



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Agenda

Ordinary Council Meeting Tuesday 17 July 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

- 1 [CONMIN] Confirmation of the Ordinary and Confidential Council Minutes from Meeting held Tuesday 26 June 2012

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).

1. Minutes of the Ordinary Council Meeting held Tuesday 26 June 2012 (ECM 52525979).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 26 June 2012 (ECM 52481965)
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SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR] Schedule of Outstanding Resolutions as at 17 July 2012



Civic Leadership

CODE OF MEETING PRACTICE:

Section 2.8 Outstanding Resolutions

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

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making processes
- 1.2.2.1 Priority decision making
- 1.2.2.1.1 Council decisions will be in accordance with the Community Strategic Plan

FOR COUNCILLOR'S INFORMATION:

16 February 2010

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne

Cr K Skinner

RESOLVED that a report be brought forward on an appropriate system that requires authorisation for tree removal on private lands such as implemented in other councils.

Current Status: Workshop conducted on 12 June 2012 and a report is to be prepared for a future Council meeting.

24 January 2012

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

21 [EO-CM] Chinderah Bay Drive Foreshore Masterplan

35

Cr W Polglase

Cr P Youngblutt

RESOLVED that Council:

1. Endorses the Landscape Concept Plans for the Chinderah Foreshore Upgrade, as exhibited.
2. Reallocates a total of \$225,000 in the adopted Infrastructure Program 2011/2012 from the Chinderah Bay Drive foreshore upgrade (Wommin Bay Road to Chinderah Road) to fund additional cost of the roundabout and associated realignment works at the intersection of Chinderah Bay Drive and Wommin Bay Road.
3. Brings forward a report identifying where \$225,000 can be sourced for the completion of the Chinderah Foreshore Upgrade.

Current Status: Funding for this item has been approved in the 2012/13 Budget and the Infrastructure Program 2012/13.

17 April 2012

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

7 [PR-CM] Sale of Goods and Services at Public Markets on Council Controlled Land

212

Cr P Youngblutt

Cr K Milne

RESOLVED that:

4. The General Manager invites the Chief Executive Officer of Destination Tweed to a meeting regarding possible future options of Destination Tweed working with individual market operators to assist in growing the market profiles within the Shire and tourism in general.

Current Status: A meeting is to be organised.

15 May 2012

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 9 [PR-CM] Development Application DA10/0737 for Alterations to Existing Highway Service Centre Comprising Two (2) New Diesel Refuelling Points, Expansion of Truck Refuelling Canopy, New Truck Parking Area (36 New Bays) and the Replacement of Existing Truck

270

Cr P Youngblutt
Cr J van Lieshout

RESOLVED that this item be deferred for four (4) weeks, at the request of the applicant.

Current Status: The applicant has submitted the requested further information. A further report will be submitted to Council once this information has been assessed by Council officers.

26 June 2012

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

- 12 [PR-CM] Development Application DA11/0230 for an Eight (8) Lot Subdivision at Lot 2 DP 626198 No. 178 Byangum Road, Murwillumbah

343

Cr J van Lieshout
Cr P Youngblutt

RESOLVED that this item be deferred to allow the proponent meet with Council staff to discuss possible alternative plans for this site and that a report be brought back to the July Council Meeting.

Current Status: Following the June Meeting, Council officers met with the owners planning consultant. The owner has advised that he is willing to further investigate a revised subdivision layout in order to avoid the need for compulsory acquisition of a stormwater easement on an adjoining private property. It is therefore considered appropriate that Council further defer consideration of this development application to enable the applicant to lodge amended plans.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

27 [CNR-CM] Management and Dedication of Environmental Lands at Kings Forest and Cobaki

364

Cr K Skinner
Cr W Polglase

RESOLVED that this item be deferred for a Workshop to include the proponent, Council officers and Councillors.

Current Status: A Workshop has been held and a separate report will be submitted.

ORDERS OF THE DAY

74 [NOM-Cr D Holdom] Promotional Banners Concept

NOTICE OF MOTION:

418

Cr D Holdom
Cr K Skinner

RESOLVED that the General Manager investigates and reports back to Council on the concept of promotional banners being utilised to promote events/festivals within selected areas of the Tweed as suggested by the Tweed Chamber of Commerce.

