINARY PLAN AND DOES NOT CONSTITUTE AN OFFER OF LAND.
2. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
3. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE STATE GOVERNMENT.
4. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE COMMONWEALTH GOVERNMENT.
5. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE TERRITORY GOVERNMENT.
6. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE DISTRICT COURT.
7. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE SUPREME COURT.
8. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE FEDERAL COURT.

NEWLAND DEVELOPERS PTY LTD
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POTTSVILLE
NSW 2812
Tel: 08 9392 2222
Fax: 08 9392 2223
www.newland.com.au

OPTIONS:

That Council:

1. Finalise the assessment of the application based on the information provided to date and report to Council for determination; or
2. Proceed with assessment of the application including the request for further information and further submissions from the applicant prior to reporting the application to Council for determination.

Option 1 is considered the preferred option, as the proposal is inconsistent with Section B15 of Council's Development Control Plan and Council's resolution being not to review the 'potential School Site' before 2018.

CONCLUSION:

Taking into consideration that the proposal is inconsistent with both the Section B15 of Council's Development Control Plan and Council's resolution; no new information has been provided by the applicant to demonstrate that the use of the site should be reviewed; the number of submissions received by Council objecting to the proposal; and issues raised by units within Council, it is considered appropriate that assessment of the application be finalised and determined on the information provided to date.

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.

3 [PR-PC] Development Application DA13/0401.01 for an Amendment to Development Consent DA13/0401 for Integrated Housing Comprising of 12 Dwellings at Lots 35 and 36 DP 1145386 Cylinders Drive, Kingscliff

SUBMITTED BY: Development Assessment and Compliance

FILE REFERENCE: DA13/0401 Pt3

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

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

SUMMARY OF REPORT:

Council at its meeting of 18 June 2015 resolved to defend the Class 1 Appeal (as necessary) for Development Application DA13/0401.01 for an amendment to Development Consent DA13/0401 for integrated housing comprising of 12 dwellings at Lot 35 DP 1145386 & Lot 36 DP 1145386; Cylinders Drive Kingscliff.

Following the first call over, held 30 June 2015 it is advised that Council negotiate consent orders to levy Section 94 contributions at the medium density rate.

RECOMMENDATION:

That Council instructs its solicitors to negotiate consent orders, or a Section 34 agreement if appropriate, for Development Application DA13/0401.01 for an amendment to Development Consent DA13/0401 for integrated housing comprising of 12 dwellings at Lot 35 DP 1145386 & Lot 36 DP 1145386; Cylinders Drive Kingscliff.

REPORT:

Applicant: Mr TW Staines
Owner: Mr Terence W Staines
Location: Lot 35 DP 1145386 & Lot 36 DP 1145386; Cylinders Drive Kingscliff
Zoning: R3 - Medium Density Residential
Cost: \$0

Background:

Tweed Shire Council has been served with a Class 1 Appeal for the refusal of DA13/0401.01.

DA13/0401 (the original DA) was for integrated housing comprising of a 12 lot subdivision and the construction of a dwelling on each allotment.

The modification (DA13/0401.01) was lodged with Council 12 September 2014 and sought approval to amend conditions 86 and 87 which levied Section 64 and Section 94 development contributions. This was proposed to be achieved by levying Section 64 and Section 94 contributions at the medium density rate, resulting in a reduction of approximately \$140,098.16 in contributions.

The S64 and S94 Plans have standard trips and Equivalent Tenements (ET) for Torrens title allotments, which are applied to all Torrens Title subdivisions which were correctly applied under conditions 86 and 87 of development consent DA13/0401.

Council at its meeting of 18 June 2015 resolved to defend the Class 1 Appeal (as necessary) for Development Application DA13/0401.01 for an amendment to Development Consent DA13/0401 for integrated housing comprising of 12 dwellings at Lot 35 DP 1145386 & Lot 36 DP 1145386; Cylinders Drive Kingscliff.

The Class 1 Appeal seeks to reduce the levied Section 94 contributions, as applied to the original consent for a Torrens Title Subdivision, to the medium density rate under the applicable plans.

The applicant is not challenging the rates of the levied Section 64 charges under the Class 1 Appeal, but rather the validity of Section 64 charges being applied as a condition of consent. Should the applicant wish to challenge these they would need to commence separate proceedings pursuant to s307(3) of the *Water Management Act 2000*.

Following the first call over, held 30 June 2015 and subsequent advice received from Councils solicitors it is advised that Council negotiate consent orders to remove condition 86 (Section 64) and to amend condition 87 to levy Section 94 contributions at the medium density rate.

OPTIONS:

That Council:

1. instructs its solicitors to negotiate consent orders for Development Application DA13/0401.01; or

2. continue to defend this appeal.

The Council Officers recommend Option 1.

CONCLUSION:

It is recommended that Council negotiate consent orders.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Council will incur expenses as a result of the Appeal.

c. Legal:

Council has already engaged solicitors to resolve this Appeal.

d. Communication/Engagement:

Inform - We will keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

4 [PR-PC] PP10/0007 Mooball Planning Proposal

SUBMITTED BY: Strategic Planning and Urban Design

FILE REFERENCE: PP10/0007 Pt3

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.5 Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land
- 1.5.3 The Tweed Local Environmental Plan will be reviewed and updated as required to ensure it provides an effective statutory framework to meet the needs of the Tweed community

SUMMARY OF REPORT:

At the Planning Committee meeting of 2 July 2015, Council considered a report detailing the progress of the Mooball Planning Proposal following its public exhibition, including a summary and response to the issues raised by public submissions. Council resolved to defer the matter until the August Planning Committee meeting to enable a workshop with Council staff regarding the critical issues of flood impact and the rationale behind the recommended lot sizes. Council officers have since carried out this workshop. In addition, Council officers have also undertaken an inspection of Lot 1 of DP 571077 with its landowner, being the active cane farm which conveys stormwater discharged from the subject site away from the Mooball village.

With the abovementioned actions completed, the remainder of this report is provided as tabled to the July Planning Committee meeting for the Councillors consideration.

Key aspects of the project covered by this report include; longstanding matters relating to the request for exclusive use of existing right-of-way, protection of 'rural amenity', and of 'agricultural pursuits' relating to the neighbouring Lot B, and several outstanding studies required by Council resolution that the Proponent has not been prepared to undertake. In part this has arisen from previous reports to Council in respect of the level of studies submitted at the strategic planning level.

The issues raised by public submissions have been consistently represented and principally relate to the impact on local character, and a genuine concern about potential flood impact, land contamination and landslip. In relation to character and in the context of the land being identified for urban development the report provides an option to increase the proposed minimum lot size while maintaining a density return that is generally within the range projected in the Council's strategic policy. Regarding the concerns raised about the physical condition of the site, the Proponent has not yet provided the additional level of detail requested by Council and as such a definitive answer on the probable risk of each cannot be given. This level of certainty is usually certified at the detailed stage of development assessment and construction certification.

An important recommendation made within the report is that any amendment to the proposed minimum lot size aimed at better preserving the area's character should also translate to the existing properties within the village. This would ensure greater uniformity between the existing and established village properties and those that would emerge in the new housing estate.

In terms of determining any decision to advancing this Planning Proposal, the officers are of the view that the proponent should firstly submit the additional studies identified in Council's previous resolutions for further consideration by Council. The preferred option recommended responds to issues raised by the community during the recent exhibition and incorporates a staged process, dependent on the proponent amending the Planning Proposal in the manner identified above, additional studies being submitted to Council, and the conclusion of a Voluntary Planning Agreement.

RECOMMENDATION:

That:

- 1. The summary of public submissions received in response to the public exhibition of the Mooball Planning Proposal, PP10/0007, during 30 July to 29 August 2014, is received as a true and accurate record.**
- 2. A public hearing under Section 57(5) of the *Environmental Planning and Assessment Act 1979* not be held in relation to the issues raised by way of submission as studies addressing certain issues, the subject of Council's Resolution of 21 November 2013.**
- 3. The Planning Proposal be amended to incorporate the recommendations detailed within Table 3 of this report (Recommended Post Exhibition Planning Proposal Amendments).**
- 4. No further action in respect of the Planning Proposal be undertaken until the additional studies required of the Proponent pursuant to Council's Resolutions of 21 November 2013 have been prepared to Council's satisfaction, submitted, and the findings made publicly available and reported to a Meeting of the Council.**
- 5. Following satisfactory completion of items in point 4, Council proceeds to finalise the Planning Proposal in accordance with the Resolutions above, and refer the amended Planning Proposal to the Minister for Planning and Environment in accordance with Section 58(2) of the *Environmental Planning and Assessment Act 1979* for their review and re-determination if appropriate.**
- 6. Council proceeds to assist the Proponent finalise their Voluntary Planning Agreement and proceed to publicly exhibit the draft Agreement for 28 days in accordance with Section 93(G) of the *Environmental Planning and Assessment Act 1979*.**
- 7. The commitment's given to Council at the Councillor Workshop of 11 June 2015 by the Proponents in regard to providing detailed guidelines on housing typology, materials, landscape cover and architectural stylistic or character**

features that are representative of the local area, are to be incorporated within their Voluntary Planning Agreement.

