

TITLE: [DS] Tweed Local Environmental Plan 2000 - Proposed Amendment 1 Marie Street, Tweed Heads South

Attachment 1 - Report from Meeting held 1 September 2004 - Reclassification

ORIGIN:

Strategic Town Planning

FILE NO: PF3330/20

SUMMARY OF REPORT:

As part of the Strategic Planning Works Program, Council has agreed to delegate to the Director Planning & Environment to bring forward minor LEP Amendments as resources within the Unit may permit.

Once such potential is the reclassification of Council land at 1 Marie Street, Tweed Heads South.

RECOMMENDATION:

That Council:

1. Advises the Director General, Department of Infrastructure, Planning and Natural Resources that it intends to prepare a draft LEP to reclassify land at Lot 21 Section 15 DP28390, 1 Marie Street/Hillcrest Avenue, Tweed Heads South from Community Land to Operational Land.
2. Engages a suitable planning consultant to undertake the project, funded by the proponent.

REPORT:

As part of the Strategic Planning Works Program, Council has agreed to delegate to the Director Planning & Environment to bring forward minor LEP Amendments as resources within the Unit may permit.

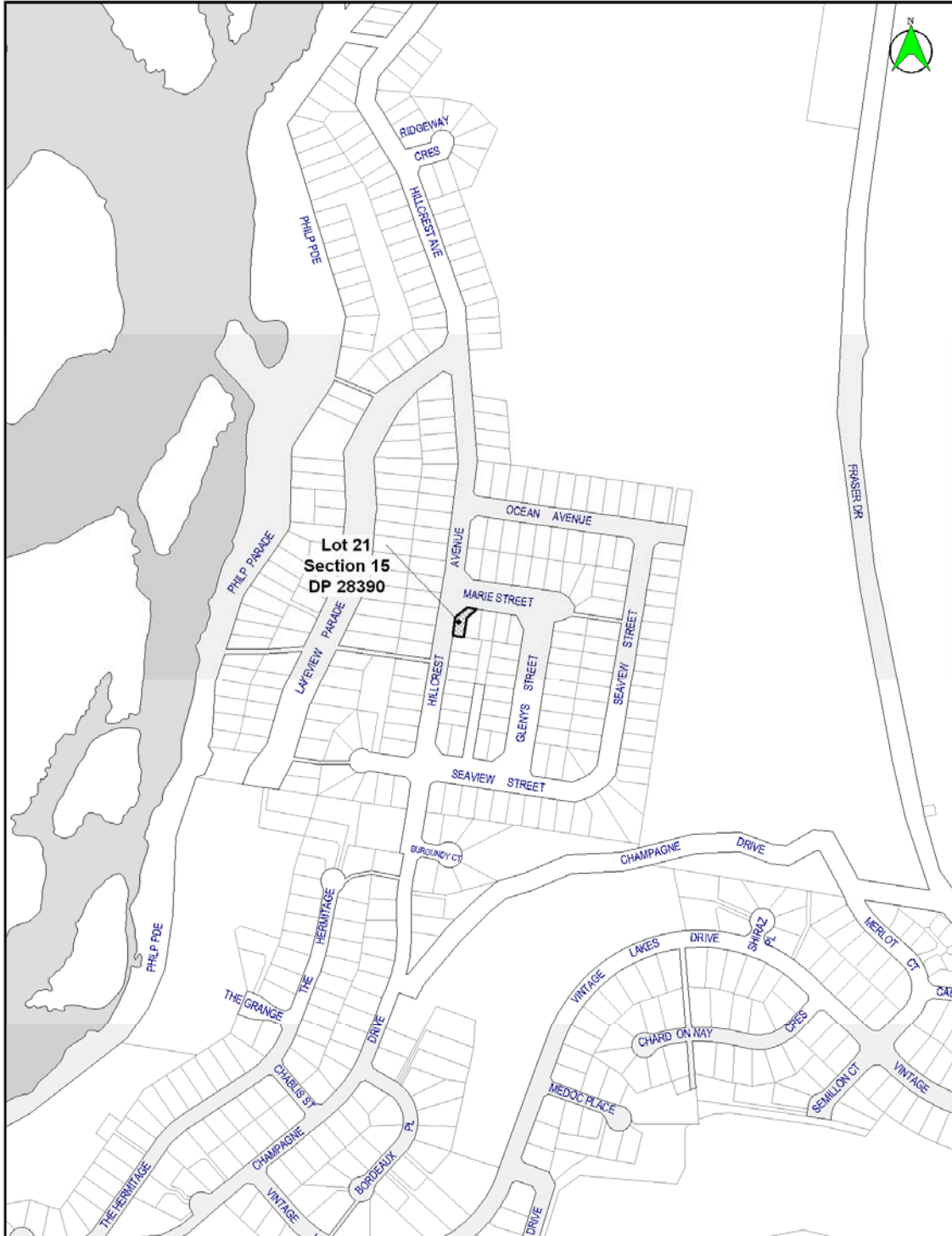
Once such potential is the reclassification of Council land at Marie Street, Tweed Heads South from Community to Operational Land.