Current Status: Investigations currently underway.

88 [NOM-Cr K Milne] Street Tree Planting

NOTICE OF MOTION:

425

**Cr K Milne
Cr B Longland**

RESOLVED that Council brings forward a report on the adequacy of funding in Council's current Section 94 Developer Contribution Plan for Tweed Heads street tree planting, and the possibility of developing a Shire wide Section 94 Plan for the planting of street trees in the Shire's central business areas and particularly South Tweed Heads.

Current Status: A report to be prepared.

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MAYORAL MINUTE

3 [MM-CM] Mayoral Minute - Period from 7 June to 3 July 2012

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- 13 June 2012 - Destination Tweed Extraordinary Meeting - Kingscliff TAFE, Cudgen Road.
 - 13 June 2012 - Tweed Coastal Committee - Murwillumbah Civic Centre (Cr Milne also attended).
 - 22 June 2012 - Richmond Tweed Regional Library, Business Model Consideration Workshop - Byron Shire Council, Mullumbimby (Crs Holdom and Milne also attended).
 - 29 June 2012 - Destination Tweed Board Meeting - Stacks the Law Firm, 75 Wharf Street, Tweed Heads.
-

INVITATIONS:

Attended by the Mayor

- 8 June 2012 - Small Business Round Table Meeting with Councillors and Business Chambers - Murwillumbah Civic Centre (Councillors Skinner, Polglase, Holdom, Milne and Youngblutt also attended)
 - 13 June 2012 - Scoot Airlines, Welcome of Inaugural Flight from Singapore - Gold Coast Airport.
-

- 15 June 2012 - Official Opening of the Hurley Surfing Australia High Performance Centre - 1 Barclay Drive, Mainwaring Precinct, Casuarina Beach (Councillors Skinner, van Lieshout and Youngblutt also advised their attendance).
- 20 June 2012 - Launch and invitation to join the Regional Capitals Australia group - Swan Room, National Convention Centre, Canberra.
- 21 June 2012 - Local Traffic Committee meeting - Mt Warning Room, Murwillumbah Civic Centre.
- 21 June 2012 - Private Citizenship Ceremony - Mt Warning Room, Murwillumbah Civic Centre.
- 21 June 2012 - Murwillumbah High School Arts Week Event - Murwillumbah High School.
- 22 June 2012 - Tyalgum Festival of Classical Music, Dinner Concert Series - Mavis's Kitchen, 64 Mt Warning Road, Uki.
- 25 June 2012 - Lions Club of Cabarita Beach and Pottsville Beach Change Over Dinner - Cabarita Beach Sports Club, Cabarita Road, Bogangar.
- 26 June 2012 - Murwillumbah Lions Changeover Dinner - Murwillumbah Services Club, Wollumbin Street, Murwillumbah.
- 27 June 2012 - 4CRB Radio Talkback with the Mayor - 4CRB Radio, Burleigh Heads.
- 28 June 2012 - Tweed Shire Education and Industry Forum - Kingscliff TAFE.
- 29 June 2012 - Fame the Musical, Opening Night Gala Performance by Tweed Theatre Company - Tweed Civic Centre, Cnr Brett St & Wharf St, Tweed Heads.
- 30 June 2012 - Coal Seam Gas Lock the Gate Alliance Community Celebration - Tyalgum Hall, Coolman Street, Tyalgum.
- 1 July 2012 - NAIDOC Week Flag Raising Ceremony - Minjungbal Museum, Kirkwood Rd, Tweed Heads South.
- 1 July 2012 - National Reserve Forces Day Memorial Service and wreath laying, 110 Year Anniversary of the end of the Boer War - Murwillumbah Services Club, Wollumbin Road, Murwillumbah.
- 3 July 2012 - Combined Tweed Rural Industries Meeting - Murwillumbah Showgrounds (Crs Polglase and Youngblutt also attended).

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

- 7 June 2012 - Official Opening of Murwillumbah Agricultural Trade Training Centre - Murwillumbah High School (Cr Holdom attended).