REPORT:

By way of background, Council has considered numerous planning reports in respect of this planning proposal over a four year period. More recently at its meeting of 21 November 2013 and 19 June 2014 four key and influential resolutions emerged, they are:

- R1. The planning proposal be updated to align with the Concept Master-plan dated August 2013 (version 5) and as referred to NSW Department of Planning and Environment for a Gateway Determination.
- R2. Prior to public exhibition, Council was to be furnished with a 'site contamination report' demonstrating compliance with the provisions of Clause 6 of *State Environmental Planning Policy 55 – Remediation of Land* (SEPP 55).
- R3. The planning proposal was to be publicly exhibited for a period not less than 28 days.
- R4. Following the public exhibition, additional studies, including a 'flood impact study', 'geotechnical and slope stability assessment' and 'bushfire hazard assessment', as well as provisions to protect the existing agricultural land-use pursuits of "Lot B" and against noise complaints, protection of an existing right-of-way and an adequate clear buffer to retain rural amenity for Lot B were to be submitted and prepared by the applicant.

Regarding the actionable component of R1 and R2 the Department of Planning and Environment (DP&E) issued a Gateway Determination for the revised planning proposal on 1 May 2014, and a satisfactory site contamination report was submitted on 2 June 2014 that addressed Council's concerns regarding the matters contained in Clause 6 of SEPP 55. No further action is therefore required.

The matters arising out of R3 and R4 are further discussed in detail below.

Public Exhibition (R3)

The Proposal was publicly exhibited in accordance with statutory requirements from 30 July to 29 August 2014. Copies of the public notification documentation were made available on Council's website and in hard copy, at both the Murwillumbah and Tweed Heads Civic and Administration Buildings. Public notice was also published in the Tweed Link on 29 July 2014 and in addition personal property notification letters were mailed to adjoining properties. Formal notification was also given to the NSW Office and Environment and Heritage (OEH) and NSW Rural Fire Service (RFS) in compliance with the Ministerial conditions of the Gateway Determination.

The public exhibition period attracted 36 submissions, including responses from both OEH and RFS. Whilst several submissions indicated a level of support for the Planning Proposal, the majority of submissions objected to the perceived impact on rural character, the risk of flooding and land contamination from past farming activity.

A detailed public submissions table has been prepared by Council's external planning consultant, which thematically categorises the issues and provides a planning response and recommendation. A copy of the submissions table is provided as Attachment 3. Given the prominence of the rural character issue and how the proposal relates to Lot 3 DP 593194 a further comment is considered appropriate.

Rural Character

Further to the commentary in the submission review table, the topic of rural land use and character were the chief concerns raised. Other concerns are associated generally with urban development, such as impact arising from street lighting, ambient noise and additional vehicle movements, and are not so readily ameliorated by way of planning controls; they are a corollary of more densely populated areas. These concerns have a nexus with lot size, and this was evidently understood by the community because there were suggestions of larger lot sizes being provided.

Table 1 details the planning controls of both the Planning Proposal (excluding the Deferred Matters which are intended for environmental protection and the Rural Landscape lot adjoining Lot B) and the existing Mooball village. For the purposes of this analysis, the existing Mooball village is defined as the properties within Mooball that are zoned RU5 Village under the *Tweed Local Environmental Plan 2014* (TLEP 2014).

Planning Control	Existing Village Standards	Advertised Standards of the Proposal
Zoning	RU5 Village	RU5 Village / R5 Large Lot Residential
Minimum Lot Size	450m ²	450m ² / 1ha
Maximum Height of Buildings	13.6m	10m
Maximum Floor Space Ratio	2:1	2:1 / 0.55:1

Table 1 - Comparison of Existing Village and Publicly Advertised Planning Controls

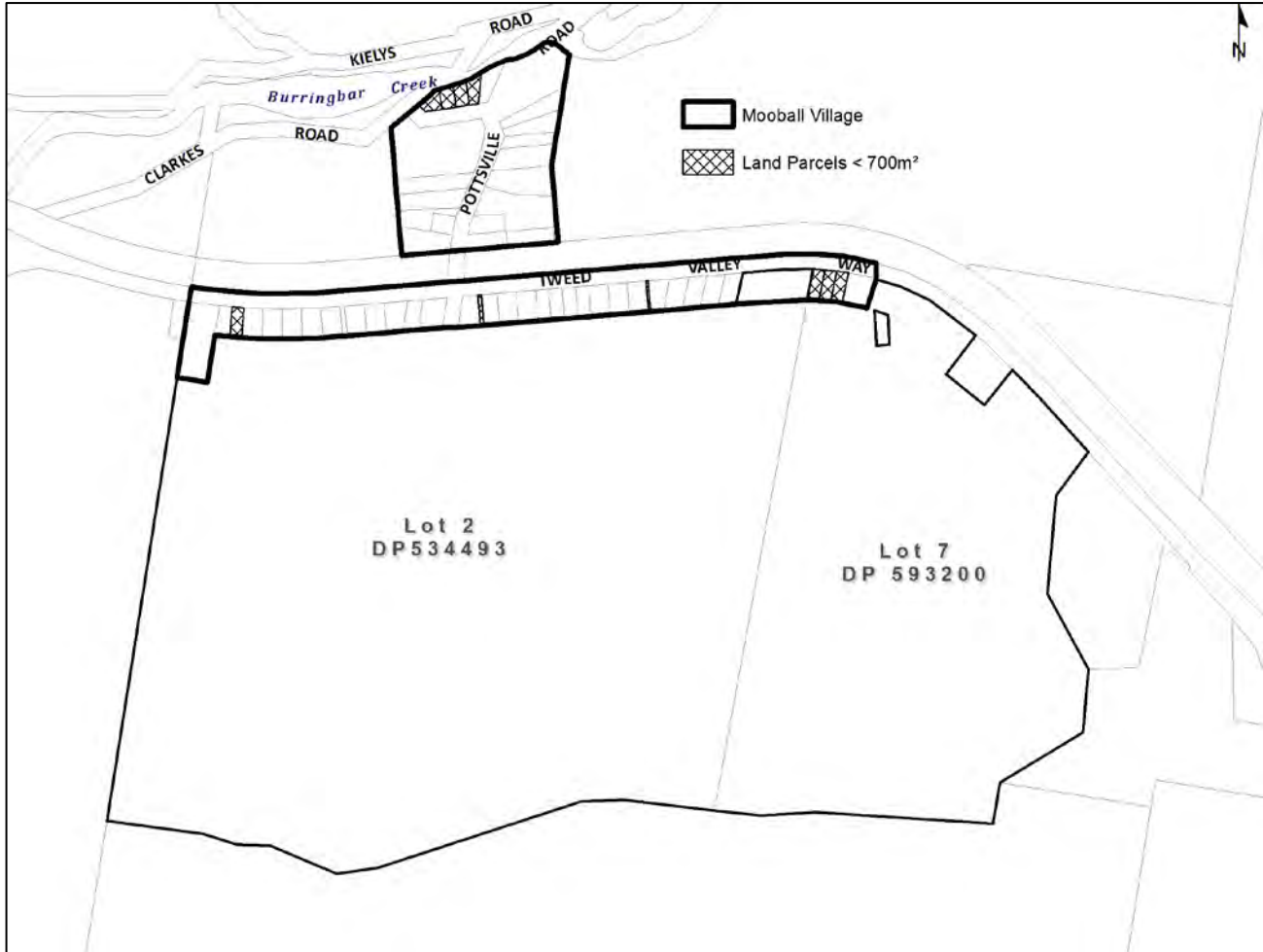
Gaining a better understanding of the community's concern relative to the planning controls required an analysis of the existing built form and subdivision pattern within the village. This revealed several consistent trends, which are detailed in Figure 1 below:

Figure 1 Planning Controls Analysis - Applied Trends

Lot Size	Building height	Floor Space Ratio
The theoretical minimum lot size under the LEP is 450m ² , but the majority of established lots are greater than 700m ² in area. Lots that are less than 700m ² in area are predominately developed in conjunction with an adjoining lot, resulting in the overall 'property' being closer to 1000 - 1200m ² in area.	The theoretical maximum building height under the LEP is 13.6m, but the village is predominately single-storey with a lesser number of two-storey buildings. The average building height, although more difficult to accurately determine, is seemingly well below 10m in height.	The theoretical maximum floor space ratio is 2:1 under the LEP, but the majority of residential development is between 0.2:1 - 0.4:1, and commercial development approximately 0.7:1.

Lot Size	Building height	Floor Space Ratio
Figure 1 identifies the properties which are below 700m ² in area.		

Figure 2 – Existing Lots Below 700m² in Size



Summarising the above, there is a significant variation between the permissible minimum and maximum development standards allowed under the TLEP 2014 and that which has actually occurred. Built to within the prescribed allowable standards the potential for impact on rural village character is considerable. This could readily manifest within the allowable limits for more dwellings per individual existing allotment, greater dwelling density, taller and bulkier buildings, and without any additional provision for public open space.

In recognition of the concerns raised by the community, regarding the potential impact arising from the proposed density within the Proposal, it is intrinsic to managing the community expectation about character to curb not only the density within the new urban area, but to ensure that the existing village properties are not capable of significant intensification with the same effect on that character.

In response, Council's planning consultant recommends that the minimum lot size within the Proposal should be increased from 450m² as advertised, to 550m². Although Council Officers' consider 550m² to be an acceptable response given that many of the new lots would, as a result of prevailing landform and being those more visible from afar, be notably

larger, a 700m² minimum would be more consistent with the villages established subdivision pattern, and align more closely with the finding of the analysis discussed above.