The background to this Amendment is that a small part of 1 Marie Street, Tweed Heads South has been constructed on land dedicated to Council as Public Garden and Recreation Space, as indicated by Figures 1 and 2. The land is not serving any recreational purpose.

This situation goes back over many years. The remedy for the situation is for the owner of 1 Marie Street to acquire a part of the open space from Council. As the land is classified Community Land Council cannot achieve this without first reclassifying the land, which requires an Amendment to Tweed LEP 2000. As Council owns the land this would require the engagement of an appropriate consultant. The owner of 1 Marie Street has agreed to find a consultant.

With the recent conclusions of a number of minor LEP Amendments, there is now the opportunity to undertake this Amendment.

Figure 1




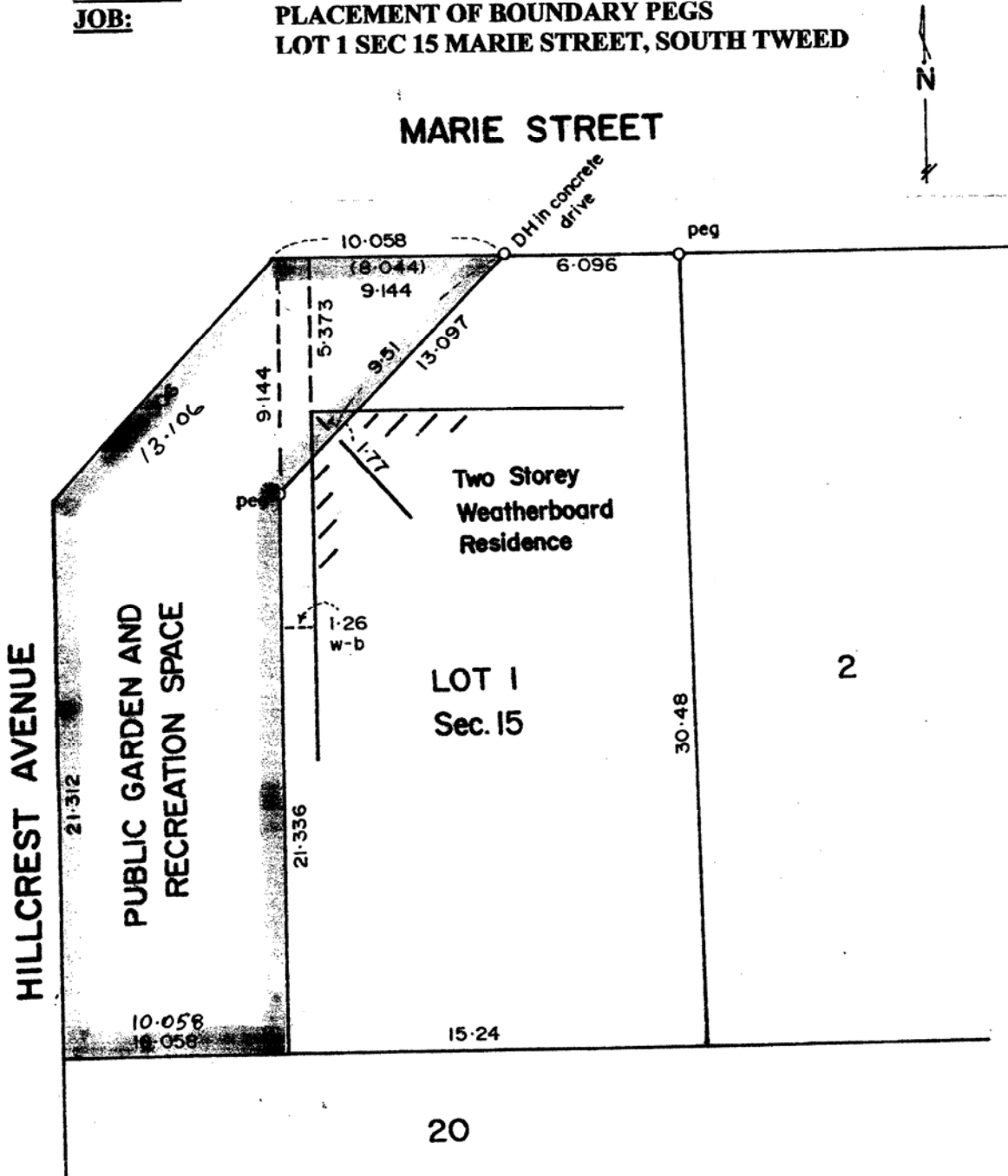
<p>© TWEED SHIRE COUNCIL 2004 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Tel: (02) 6670 2409 Murwillumbah, NSW., 2484 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 21 Section 15 DP 28266 Marie Street, Tweed Heads South</p>	 <p>TWEED SHIRE COUNCIL</p>	<p>STRATEGIC PLANNING UNIT Site Plan</p>
	<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>	<p>Author: J.Batchelor Date: 12/Aug/2004</p>	<p>Scale: 1:5,000 Sheet: 1 of 1</p>