- 7 June 2012 - NOROC & Legislative Assembly Committee on Economic Development - Twin Towns Services Club, Wharf Street, Tweed Heads (Cr Youngblutt attended).
 - 15 June 2012 - Margaret Olley Art Centre Steering Committee meeting - Marks Family Library, Tweed River Art Gallery (Warren Polglase attended as a committee member).
- 20 June 2012 - Tweed River Art Gallery Foundation Meeting - Tweed River Art Gallery, 2 Mistral Road, Murwillumbah (Warren Polglase attended).

Inability to Attend by or on behalf of the Mayor

- 7 June 2012 - Official Opening of Pathology North by NSW Government Health Northern NSW - Tweed Hospital Pathology Department.
- 17 June 2012 - Head of the Tweed Rowing Marathon and prize giving - Murwillumbah Rowing Club, 33 Tumbulgum Rd, Murwillumbah.
- 29 June 2012 - Kingscliff & District Chamber of Commerce "Members Circle", Meet and Greet - Cudgen Headland Surf Club, Marine Parade, Kingscliff.

REQUESTS FOR WORKSHOPS:

Date of Request	Requested by Councillor	Topic	Councillors For	Councillors Against	Proposed Workshop Date
07/06/12	Cr K Milne	Initiatives to improve housing supply (further to Department of Planning Circular).	Unanimous	None	10 Jul 2012
25/06/12	Cr D Holdom	Floodplain Risk Management and Plan	Unanimous	None	12 Jul 2012

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 17-20 June - 2012 National General Assembly, National Voice, Local Choice – Infrastructure, Planning, Services’ - National Convention Centre, Canberra - Cr Longland attended.

Information on Conferences to be held

There has been no advice, in the period from 7 June to 3 July 2012, of conferences for Councillor attendance prior to 8 September election.

SIGNING OF DOCUMENTS BY THE MAYOR:

- 27 June 2012 - ANZ Loan Drawdown Documentation.
 - 27 June 2012 - Ageing Disability and Home Care Funding Variation Agreement.
 - 27 June 2012 - Community Support Funding Agreements 2013 to 2015.
 - 28 June 2012 - Specific Federal Government Funding Agreement.
-

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.2.

b. Budget/Long Term Financial Plan:

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

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.2 Decisions made relating to the allocation of priorities will be in the long-term interests of the community
- 1.2.2.1 Priority decision making
- 1.2.2.1.1 Council decisions will be in accordance with the Community Strategic Plan

RECOMMENDATION:

That the Mayoral Minute for the period from 7 June to 3 July 2012 be received and noted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

4 [GM-CM] Small Business Assistance

SUBMITTED BY: General Manager



Strengthening the Economy

SUMMARY OF REPORT:

The report is responding to the Mayoral Minute in relation to the Small Business Assistance initiative. The report recommends that a more strategic approach be undertaken in relation to the provision of economic development by Tweed Shire Council to the business community.

RECOMMENDATION:

That Council undertake a workshop in relation to the resourcing and provision of economic development.

REPORT:

The business community of Tweed is operating in challenging times. The high Australian dollar, potential flow on costs from the implementation of a price on carbon, increased energy prices and relatively high rents have increased the cost of undertaking business in the Shire. Added to this environment, is the opportunity or temptation for business operators to set up a comparable business across the border in Queensland where the establishment costs are significantly more affordable and tangible incentives are provided by local government authorities.

The recent Mayoral Minute proposed a number of incentives that would seek to support small businesses in relation to the cost of establishing a new business in Tweed Shire. These incentives were to include:

1. *The waiving of the provision of any additional on site car parking spaces as required under Section A2 – Site Access and Parking Code – Tweed Development Control Plan (DCP) 2008, and any related in-lieu contribution under Tweed Section 94 Contribution Plan No. 23 – “Offsite Parking”, for change of use development applications, lodged after 1 July 2012 and up until 30 June 2013, for the following developments:*
 - a. *those developments defined as either “commercial premises”, “shops”, “refreshment rooms”, or “general stores”, and located within land zoned either: 3(a) Sub-regional Business, 3(b) General Business, 3(c) Commerce and Trade, 3(d) Waterfront Enterprise or 3(e) Special Tourist (Jack Evans Boat Harbour) under the Tweed Local Environmental Plan 2000;*
 - b. *the waiving of the above requirements shall only apply to existing premises with a gross floor area below 250m²; and*
 - c. *the subject developments will still be required to provide any additional delivery and service vehicle parking and loading/unloading facilities within the site, as specified under Section A2 of Tweed Development Control Plan 2008.*
2. *Identification of a designated Business Support Person within Council with the business skills necessary to provide a first point of contact and ongoing advice and support with the applicable planning and regulatory requirements.*
3. *The Development of a Small Business Assistance Package with documentation to include, but not limited to, the following:*
 - a. *An outline of the role of Council's Business Support Person.*
 - b. *The requirements for completion of a development application, specific to business applications.*
 - c. *Applicable fees and contributions.*
 - d. *Zoning considerations.*
 - e. *Regulation of advertising signage.*
 - f. *Health and safety considerations.*
 - g. *The availability of Council's pre-lodgement service and the role of external planning consultants in the application process.*
 - h. *Service level commitments from Council.*

It was determined by Council that a workshop be held to discuss the practical implementation of these initiatives and incentives. As a result of the issues raised in the workshop that was held with the Councillors, it has been proposed that a more strategic approach is required in relation to how Tweed Shire Council intends to support businesses seeking to establish in the Shire, as well as those existing businesses. This strategic approach must identify the partnerships Council must have with businesses, the community and other key stakeholders involved in creating sustainable prosperity.

Tweed Shire is not the only area that has significant pressure being placed on its businesses and there is a diversity of strategies and policies that can potentially be put into place that may support those businesses doing it tough or experiencing challenges. Through the development of a more strategic approach Tweed Shire Council can recognise what other regions or areas are doing to assist business and deal with decline. It is imperative that Tweed Shire Council better understand the needs of business, so as to offer significant policy reform in how Council deals with its business sector. Undertaking a strategic approach to the issues at hand may allow Council to develop a range of incentives and policy reforms that decrease the cost of doing business in the Tweed and thereby stimulate the opportunities to increase economic development, investment and employment.

Tweed Shire Council administers and influences the management of economic assets that deliver important services to local communities. These services and economic assets include roads and footpaths, drainage, water supply and reticulation, waste water reticulation and treatment, waste management, parks, natural areas, productive agricultural land and town centre streetscapes. All of these assets and actions influence economic development and the local business community.

In addition to the management of economic assets, Tweed Shire Council has another important role in relation to the implementation and management of the land use and statutory planning processes that guide the orderly development of the municipality. Council has a role to play in the regulation and operation of businesses and also in relation to the level of contribution that each business makes to the well being of the community.

The main way that Tweed Shire can influence these drivers is through its function as an advocate, facilitator, investigator, planner and service provider for its local community.

It may be that in the future Tweed Shire Council wishes to attract new businesses to the Tweed. Attracting new business to a local area generates employment and increases the diversity and prosperity of the local economy. In many cases businesses are attracted to local areas that offer positive and supportive local business environments, with competitive costs and efficient business start-up processes. Some of the activities that Tweed Shire Council may consider undertaking in the future to attract new businesses include:

- Competitive pricing schedules for infrastructure and services
- Appropriate land zoning
- Marketing and promoting the business advantages of the region
- Developing investor briefs
- Providing a suite of financial incentives for new developments
- Reducing the wait time for development approvals
- Providing a strong, positive first impression to interested businesses

To develop this suite of activities to attract new businesses, Tweed Shire Council will need to consider how it allocates resources to this important activity and the strategic partnerships it needs to establish both internally and externally.

Local businesses are the major driver of the local economy and have a marked impact on the economic strength and sustainability of the Shire. Providing direct assistance and support for existing local business is an important way of building a more resilient economy and generating greater business confidence. It also insures that Council is more in touch with the health of the local economy, understanding where there is the need to diversify businesses and stimulate the economy to ensure prosperity. This is of primary importance for small business or home-based enterprises, the type of business which is particularly prevalent in Tweed Shire, which often lack direct business support or advice.