As lot size is one of the determinative factors for establishing character it follows that a larger more uniform lot size would provide a better response to the community's concerns. Therefore, an option is available to Council to increase the minimum lot size to 700m², and should be accompanied with the other related planning standards detailed in Table 2 below.

Planning Control	Recommended Standard
Minimum Lot Size	700m ²
Maximum Height of Buildings	10m
Maximum Floor Space Ratio	0.55:1 (Residential) 0.8:1 (Commercial)

Table 2 - Recommended Planning Control Standards

As it is understood from the Proponent, the greatest threat to the proposed development, from a 'viability' perspective, is the increase in lot size from the publicly advertised 450m² up to 700m². No information has been tendered, including at the Councillor Workshop of 11 June, to substantiate that particular point or that otherwise provides a cogent argument for maintaining smaller lot sizes on purely economic grounds.

Contextual References Relating to Greenfield Development

Beyond the issue of current economic viability, it is critical to consider Council's existing planning framework as it applies to the Proposal, namely the *Tweed Urban and Employment Land Release Strategy 2009* (TUELRS). In this regard, the proposed rezoning is not occurring outside of broader strategic framework and visions, indeed this site has been identified within the Council's urban land release program in one form or other for many years, and presently represented in the TUELRS, where site is identified as 'Area 9'. Notable statements within the TUELRS include:

- *Ensure that the limited "greenfield sites" available in the Tweed Shire are developed to their maximum capability without compromising the quality of the natural or living environment; (p.2)*
- *All investigation areas identified in this Strategy need to be designed to maximise the density yield of the land. It is expected that greenfield sites located in the more remote rural areas, such as Burringbar (Area 8), Mooball (Area 9), and West Murwillumbah (Area 2 and 3), will achieve a net density between 7 – 13 dwellings per hectare (equating to 770 - 1428m² average lot sizes). (p.76)*

When marrying those density targets with the land area of Area 9 as identified in the TUELRS a yield of 259 - 481 dwellings is anticipated. Through the process of the Proposal the footprint of Area 9 has been investigated beyond the desktop analysis of the TUELRS strategy, compromises made, and a refined footprint identified. In this regard, the village footprint identified for development has been reduced, as displayed in Table 2, a result of environmental corridors, wastewater provision, separate land ownership and the preservation of Lot B and associated buffers. The development footprint being pursued within the Proposal has resulted in an amended estimated yield of 165 - 306 dwellings.

	Land Area Gross (ha)	Land Area Net (ha)	Anticipated yield (Density of 7 - 13 dwellings per net ha)
Urban Land Release (Desktop Analysis)	46	37	259 - 481
Subtract environmental corridors	7.2	5.76	40 - 75
Subtract Lot B and associated buffer	2.4	1.92	13 - 25
Subtract land identified for wastewater provision	1.9	1.52	11-20
Subtract land under separate ownership (subject to separate proposal)	5.6	4.48	31 - 58
Subtract land under separate ownership	0.4	0.32	2 - 4
Add land identified as suitable post rationalising of Urban Land Release Area footprint identified and constraints	0.9	0.72	5 - 9
Urban Land Release (Tested outcome)	29.4	23.52	165 - 306

Table 2 - Amendments of the Release Area through the Planning Proposal Process

Whilst the ultimate yield of the Proposal is difficult to ascertain at this stage, as a development application ready concept plan is not available, current indications are that a yield of about 250 dwellings within the Village footprint (as well as a further 21 dwellings within the Large Lot Residential Footprint) can be expected based on the 450m² minimum lot size. Whilst an increase in minimum lot size to 700m² will further reduce the anticipated yield, the yield should nonetheless still be within the desired range (most likely at the lower end) estimated in the TUELRs.

Strategic land-use planning requires a balancing of competing issues and interests, and in particular taking into account the long-term cumulative impact. In this instance, reducing density by way of lot yield will ultimately place additional pressure on the supply of additional land over time, as well as, increasing the new residential population's running costs by under utilisation of infrastructure and smaller number of 'customers'.

At the same time, the need to maximise land-use efficiency should not occur at the expense of the Shire's heritage and unique characteristics, but which also takes into account how those 'localised' characteristics may also change over time.

The Council officer's recommended option to increase the minimum lot size is not as a result of site constraints or an evidence-base that identifies that a minimum lot size of 450m² is not feasible, to the contrary it is probably more feasible than a larger minimum requirement because of the inherent flexibility to design in accordance with the site constraints and opportunities.

The increase in minimum lot size option recommended does however provide an LEP framework that reflects the existing condition and character of Mooball village, as it is today. In addition, the preservation of character, in this instance, is not considered to compromise the strategic framework as the densities and yields achieved are in keeping with the numerical targets adopted. This is a reasonably balanced approach that looks to address

the opportunities and impacts associated with expanding the existing Mooball village whilst retaining some aspect of its current character.

At the Councillor Workshop the Proponent advanced an interesting observation. Prior to the opening of the Burringbar Waste Water Treatment Plan there was very limited potential for subdivision or development in the Mooball village, and consequently the existing character was not a product of the prevailing planning controls but more to do with infrastructure limitations, which acted to stifle development opportunity. The character of the village, if it is defined or shaped by the long standing planning controls, has only had 3 years to start its transition or transformation, and if those planning 'rights' were fully taken up it would lead to a very different village scale and therefore character than the one existing today.

The Proponent's Councillors' Workshop presentation notes are provided as Attachment 5 to this report.

In any event, and as ultimately decided through the adoption of the TUELRS, the character of the broader village area has been strategically planned to enable change, and with that will be the loss of rural characteristics within the boundary of the new village, as defined by that Strategy.

The Existing Village

A further consideration of relevance should the development standards identified within Table 2 be adopted is whether those provisions should also be applied to the existing village properties.

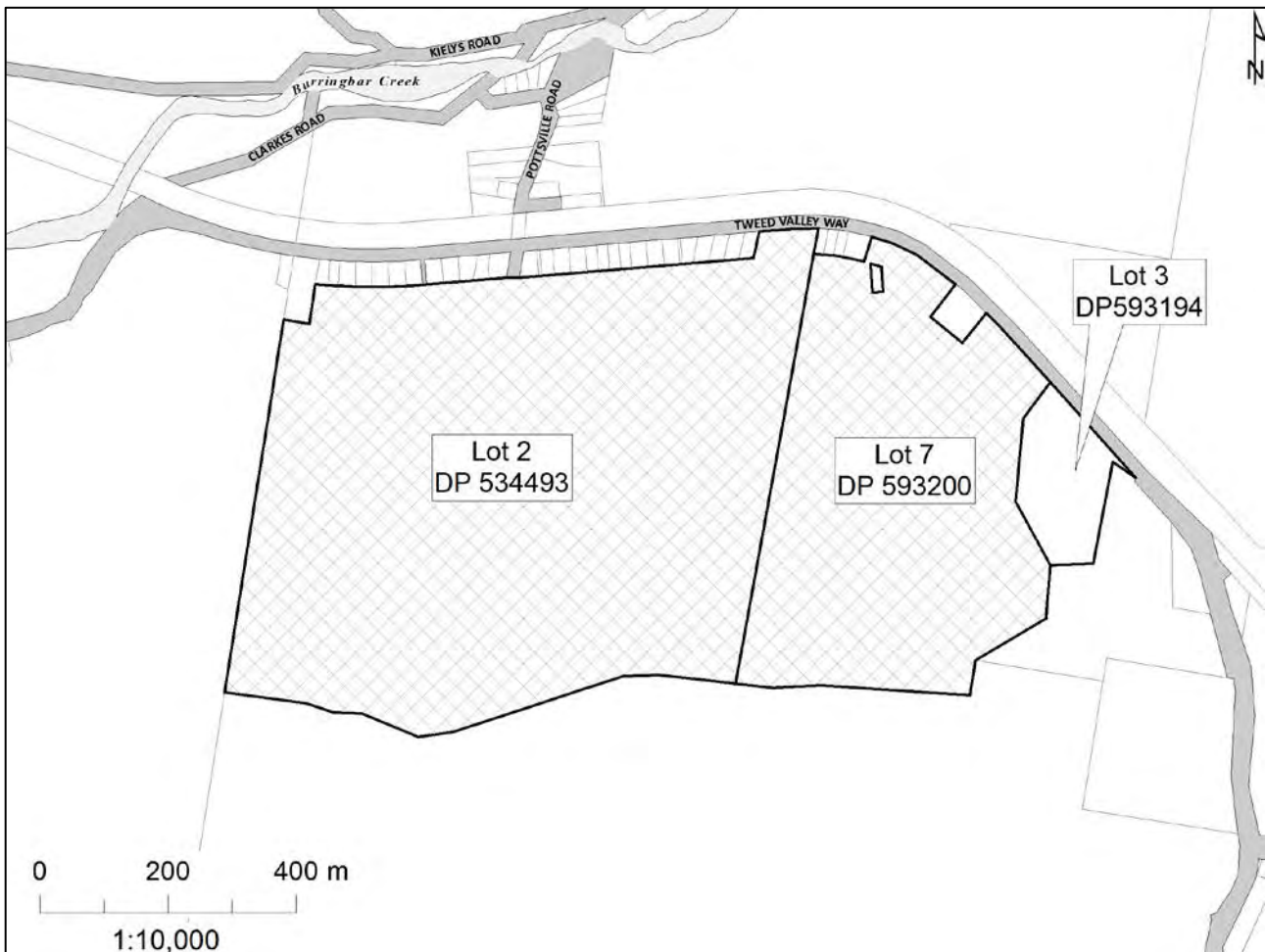
As discussed above, there is a significant difference between the existing character of Mooball village and what is possible under the Tweed LEP 2014. As such, currently permitted development could significantly change the existing character without the influence of the potential release area. If, as the public submissions suggest, there is a strong preference to preserve the existing character within reasonable limits, it must follow that the existing properties be bound by the same standards proposed for the new housing estate. This need not be carried out simultaneously if it is to delay the current planning proposal and can be programmed at a later date. This would require a further public exhibition.