Figure 2

OFFICE: 32 BOYD STREET, TWEED HEADS
PHONE: 07 - 5536 6467 FAX: 07 - 5536 7489
EMAIL: macsurv@landsurv.com.au
ABN 58 101 069 363

McLauchlan Surveying

JOB NO: 37488 **DATE:** 15/12/2003
CLIENT: MR. TOOMATH
JOB: PLACEMENT OF BOUNDARY PEGS
LOT 1 SEC 15 MARIE STREET, SOUTH TWEED



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

[Agenda Report](#)

**TWEED SHIRE COUNCIL
MEETING TASK SHEET**

For Meeting held on Wednesday 1 September 2004

User Instructions

If necessary to view the Agenda Item, double-click on 'Agenda Report' (blue hyperlink above).

Resolved Items Action Statement

Action is required for the following item as per the Council Resolution.

TITLE: [DS] Tweed Local Environmental Plan 2000 - Proposed Amendment 1 Marie Street, Tweed Heads South

RESOLUTION:

**Cr B J Carroll
Cr G B Bell**

RESOLVED that Council:

1. Advises the Director General, Department of Infrastructure, Planning and Natural Resources that it intends to prepare a draft LEP to reclassify land at Lot 21 Section 15 DP28390, 1 Marie Street/Hillcrest Avenue, Tweed Heads South from Community Land to Operational Land.
2. Engages a suitable planning consultant to undertake the project, funded by the proponent.

FOR VOTE - Unanimous

ABSENT. DID NOT VOTE - Cr Murray, Cr James

TITLE: [EO-OC] Creation of Easement to Permit Encroaching Structure to Remain over Part of Lot 21 Section 15 in DP 28390 at Marie Street, Tweed Heads

ORIGIN:

Design

Attachment 3 - Report from Meeting held 23 May 2006 - Easement

FILE NO: PF3330/20 Pt1

SUMMARY OF REPORT:

The recent gazettal of the re-classification of Lot 21 Section 15 in DP 28390 (Council owned land), on 31 March, 2006, from community land to operational land, arose out of an historical encroachment onto the subject land by a house built on an adjacent parcel, Lot 1 Section 15 in DP 28266, approximately forty years ago.