Protection of buffers to Lot 3 DP 593194

An additional matter where Council Officers recommend differently to Council's Consultant relates to bushfire protection provisions for Lot 3 DP 593194 (Lot 3).

Lot 3 adjoins the subject site to the east (as shown in Figure 3) and is currently used for farming, including a banana plantation. An existing dwelling is located close to the lot boundary and as such, the owner has maintained a relationship with the current owners of the subject site to ensure a cleared buffer area on the subject site so as to achieve a BAL-19 rating (Bushfire Attack Level) for the dwelling. During the public exhibition period, concerns were raised that if the land were to be developed, future owners may vegetate this area and erode the bushfire safety of the existing dwelling.

Figure 3 – Location of Lot 3 DP 593194



While the Proposal itself does not include any proposed planting for this area, there are no established planning controls to ensure that an appropriate bushfire buffer area is maintained in perpetuity. The area of the subject site referred to is proposed to be zoned R5 Large Lot Residential, accordingly the maintenance of an appropriate bushfire buffer is not considered to be a significant imposition on future land owners. Consequently, it is recommended that the maintenance of a BAL-19 rated (or better) buffer area is essential and must form part of the Proponent's planning commitments to be included within the planning agreement.

Additional Studies (R4)

Post public exhibition, the applicant submitted correspondence to Council in relation to the detailed additional studies, including a Flood Impact Assessment prepared for the site. A copy of the correspondence is provided as Attachment 4. To paraphrase the Proponent's advice there is no apparent intention to provide the detailed studies for bushfire or geotechnical and slope stability as required of them by Council's resolution.

In light of this impasse between the Council and the Proponent, Council is not able to progress the planning proposal beyond those recommendations provided.

Provisions relating to Lot B

To-date, no further information or amended proposal has been submitted by the Proponent to Council regarding the interface of the proposal and Lot B, and in response to Council's resolutions regarding:

- *To protect the existing agricultural land-use pursuits of Lot B and against noise complaints*
- *Protection of the existing Right of Way servicing Lot B and for the exclusive use of Lot B*
- *Provision of an adequate clear buffer to retain rural amenity for the life of Lot B as a rural Lot and Plan of how the buffer is to be maintained/managed and including during earthworks/construction phase.*

These are matters that have been referred to the Proponent for their immediate consideration and response, but who are seemingly of the view that actions taken to-date and commitments to be embodied within the planning agreement are sufficient. There is general agreement with the Proponent on this point, but notwithstanding this, Council is bound to act on the resolutions of Council and as such require the additional information to enable them to progress the planning proposal.

Post Public Exhibition Recommendations

In summary of the discussions of this report, Table 3 below details the Option to increase the minimum lot size and other recommended amendments to the Planning Proposal arising after consideration of the issues raised by public submissions:

Action	Recommendation
1.	Increase to the minimum lot size from 450m ² to 700m ² .
2.	Decrease the maximum Floor Space Ratio provisions from 2:1 to 0.55:1 for residential development and 0.8:1 commercial development footprint
3.	Increase the minimum lot size for the land area identified within Figure 1 of the Public Submissions Review Table, (Attachment 3) from 1ha to 3ha.
4.	Removal of the Clause 4.2A overlay from land proposed to be zoned R5 Large Lot Residential.
5.	The maintenance and management of the prescribed buffer to Lot B including during earthworks/construction be subject to a Planning Agreement. Include within the Planning Agreement that the Right of Way benefitting Lot B shall not form part of the public road network within any future subdivision and a requirement that information be made available to potential purchasers of the existing agricultural pursuits of the locality and the keeping of fowl on Lot B.
6.	The maintenance of a cleared buffer to the existing dwelling on Lot 3 DP 593194 to ensure the retention of a BAL-19 standard (or better), and incorporated within a legally binding agreement, e.g., s 93F Planning Agreement.

7.	Resolve to prepare a Planning Proposal to extend the Village development standards of the Proposal throughout the existing Mooball village.
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Table 3 - Recommended Post Exhibition Planning Proposal Amendments

If adopted, the recommendations would need to be incorporated in to the Planning Proposal prior to it being forwarded to the Minister for Planning and Environment under Section 58(2) of the *Environmental Planning and Assessment Act 1979*. Whilst these processes will increase the projects timeline the Proposal could still be completed prior to 8 February 2016 however, this is only achievable should Council resolve to no longer require the additional detailed studies previously requested.

Remaining Processes and Timeline for the Proposal

On 1 May 2013, NSW DP&E issued a Gateway Determination for the Proposal, within which a 12 month period was prescribed in order to complete the Proposal. Various delays incurred post exhibition and additional resourcing required by Council's project team meant that an extension was sought and granted by DP&E until 8 February 2016. As public exhibition of the Proposal has been undertaken, Council is now in a position to finalise the Proposal and pursue steps in order to have the Proposal made, thereby amending the Tweed LEP 2014. This can only occur with the timely cooperation of the Proponent and should Council resolve to no longer require the additional studies and information previously requested, including the information pertaining to the 'protection' of Lot B's interests.

On its current trajectory it is unlikely the Planning Proposal will be completed by the deadline of February 2016.

OPTIONS:

That Council endorse:

Option 1 (The Recommended Option)

Council proceeds with the Planning Proposal, as exhibited, and as amended with the addition of the recommendations detailed within Table 3 (including the increase to the minimum lot size up to 700m²) of this report, and subject to the submission of the additional information required by Council's earlier resolution of 21 November 2013.

OR

Option 2

Council proceeds in accordance with Option 1, but resolves that the additional information required by Council's earlier resolutions is no longer required. A complete set of suitable recommendations is:

1. The summary of public submissions received in response to the public exhibition of the Mooball Planning Proposal, PP10/0007, during 30 July to 29 August 2014, is received as a true and accurate record.

2. A public hearing under Section 57(5) of the *Environmental Planning and Assessment Act 1979* not be held in relation to the issues raised by way of submission as the issues are not of such significance to warrant a public hearing.
3. The Planning Proposal be amended to incorporate the recommendations detailed within Table 3 of this report (Recommended Post Exhibition Planning Proposal Amendments).
4. The additional studies and information referred to in Item 3 and Item 6 of the Council Resolution to the Meeting of 21 November 2013 relating to further detailed site investigations and provisions relating to Lot B are not required as part of this Planning Proposal, and all commitments of the Proponent made in relation to Lot B are to be contained within a legally enforceable planning agreement as detailed in Item 5 of Table 3 to this Report.
5. Following satisfactory completion of items in point 4, Council proceeds to finalise the Planning Proposal in accordance with the Resolutions above, and refer the amended Planning Proposal to the Minister for Planning and Environment in accordance with Section 58(2) of the *Environmental Planning and Assessment Act 1979* for their review and re-determination if appropriate.
6. Council proceeds to assist the Proponent finalise their Voluntary Planning Agreement and proceed to publicly exhibit the draft Agreement for 28 days in accordance with Section 93(G) of the *Environmental Planning and Assessment Act 1979*.
7. The commitments given to Council at the Councillors Workshop of 11 June 2015 by the Proponents in regard to providing detailed guidelines on housing typology, materials, landscape cover and architectural stylistic or character features that are representative of the local area, are to be incorporated within their Voluntary Planning Agreement.

OR

Option 3. Council proceeds in accordance with Option 2, but maintains the minimum lot size at the exhibited 450m². A complete set of suitable recommendations is:

1. The summary of public submissions received in response to the public exhibition of the Mooball Planning Proposal, PP10/0007, during 30 July to 29 August 2014, is received as a true and accurate record.
2. A public hearing under Section 57(5) of the *Environmental Planning and Assessment Act 1979* not be held in relation to the issues raised by way of submission as the issues are not of such significance to warrant a public hearing.
3. The Planning Proposal be amended to incorporate the recommendations detailed within Table 3 of this report (Recommended Post Exhibition Planning Proposal Amendments), except Item 1. The minimum lot size is to remain at 450m², as publicly exhibited.
4. The additional studies and information referred to in Item 3 and Item 6 of the Council Resolution to the Meeting of 21 November 2013 relating to further detailed site

investigations and provisions relating to Lot B are not required as part of this Planning Proposal, and all commitments of the Proponent made in relation to Lot B are to be contained within a legally enforceable planning agreement as detailed in Item 5 of Table 3 to this Report.

5. Following satisfactory completion of items in point 4, Council proceeds to finalise the Planning Proposal in accordance with the Resolutions above, and refer the amended Planning Proposal to the Minister for Planning and Environment in accordance with Section 58(2) of the *Environmental Planning and Assessment Act 1979* for their review and re-determination if appropriate.
6. Council proceeds to assist the Proponent finalise their Voluntary Planning Agreement and proceed to publicly exhibit the draft Agreement for 28 days in accordance with Section 93(G) of the *Environmental Planning and Assessment Act 1979*.
7. The commitments given to Council at the Councillors Workshop of 11 June 2015 by the Proponent's in regard to providing detailed guidelines on housing typology, materials, landscape cover and architectural stylistic or character features that are representative of the local area, are to be incorporated within their Voluntary Planning Agreement.

The Council officers have recommended Option 1.

CONCLUSION:

The Mooball Planning Proposal has been publicly exhibited after a long period, and attracted a total of 36 submissions. Following a review of the issues raised a number of planning recommendation were formulated to provide Council with an option for addressing some of the more prevalent concern. Principally, the character of the village was central theme and it is recommended that an option for a larger lot size that may be seen as more in keeping with the current village as well as corresponding amendments to the existing village properties to ensure that uniformity will exist in to the future.

Whilst those amendments detailed in the body of the report can be readily incorporated, it has highlighted a critical impasse in the process of this planning proposal. Council has resolved on several occasion that the Proponent is to provide further particulars and studies, but those requests have not been taken up. This stalemate has resulted in queries from the local community but without the information or direction to provide answers.

The outstanding information, including preparation, detailed investigation of Flood Impact Assessment, Geotechnical and Slope Stability, Bushfire Hazard Assessment, and those matters relating to the amenity and protection of Lot B, must either be provided, or Council must resolve that this information, or part thereof, is no longer required.

The exhibition and making of a Planning Agreement relating to wastewater, Aboriginal Cultural Heritage and protection measures for Lot B DP 419641 and Lot 3 DP 593194, is required any case.

In terms of the recommended option the proposed amendments, along with those studies previously considered and reported on, are suitable for the rezoning to occur, subject only to the making and registration of a legally enforceable planning agreement.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

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:

Attachment 1.	Council report of 21 November 2013 (ECM 3700102)
Attachment 2.	Council report of 19 June 2014 (ECM 3700103)
Attachment 3.	Submissions Response Table (ECM 3700104)
Attachment 4.	Correspondence received from the proponent, dated 5 April 2015 (ECM 3700106)
Attachment 5.	Planit Consulting's Councillor Workshop Presentation Notes (ECM 3701799)

5 [PR-PC] Work Priorities Plan - Strategic Planning & Urban Design Unit

SUBMITTED BY: Strategic Planning and Urban Design

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-----|---|
| 1 | Civic Leadership |
| 1.5 | Manage and plan for a balance between population growth, urban development and environmental protection and the retention of economical viable agriculture land |
-

SUMMARY OF REPORT:

This is a report on the annual review of the Council's Strategic Planning and Urban Design Work Priorities Plan, and follows the Councillor Workshop of 28 May.

There are a number of challenges facing the efficient delivery of strategic land-use plans and policies that arise from both within and external to the council. Managing the efficiency and risk of decision outcomes that will shape the future of the Tweed and impact on the lives of the Shire's population and visitors requires that each project is appropriately evaluated and resourced. This necessitates that the elected Council identify its strategic land-use planning priorities, which assists the Unit's Coordinator in the allocation of resources, to give effect to those strategic outcomes.

Compiling a work plan of priorities requires an evaluation of all current and proposed future projects. In the prevailing environment where demand for projects far exceeds the Council's ability to resource each the inevitability of project culling occurs. This report has sought to identify those projects that should be culled, and those that are best placed to form the basis of a draft Work Priorities Plan 2015-16. In addition, the Unit's corresponding draft Work Priorities (Unit Resourcing) Plan 2015-16 is also provided.

To give effect to a manageable work plan of priorities and to ensure that expectation is properly managed it is essential Council discontinue its commitments to projects that are identified within this report as unsuitable to proceed, and as detailed in Table 1 in the body of the report.

RECOMMENDATION:

That:

- 1. The Work Priorities Plan 2015-16 for the Strategic Planning and Urban Design Unit, provided as Figure 1 to this report is adopted.**
 - 2. The Unit Coordinator's Project Work Plan 2015-16, provided as Figure 2 to this report, is received and noted.**
-

- 3. The recommended actions detailed in Table 1 (Projects Removed from the Current Work Plan 2014-15) to this report are adopted.**
- 4. Specifically, planning proposal PP12/0004 (Wardrop Valley) and planning proposal PP12/0002 (Mooball no.2), as listed in Table 2 of this report, are discontinued and the respective Applicants' and the Department of Planning and Environment are to be duly notified.**
- 5. Specifically, and except where there is a prior resolution of the same effect, a planning proposal is to be prepared for each and every planning proposal duly listed in Figure 1 to this report and submitted to the Department of Planning and Environment for a Gateway Determination, nominating any additional studies required and the level of public consultation deemed appropriate.**

REPORT:

Background

As part of the on-going project management of Council's strategic town planning resources the Strategic Planning and Urban Design Unit's Work Priorities Plan ("the Plan") is reviewed annually and where appropriate revised to reflect and 'match' resource-to-commitment. It is a project management tool of the elected Council to communicate their priorities, and is used by staff to guide the Unit's allocation of resources. The second component of this is the operational 'Unit Resources Plan', which is developed and managed by the Unit Coordinator to assist in guiding the resourcing and delivery of those adopted priorities.

Prior to finalising a Plan and preparing this report, a Councillor workshop was held on 28 May to discuss options for allocating resources to projects based on their perceived public benefit or their strategic importance. The objective is to allocate the Council's strategic land-use planning resources efficiently; to both ensure that commitment is matched by available resources and that priority projects are those delivering the most gain to the Tweed's regional identity, economy and social needs. This includes projects that: protect the environment, create business and employment growth, delivers housing choice through diversity, design and affordability, and has the potential to deliver other public benefit trade-offs.

In addition to the Plan, Staff will also be reviewing current practice and procedure for planning proposals, critically evaluating planning proposals completed in the previous 2-5 years, with a view to identifying 'bottle-necks' and alternative practice solutions to improve processing times and public participation. This will likely include a survey or other method of consultation with practitioners or other key users of Council's services during that period. It may also consist of a community based survey of those communities where the more significant planning proposals have occurred.

Draft Work Priorities Plan 2015-16

Based on an evaluation of current projects and the feedback from the Councillors Workshop of 28 May the projects and their priority have been summarised in Figure 1, which is seen to embody those views represented. This Plan represents the elected Councils' priority work area for strategic land-use planning.

By way of reference and comparison the adopted Work Priorities Plan 2014-15 is provided as Attachment 1 to this report.

In the left column of the table to Figure 1 is the list of projects. These have been categorised under the headings of; LEPs, DCPs, Locality Plans, and Strategies. The second column in the table reflects the level of priority to be assigned to the respective project from the date the Work Plan is adopted, if at all, to the date when the priority level is amended by Council resolution, if any.

Figure 1 – Draft Work Priorities Plan 2015-16

Strategic Planning and Urban Design		Work Priorities Plan 2015-16	
		Project	Status
LEPs	PP10/0002 Marana Street	PRIORITY 3	
	PP10-0007 Mooball Village(Perlo)	PRIORITY 2	
	DA10/0737 s72J BP Chinderah Extension (South Bound)	PRIORITY 2	
	PP10/0005 Extension of Hundred Hills Murwillumbah	PRIORITY 3	
	PP10-0006 225 Terranora Road	PRIORITY 3	
	PP12/0001 420-434 Terranora Road (Stones)	PRIORITY 3	
	PP11/0002 Pottsville Employment Land	PRIORITY 3	
	PP11/0005 Club Banora (Leisure Drive)	PRIORITY 3	
	PP14/0001 Coastal Villages	PRIORITY 1	
	PP15/0006 Housekeeping : heritage schedule and subdivision provisions	PRIORITY 1	
New	PP13/0001 Border Park (Bunnings)	PRIORITY 1	
	PP13/0002 Palm Lake Resort (Banora Point)	PRIORITY 3	
New	PP14/0003 Elrond Drive Kingscliff	PRIORITY 2	
New	PP15/0004 Mount Warning Spring Water	PRIORITY 2	
New	PP15/0005 Review Holiday Rentals Regs (NoM 19 June 2014 & 21 May 2015)	PRIORITY 1	
DCPs	Tweed DCP (maintenance review)	PRIORITY 3	
	Fingal Head (Heights) DCP Review	PRIORITY 1	
	Standard Instrument DCP	PRIORITY 2	
	Border Park (Bunnings) DCP	PRIORITY 2	
	Heritage DCP	PRIORITY 1	
	Marana (PP10/0002) Site Specific DCP (Res 05.02.15)	PRIORITY 3	
	Dunloe Park Master-Plan Project Cncl (Res 25.05.15)	PRIORITY 3	
	Club Banora DCP	PRIORITY 3	
Locality Plans	Kingscliff Locality Plan	PRIORITY 1	
	Note: (NB. Coastal Villages LEP includes Locality Plan work)	PRIORITY 1	
Strategies	Heritage Grants (OEH) Local Heritage Fund	PRIORITY 2	
	Aboriginal Cultural Heritage Study / Management Plan	PRIORITY 1	
	Rural Villages	PRIORITY 2	
	Rural Land Strategy	PRIORITY 1	
	FNCRS Review	PRIORITY 2	
	Scenic Iconic Landscape Strategy	PRIORITY 1	
	Murwillumbah Mainstreet Heritage Demo Project	PRIORITY 2	

This new Plan has been revised to show only those projects that can reasonably be progressed within the limits of available resources. Previous versions of the Plan also included potential future projects however this has not aided the process of delivery in any way, it had the effect of raising expectations and contributing to an unmanageable work load. Table 1 below provides a list of projects removed from the current work plan.