It is to be noted that Lot 21 was dedicated as a Public Garden and Recreation Space in DP 28390 in 1958, however the land is not serving any recreational purpose.

The re-classification of the land was necessary as the land is not included in the schedule of lands in the Plan of Management for Community Lands held by Council. The *Local Government Act, 1999* provides in section 44 that pending the adoption of a plan of management for community land, the nature and use of the land must not be changed. The creation of an easement was considered to impact on the nature and use of the land, therefore, to remedy the encroachment, it was necessary to re-classify the land to remove the restraint created by section 44.

Now that the gazettal of the re-classification has occurred, Council is now in a position to attend to the encroachment by the creation of an easement burdening Lot 21 and benefiting Lot 1.

The creation of an easement was identified as the most expedient, and less expensive, method to address the encroachment, the other method being the subdivision of Lot 21 creating a parcel affected by the encroachment, the sale of that parcel to the owner of Lot 1 and then consolidation of both parcels, all at the owner's cost.

Whereas the creation of an Easement would require the registration of a Transfer Granting Easement form accompanied by a plan showing the area affected by the Easement. Council is negotiating with the owners gaining the benefit of the Easement to cover all costs relating to the creation of the Easement.

Council will retain ownership of the affected land.

It is necessary for Council to approve the creation of the Easement and to sign all necessary documentation under the common seal of Council.

RECOMMENDATION:

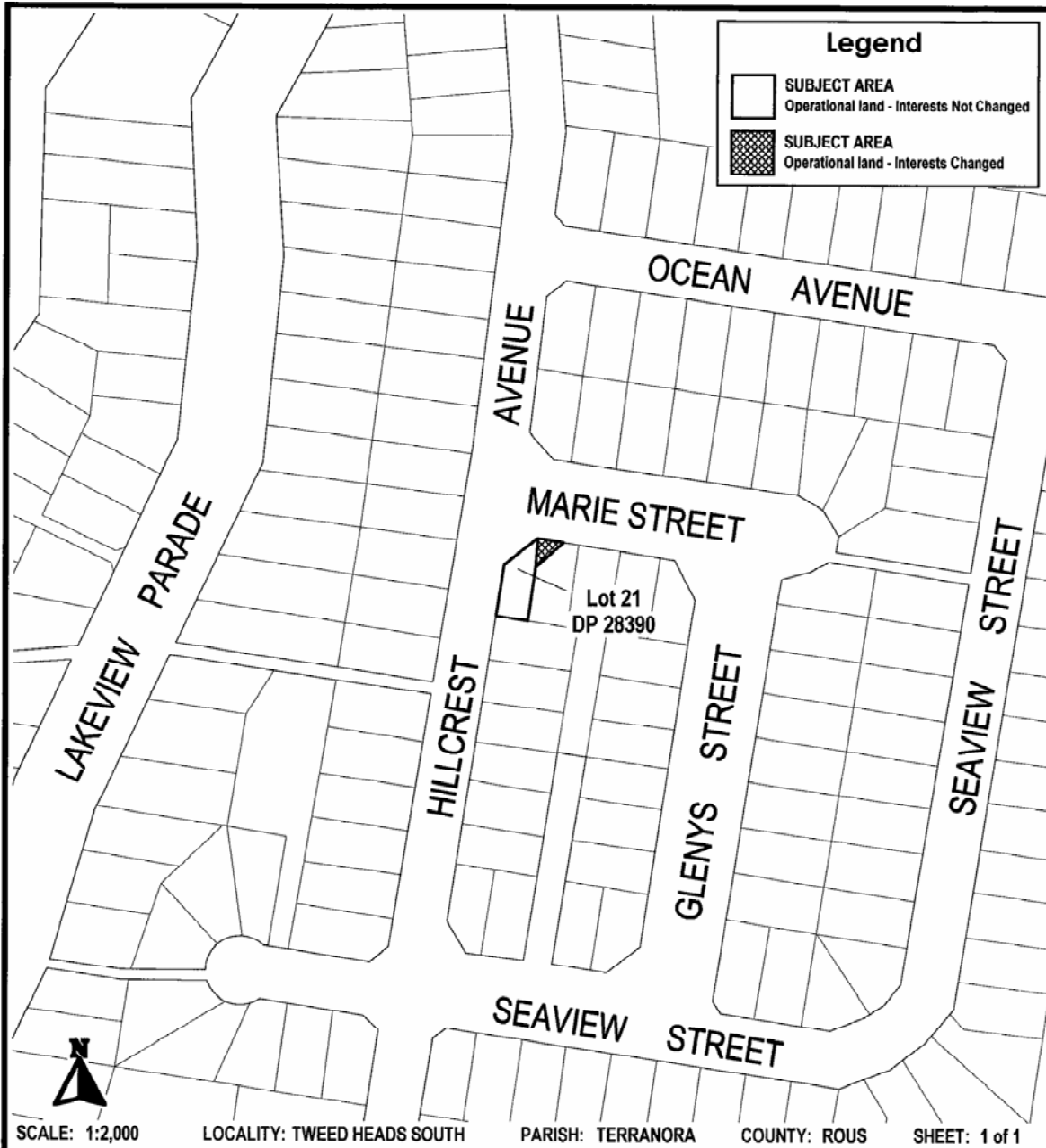
That:-

- 1. Council approves the creation of an Easement to Permit an Encroaching Structure to Remain Variable Width burdening Lot 21 Section 15 DP 28390 and benefiting Lot 1 Section 15 DP 28266;**

2. All necessary documentation is executed under the Common Seal of Council.

REPORT:

As per Summary of Report. The plan below shows the area of Easement as hatched:-



ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

TWEED

LOCAL ENVIRONMENTAL PLAN 2000 AMENDMENT No. 61

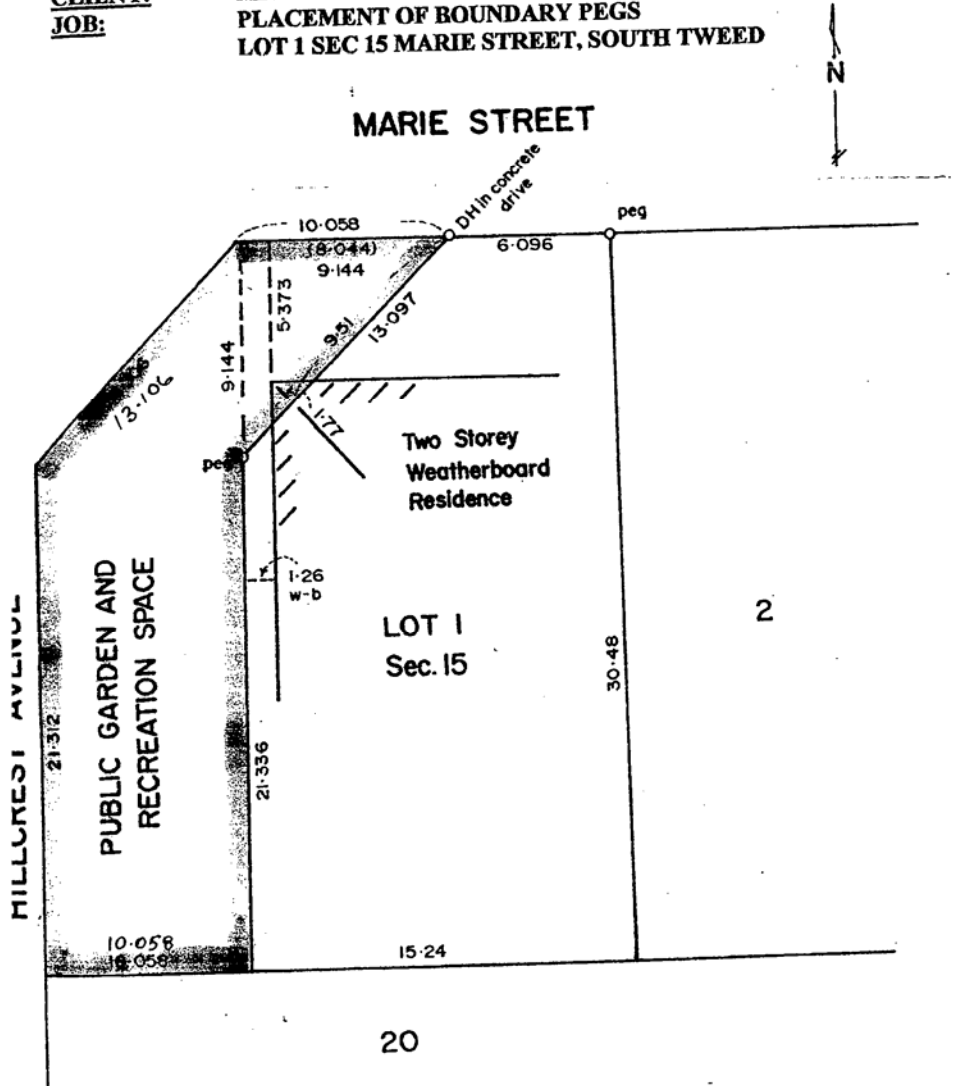
DRAWN BY: J. Batchelor SUPERVISING DRAFTER: PLANNING OFFICER: C. Davis COUNCIL FILE No. GTI/LEP/2000/61 DEPT. FILE No.: GRA6322572 GOVT. GAZETTE OF: 31/3/2006 No.40	DATE: 19/04/2006 STATEMENT OF RELATIONSHIP WITH OTHER PLANS AMENDS: TWEED LOCAL ENVIRONMENTAL PLAN 2000 CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS GENERAL MANAGER DATE 19/04/2006
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Plan of Survey showing the encroachment within the area of proposed Easement:

OFFICE: 32 BOYD STREET, TWEED HEADS
PHONE: 07 - 5536 6467 FAX: 07 - 5536 7489
EMAIL: macsurvey@macsurvey.com.au
ABN 58 101 069 363

McLauchlan Surveying

JOB NO: 37488 **DATE:** 15/12/2003
CLIENT: MR. TOOMATH
JOB: PLACEMENT OF BOUNDARY PEGS
LOT 1 SEC 15 MARIE STREET, SOUTH TWEED



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

All costs to be borne by landowner gaining benefit of the Easement to be created.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

**TWEED SHIRE COUNCIL
MEETING TASK SHEET**

User Instructions

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Action Item - COUNCIL MEETING Tuesday, 23 May 2006

Action is required for Item **O7** as per the Council Resolution outlined below.

NOTE: THE RECOMMENDATIONS RELATING TO ITEMS FROM THE PLANNING COMMITTEE AND OPERATIONS COMMITTEE HELD TUESDAY 23 MAY 2006 WERE ADOPTED BY COUNCIL AT MINUTE NUMBERS 98 (PLANNING COMMITTEE) AND 100 (OPERATIONS COMMITTEE) AT THE MEETING HELD TUESDAY 23 MAY 2006

TITLE: [EO-OC] Creation of Easement to Permit Encroaching Structure to Remain over Part of Lot 21 Section 15 in DP 28390 at Marie Street, Tweed Heads

COMMITTEE DECISION:

**Administrator Turnbull
Administrator Boyd**

RECOMMENDED that:-

1. Council approves the creation of an Easement to Permit an Encroaching Structure to Remain Variable Width burdening Lot 21 Section 15 DP 28390 and benefiting Lot 1 Section 15 DP 28266;
2. All necessary documentation is executed under the Common Seal of Council.

FOR VOTE - Unanimous