Table 1 – Projects Removed from the Current Work Plan 2014-15

Project	Status	Recommended Action
PP15/0002 Aconia Avenue - zoning Correction	Published 10 July 2015	NIL
PP13/0002 Palm Lake Resort	Referred to DPE to be made on 10 July 2015	Update GIS and s 149 Processes following publication
A-Frames Signs DCP	Discussed at Councillor Workshop – Consensus that it is not a priority and that action	Reprioritise/review at next review

Project	Status	Recommended Action
	on signage be taken on a needs basis only	
Urban Agriculture DCP	Discussed at Councillor Workshop – Consensus that it is not a priority – that it may be better suited to NRM Unit	Consult with NRM, otherwise Reprioritise / review at next review
Rural Tourism DCP	Discussed at Councillor Workshop – Consensus that it is not a priority	Reprioritise / review at next review
Mooball DCP	No current action taken	Removed because the applicant gave a commitment to Council at the workshop of 11 May to prepare design guidelines and embodying those in a VPA associated with the rezoning PP10/0007
Landscaping DCP	Discussed at Councillor Workshop – Consensus that it is not a priority – noted that there has been no apparent demand or necessity and that current DCP controls under A1 are working effectively	Reprioritise / review at next review
Chinderah locality plan Tyalgum Locality plan Fingal Locality plan Kielvale Locality Plan Chillingham Locality Plan Bray Park Locality Plan	No current action has been taken on these locality plans to date. The draft Rural Villages Strategy is nearing completion and one of the key aims was to provide guidance on the sequencing of place based plans.	A village locality plan be reprioritised based on and following the adoption of the Rural Villages Strategy.
Wooyung PP13/0004	02.10.2014 Council resolved not to proceed.	The Applicant and the DP&E be advised the proposal is discontinued
Wardrop PP12/0004	Project was reprioritised by Council resolution on 16.11.2014 following landowner workshop. A costs agreement was made available to the Applicant on 16.12.2014 and subsequently rescinded on 28 May following inaction. There is planning argument that indicates the land may not be suited to a solely industrial zoning however the site is not completely serviceable for higher usage. There is also doubt about the demand for industrial land in the location in the short-term.	The Planning Proposal be abandoned and until such time that the <i>Tweed Urban and Employment Land Release Strategy 2009</i> has been reviewed and where necessary updated.
PP12/0002 Mooball No.2	No substantive action has been commenced on this project. The land is the remainder of the urban release area identified in the <i>Tweed Urban and Employment Land Release Strategy 2009</i> and is located	The Planning Proposal be abandoned and until such time that the <i>Tweed Urban and Employment Land Release Strategy 2009</i> has been reviewed and where necessary updated, and the drainage and

Project	Status	Recommended Action
	adjacent to the 'other' Mooball Proposal (PP10/0007)	hydraulic assessment for the neighbouring proposal has been completed and demonstrates that additional drainage can be accommodated.
PP14/0005 Tanglewood LEP Appeal	Published 24.10.14	Nil.
Highway Service Centre PP13/003	Published 5.03.2015	Nil
PP14/0002 Lot 490	Council resolved to discontinue owing to the DP&E disallowing E-Zones.	NIL
PP12/0003 Palms Village	Discontinued by Applicant and Council resolution	Nil

Table 2 – Projects Not Included in the draft Work Priorities Plan 2015-16

Projects Not Included		
PP15/0003 Murwillumbah Bowls and Sports Club	Resolution not to proceed 2 July.	Nil
Seaside City – review DCP for small lot housing in association with development application lodged by Planit Consulting.	Council resolution to amend DCP B11. Minor project with minimal resource implication	Execute costs agreement and proceed to make necessary DCP amendment (B11) to give effect to the DA lodged.
Review current planning practices and detail clear pathway for strategic planning projects	Will be undertaken as time permits and may result in a new operational guideline	Proceed with evaluating project delivery since 2008 and consult / survey with key external practitioners about their view and experience of Council's processes

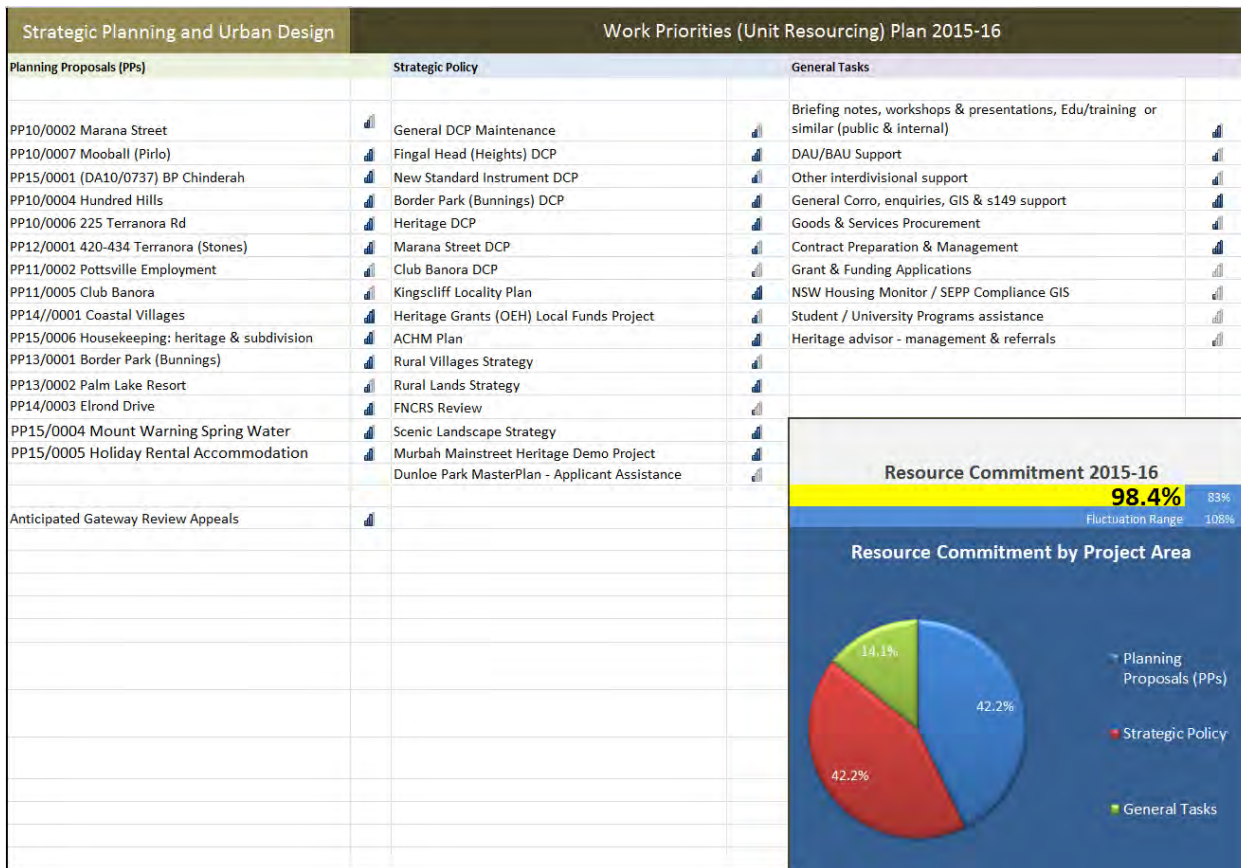
Draft Work Priorities (Unit Resourcing) Plan 2015-16

Utilising the priority project information from Figure 1, Figure 2 represents a work plan of resourcing estimates for the period 2015-2016. This is derived from the priority status of each project and combined with an estimate of how much resourcing would likely be required to progress each project. It is assumed that each project will have the relevant buy-in from each applicant or stakeholder and each process will occur without substantial interruption or delay.

Summarising Figure 1, it is anticipated that the Unit will continue running at or near capacity, albeit with it with an overall reduced level of project commitment, but with a greater ability to respond to smaller issues or matters, which typically arise through the course of each year. It is also expected that with a more concentrated commitment that project risks will be more manageable, and should result in better and quicker outcomes.

At the bottom right corner of the table is an estimate of commitment and this takes into account the ebb and flow inherent in the start-stop nature of strategic planning work; where resource commitment is projected to fluctuate between 83% to 108%, and which remains highly sensitive to additional demand.

Figure 2 - Project Work Plan 2015-16



OPTIONS:

That Council:

1. Adopts Figure 1 (Draft Work Priorities Plan 2015-16) and in so doing express the collective view of the Council on the priority level of each project therein, and note the Unit Coordinator's corresponding draft Work Priorities (Unit Resourcing) Plan 2015-16, or
2. Amends or defers the Draft Work Priorities Plan 2015-16, provided as Figure 1.

CONCLUSION:

There is an essential need for the elected Council to indicate its collective preference with regard to the strategic planning priorities within the Tweed Shire, and without which the Operational Division of the Council has no overriding guidance as to where the Strategic Planning and Urban Design Unit should best allocate its resources, to further the Council's objectives.

It is well known and understood that the strategic land-use planning priorities of the council are established by the elected body of the Council, whereas the allocation of resources remains an operational activity under the jurisdiction of the General Manager and their delegates. These two functions are each a dependant on the other for the efficient and effective delivery of policy that can effectuate tangible outcomes.

Using the information gathered from the Councillor workshops held in May, a list of projects and their relative strategic priority has been compiled (see Figure 1), and is used to form the basis of an operational work plan (see Figure 2). Both are presented in the body of this report.

The rationale behind the change in approach from a work plan based on first-in-time to one of priority, as adopted in June 2014, is that it better defines the areas of strategic land-use planning where the Council believes the public interest would be best served. This may originate through resourcing projects that have an environmental, social or economic benefit for the greater community, over individual interests or those of a small class or group. This correlates with the notion that public resources should be used to obtain and secure the best and highest public benefit.

The rationale for the prioritisation of strategic planning projects discussed within this and prior reports is sound. It provides clear guidance to the community and development industry about where the Council priorities are for the present time. It also provides a clear direction that operational Divisions of the council can use to define work plans for the allocation of their resources.

In addition to those plans proposed, there is a corresponding need to manage those projects that, for one reason or other (see Table 1) cannot or should not proceed. In summary, there is a significant body of work that cannot be progressed with the level of Council resources, and in part because projects are either nonessential, too far ahead of the demand for those, or possess other technical constraints without the means for those to be overcome in the shorter-term. This has been addressed through the recommendations provided.

Figure 1 comprising the draft Work Priorities Plan 2015-16 is recommended for adoption and the Unit Coordinator's corresponding draft Work Priorities (Unit Resourcing) Plan 2015-16 should be noted.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Escalation of strategic planning strategies and the introduction of new strategies may have implications for the long term financial plan if they require funding. At this stage and based on the proposed Work Priorities Plan 2015-16 no substantial additional funding is likely to arise.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Adopted Work Priorities Plan 2014-15 (ECM 3731297)

6 [PR-PC] Stormwater Issues - Gladioli Avenue and Terranora Road, Terranora

SUBMITTED BY: Development Assessment and Compliance

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:

On 5 September 2014 Council received a complaint (ILL14/0958) from the property owner of No. 1 Gladioli Avenue, Terranora alleging that there were adverse, stormwater related impacts being generated by an adjoining property, No. 764 Terranora Road.

Within the context of that complaint, Council also received an email (refer to **Confidential Attachment 2 of this report**) from the owner of the adjoining property No. 764 Terranora Road, nominated as the source of the issue.

Multiple site meetings have since been conducted involving all affected property owners individually and collectively. Several Council officers from a range of work units were also actively involved in those meetings. (refer to **Attachment 3 of this report**).

Stormwater collects and flows in the form of overland flow across several properties on Terranora Road (namely No. 768 and No. 802) until it reaches No. 764 Terranora Road where it is controlled within the stormwater management system of that property. The water is then conveyed to the point of discharge adjacent to the shared boundary of No. 1 Gladioli Avenue. The water was historically further managed within the southern portion of No. 1 Gladioli Avenue via an open *swale* drain that continues across the neighbouring property No. 3 Gladioli Avenue before eventually discharging to kerbside on Gladioli Avenue.

The existence and location of the swale drains and consequently their longstanding nature is established within subdivision application GS4/94/169. Associated plans clearly identify a system of swale drains on Lot 2 extending from/onto Lot 1. Further to this the system of drainage is visible from 2001 onwards on aerial imagery held by TSC (**refer to Attachment 1 of this report**).

All subsequent development on both No. 1 Gladioli Avenue and/or No. 764 Terranora Road has been approved dependent upon use of this established drainage as *inter allotment drainage* as a means to managing and disposing of stormwater.

Consequently the use of this inter-allotment drainage system (albeit informal) predates more recent development and historically was accepted and considered appropriate.

Whilst the discharge of stormwater across property boundaries is considered unlawful this situation has evolved over an extended period of time and involves multiple properties, property owners and developments. Attempts to resolve this long established situation via contemporary statutory process may contravene *existing use* principles, in this instance this approach has proven unsuccessful to date.

RECOMMENDATION:

That Council endorse:

- 1. The property owners affected by the stormwater impacts of No. 764 Terranora Road, Terranora be advised in writing that Council encourages them to work together to maintain the historically established inter allotment drainage system; and**
- 2. The owners of No. 764 Terranora Road Terranora be advised in writing that Council is not in a position to fund stormwater works within the subject properties.**
- 3. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-**
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**

REPORT:

REFERENCES

ILL14/0958

Complaint from property owner of No. 1 Gladioli Avenue.

No. 1 Gladioli Avenue

S113/74: Creation of DP248804 including No. 764 Terranora Road (Lot 1) and all Gladioli Avenue properties (Lots 2-16).

T4/1516: (1982) Erection of a dwelling house at Lot 2 DP248804 (No. 1) Gladioli Avenue.

GS4/94/169: Subdivision of Lot 2 Gladioli Avenue to create existing Lot 1 (No. 1) and Lot 2 (No. 3) DP1005830 Gladioli Avenue.

BA1295/96 & 96/419: Dual occupancy approval.

No. 3 Gladioli Avenue

GS4/94/169: Subdivision.

0714/2000DA: Erection of a dwelling House.

DA13/0213: Construction of a storage shed.

No. 764 Terranora Road

0624/94B: Erection of a dwelling house.

0191/96B: Construction of a swimming pool.

0105/98B: Additions to existing dwelling.

0522/2000DA: Patio roof addition.

0176/2000CDC: Erection of a carport.

CDC06/0025: Enclosure of existing carport.

DA14/0251: Detached second dwelling and carport.

BACKGROUND

Water collects and flows in the form of overland flow across several properties on Terranora Road (namely No. 768 and No. 802) until it reaches No. 764 Terranora Road where it is controlled within the stormwater management system of that property. The water is then conveyed to the point of discharge adjacent to the boundary shared with No. 1 Gladioli Avenue. The water is then managed within the southern portion of No. 1 Gladioli Avenue

via an open *swale* drain that continues across the neighbouring property No. 3 Gladioli Avenue before eventually discharging to kerbside on Gladioli Avenue.

The affected portion of No. 1 Gladioli Avenue lies approximately 10m downhill and therefore downstream of the collection areas of adjacent properties No. 764, 768 and 802 Terranora Road.

It is conceded that the initial point of discharge from No. 764 Terranora Road adjacent to the boundary with No. 1 Gladioli Avenue is not *ideal* as it facilitates concentrated discharge at a potentially increased velocity but could be improved to reduce the flow rate. However its creation was lawful and was permitted within the context of historically acceptable construction and development practices. Additionally and notably its installation and suitability was contingent upon the continued existence and maintenance of the existing swale drain system.

The existence and location of the swale drains and consequently their longstanding nature is established within subdivision application GS4/94/169. Plans clearly identify a system of swale drains on Lot 2 extending from/onto Lot 1. Further to this the system of drainage is visible from 2001 onwards on aerial imagery held by TSC (**refer to Attachment 1 of this report**).

All subsequent development on both No. 1 Gladioli Avenue and/or No. 764 Terranora Road has been approved dependent upon use of this established drainage as *inter allotment drainage*.

Interruption to the drainage system occurred in 2014 when a portion of No. 1 Gladioli Avenue was denuded by the current owners for recreational purposes. This had the dual effect of allowing the water to proceed unimpeded with increased velocity often *overtopping* the drain, whilst also rendering the exposed soil vulnerable to significant erosion which has proven to be the case. This has the additional effect of enabling sediment to be carried onto the neighbouring property No. 3 Gladioli Avenue (**refer to Attachment 1 of this report**).

Following intervention by Council officers, affected property owners have requested that Council meet part of the costs associated with managing and conveying the stormwater to kerbside via subterranean pipework. It is considered that this would require a significant contribution of financial, human and other resources by Council (**refer to Attachment 2 of this report**).

OPTIONS:

That Council endorses:

1. To maintain existing use rights through the continued use and maintenance of the existing system of inter allotment swale drains; or
2. Issue an Order (No.12) on the property owner of No.764 Terranora Road via Section 124 of the Local Government Act to *Do All Things as are Necessary to Stop the Flow of Surface Water Across Land*. It is anticipated however that this action would ultimately prove unsuccessful if challenged at Court and its success would rely solely upon the voluntary compliance of the property owner; or

3. Facilitate and fund the establishment of a collective stormwater management system including inter allotment drainage on the three affected properties as requested by the property owner/s (refer to Attachment 2 of this report).

The Council officers recommend Option 1.

CONCLUSION:

Whilst the location and manner of stormwater discharge from No. 764 Terranora Road is largely inconsistent with current standards and practices it was acceptable at the time of construction and in accordance with prevailing development practices. Additionally it was established within the context of an existing inter allotment drainage system that whilst not formalised via easement was established and accepted.

The denuding of portion/s of No. 1 Gladioli Avenue has significantly contributed to the erosion of the property. The property owners have been advised to reinstate the ground cover as a matter of urgency and in the interim install sediment and erosion controls.

The property owners of No. 1 Gladioli Avenue have cited the intent to further develop the affected area of the property. The veracity of this cannot be judged, however any future development should be contingent upon the retention and maintenance or significant improvement of the existing stormwater drainage system.

COUNCIL IMPLICATIONS:

a. Policy:

No relevant policy exists – request for development.

b. Budget/Long Term Financial Plan:

Significant costs associated with Option 3 as requested by property owner/s.

c. Legal:

Relevant legislation

1. Environmental Planning & Assessment Act 1979 No.203
Division 10 (Existing Uses)
2. Environmental Planning & Assessment Regulations 2000
Part 5 (Existing Uses)
3. NSW Department of Planning
Planning Circular PS06-007 (31 March 2006)
4. Local Government Act 1993 No.30
Section 124 (Order No.12)
Section 125 (Abatement of Public Nuisances)

d. Communication/Engagement:

Site meetings have been conducted on all affected properties collectively involving all affected property owners. Ongoing written and other communication has been maintained with all affected property owners.

UNDER SEPARATE COVER/FURTHER INFORMATION

Attachment 1. Aerial photographs 2001-2012 (ECM 3733400)

(Confidential) Attachment 2. Email dated 26 May 2015 (ECM 3733402)

Attachment 3. Photos from site meetings (ECM 3733403)

7 [PR-PC] Stormwater Issues Tweed Shire

SUBMITTED BY: Development Assessment and Compliance

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:

Council has experienced an increase in complaints relating to *stormwater* and/or *overland flow* issues occurring on private property.

Stormwater: *Rain that falls on the roof of your house, or collects on paved areas like driveways, roads and footpaths is carried away through a system of pipes that is separate from the sewerage system (NSW Government Office of Environment & Heritage 2015).*

Overland Flow: *Overland flow is defined as surface runoff...It is caused by rainfall which flows downhill and concentrates in low points. (Pittwater Council 2014).*

The effects of uncontrolled water upon a neighbouring property can be damaging and occur across the Shire under the following circumstances:

- Expansion of the built environment increasing collection and concentration of stormwater;
- Impervious surfaces within the built environment facilitating increased of overland flow;
- Existing inter-allotment drainage not designed for increased volumes of water;
- Inter-allotment drainage was not a condition of consent at the time of development;
- Inter-allotment drainage was designed and constructed to a *minimum* specification;
- Inter-allotment drainage has not been maintained by property owners;
- Stormwater management systems are not maintained by property owners; and
- Stormwater management systems unlawfully discharging across property boundaries

Council possesses limited statutory capacity to intervene when a property is affected by stormwater. Such as when the stormwater management system of a property has fallen into disrepair and/or is discharging across a property boundary, or when a property has been deliberately altered to redirect the overland flow of water. In practical terms the legislation available can be ineffective as it rarely delivers a prompt resolution.

Section 125 Local Government Act

Direction to effect the abatement of a nuisance.

This Section has historically been used to address stormwater issues. However only *public nuisances* are nominated within the Section and consequently a degree of uncertainty exists regarding its application to private property. Additionally no mechanism is provided to impose a time limit for the completion of remedial action. Ultimately it relies on the willingness of the property owner to comply which is subject to many variables. Often cited is the historical existence of informal drainage agreements between properties not validated by private easement. These are often an unhappy discovery for many new property owners and the expectation is placed on Council to immediately rectify the longstanding situation.

Section 124 Local Government Act (Order No.12)

Order served on the property owner to do such things as are necessary to control the flow of surface water across land

Again the efficacy of this method is questionable as it requires the service of a Notice of Intention to Serve an Order prior to the service of the actual Order. Both provide for a statutory appeal period and therefore fail to convey the same sense of gravity and urgency as other compliance and enforcement methods that include monetary penalties such as Infringement Notices or Clean Up Notices. These orders may be contested at Court and during that time facilitate the continuance of the problem.

RECOMMENDATION:

That:

- 1. A formal Council position be developed and promoted in regard to stormwater and overland flow issues occurring between private properties; and**
- 2. Additionally that this position be adopted to form the basis of an operational procedure and/or be further developed into a policy.**

REPORT:

It has generally been the view in practice that the responsibility for policing longstanding yet unsanctioned drainage arrangements on private property should not be administered by Council. Similarly, the responsibility for stormwater management by the property owner needs to be better communicated as the Tweed Shire is subject to the highest rainfall intensity in the State (Building Code of Australia Vol.2 Table 3.5.2.1 2015).

Despite this fact, Tweed Council currently has no formal adopted position to guide the educative process for property owners or policy regarding the potentially damaging effects stormwater and overland flow. This is an emerging concern in light of the increasing incidence of stormwater related complaints.

Many Local Government areas have adopted a formal operational position and clearly define the respective responsibilities of property owners and Council regarding stormwater and overland flow problems. Examples of these are as below:

Gosford City Council (NSW) (Attachment 1)

<http://www.gosford.nsw.gov.au/building-and-development/general-information/stormwater-drainage-on-private-property>

Lismore City Council (NSW) (Attachment 2)

<http://www.lismore.nsw.gov.au/file.asp?q=RES-MBZ-53-37-18>

Bass Coast Council (VIC) (Attachment 3)

[http://www.basscoast.vic.gov.au/getattachment/Services/Building_Development/Building/Drainage_and_Stormwater/Water_Flowing_From_Adjoining_Property/2013_03_19_Information_Sheet_-_Overland_Flows_and_Groundwater_\(ED13_40020\).pdf.aspx](http://www.basscoast.vic.gov.au/getattachment/Services/Building_Development/Building/Drainage_and_Stormwater/Water_Flowing_From_Adjoining_Property/2013_03_19_Information_Sheet_-_Overland_Flows_and_Groundwater_(ED13_40020).pdf.aspx)

[http://www.basscoast.vic.gov.au/getattachment/Services/Building_Development/Building/Drainage_and_Stormwater/Drainage_and_Stormwater_Responsibilities/2013_03_19_Information_Sheet_Stormwater_and_Drainage_Responsibilities_\(ED13_40024\).pdf.aspx](http://www.basscoast.vic.gov.au/getattachment/Services/Building_Development/Building/Drainage_and_Stormwater/Drainage_and_Stormwater_Responsibilities/2013_03_19_Information_Sheet_Stormwater_and_Drainage_Responsibilities_(ED13_40024).pdf.aspx)

Shoalhaven City Council (NSW)

<https://www.shoalhaven.nsw.gov.au/My-Property/Stormwater-Issues-on-Private-Property>

Gold Coast City Council (QLD)

http://www.goldcoast.qld.gov.au/documents/bf/stormwater_factsheet.pdf

Logan City Council (QLD)

http://www.logan.qld.gov.au/_data/assets/pdf_file/0007/49093/stormwater-factsheet.pdf

OPTIONS:

Consequently it is proposed that the following measures be implemented as a means to resolving or at least significantly alleviating the issue:

1. Establishment of a formal organisational position regarding stormwater & overland flow;
2. Development of a related procedure/policy to facilitate consistency & accountability;
3. Promotion of position via TSC website & Link highlighting specific responsibilities;
4. Request for a legal opinion regarding application of Order No.12 Section124 and Section125 of the Local Government Act; and

5. Requirement for stormwater drainage diagrams identifying management system and lawful point of discharge for all developments (DA and CDC) with a potential collection area greater than 10sqm and/or that alter the contours of the property.

CONCLUSION:

The increased number of stormwater related complaints may be attributed to a range of factors not least of which being increased development, changing property ownership as well as environmental considerations including topography and rainfall.

A clear delineation of responsibilities with regard to stormwater issues affecting private property is required. This could best be achieved via the development and communication of a formal organisational position that forms the basis of a procedure or policy. This organisational position once developed should be communicated to property owners via the TSC website and Tweed Link.

Additionally emphasis on stormwater and overland flow risk assessment/management within the approval/inspection stages of the development process would also be very beneficial.

COUNCIL IMPLICATIONS:

a. Policy:

No policy exists. Development and promotion of an organisational position is required.

b. Budget/Long Term Financial Plan:

Costs associated with obtaining legal opinion.

c. Legal:

A Council adopted position on this issue will minimise potential for legal dispute.

d. Communication/Engagement:

TSC website, Tweed Link and attachment to rates notice to communicate position

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|---------------|---|
| Attachment 1. | Gosford City Council (NSW) Stormwater Issues on Private Property (ECM 3733395) |
| Attachment 2. | Lismore City Council (NSW) Stormwater Factsheet (ECM 3733396) |
| Attachment 3. | Bass Coast Council (VIC) Water flooding from next door fact sheet (ECM 3733397) |
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8 [PR-PC] 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
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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 there are no variations for the month of July 2015 to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

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

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

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.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

C1 [PR-PC] Class 1 Appeal Development Application DA15/0201 for a 20 Lot Subdivision and Associated Works at Lot 156 DP 628026 No. 40 Creek Street, Hastings Point

REASON FOR CONFIDENTIALITY:

This report discusses legal information that if provided in Open Session could be prejudicial to Council.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

FILE REFERENCE: DA15/0201 Pt5

Valid



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
 - 1.2 Improve decision making by engaging stakeholders and taking into account community input
 - 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
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C2 [PR-PC] Unauthorised Works at Site 199, Hacienda Caravan Park, Lot 2 DP 535174 Chinderah Bay Drive, Chinderah

REASON FOR CONFIDENTIALITY:

Potential future legal action.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

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
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C3 [PR-PC] Tanglewood Private Sewerage Scheme

REASON FOR CONFIDENTIALITY:

This report is confidential due to potential ongoing legal action.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals (other than councillors).
- (e) information that would, if disclosed, prejudice the maintenance of law.

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
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