There are a number of ways that Tweed Shire could consider supporting existing and small businesses in the Shire. These activities could include:

- Marketing and Promotions
- Business matching
- Identification of skill shortages
- Networking events and seminars
- Local business databases
- Information on the local economy
- Streamlined process for development approvals and appropriate zoning
- Business incubators/accelerators and clustering strategies
- Place making
- Business Awards and support of Industry-based organisations
- Improvements in infrastructure
- Formalised and regular meetings with the business community

In many situations, it will be the expansion of local businesses that will deliver the highest yield in investment and employment, therefore it is integral that Tweed Shire consider how it can better engage with both its larger and innovative businesses. Facilitating and sustaining employment and investment growth from local businesses should be a key objective for all local governments, especially Tweed Shire.

With the above in mind it is appropriate that Council take a more strategic approach to how businesses can be better supported in the Shire. It may be that the immediate implementation of a number of incentives may only be seen as a short term or band aid solution by the business community, making it more difficult for Council to establish a longer term partnership with the businesses in the Shire.

Undertaking a strategic approach also will allow Council to ascertain how resources can be best allocated to the needs of business. The identification of a designated Business Support Person within Council is a worthwhile initiative and may be welcomed by the business community, but it is important to recognise that this role may require further support and the ultimate location of the role within the structure of the organisation may directly relate to the level of effectiveness that it may deliver.

A more strategic approach to economic development and supporting businesses within the Shire is likely to be progressed through an additional workshop that deals with a broader range of issues that those outlined in the Mayoral Minute. The additional workshop will also allow for further discussion to occur in relation the Notice of Motion put forward by Councillor Polglase that allocates additional funds to economic development activities.

OPTIONS:

1. That Council undertake a workshop in relation to the resourcing and provision of economic development; or
2. That Council not undertake a workshop in relation to the resourcing and provision of economic development.

CONCLUSION:

The facilitation of a workshop in relation to broader strategic economic development issues will allow Council and its officers to respond to the changing issues in the local economy in a more informed manner.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Through a Notice of Motion, \$100,000 has been allocated for the facilitation of economic development outcomes.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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5 [GM-CM] Murwillumbah Cattle Saleyards

SUBMITTED BY: Business and Economic Development



Strengthening the Economy



Civic Leadership

SUMMARY OF REPORT:

At its meeting held on 24 January 2012, Council authorised the General Manager to negotiate the sale of the Murwillumbah Cattle Saleyards as a going concern and to extend the current lease for a further nine (9) months to 21 October 2012.

To comply with Council's Disposal of Land Policy, Council is required to advertise its intention to sell the land, with a 21 day submission period and to then report to Council whether any submissions have been received prior to resolving to sell the land.

In light of the approaching Council elections and the required timeframe to abide by the Disposal of Land Policy, it is recommended that Council resolve to allow the lease to enter a holding over period on a month to month basis from 21 October 2012 until the land is sold.

RECOMMENDATION:

That Council approves the lease for the Murwillumbah Cattle Saleyards entering into a holding over period from 21 October 2012, on a month to month basis, until the land is sold.

REPORT:

At its meeting held on 24 January 2012, Council authorised the General Manager to negotiate the sale of the Murwillumbah Cattle Saleyards as a going concern and to extend the current lease for a further nine (9) months to 21 October 2012.

Council has consulted with the Lessee and representatives of the combined rural industries regarding the proposal to sell the yards.

Due to the approaching Council elections, this report includes a schedule of the actions required to effect the sale of the saleyards.

1. To comply with Council's Disposal of Land Policy, Council is required to advertise its intention to sell the land, with a 21 day submission period, and at its expiry, the preparation of a report to Council detailing any submissions received. Generally such a report would, if no submissions are received, include a resolution to sell the land by auction or public tender.
2. It is anticipated that the report following the submission period would be available for the Council meeting on 21 August, 2012. The caretaker period for the Council elections will commence on 10 August 2012, which precludes Council from making any resolutions regarding any undertaking involving the receipt by Council of an amount equal to or greater than \$150,000.

Therefore the report will be made available for the first Council meeting to be held after the next Council has been established following the elections.

3. The Policy further provides that Council is required to obtain a valuation to ascertain the current market value of the yards prior to selling. The valuation shall be obtained so that the determination can be included in the report.

To commence the necessary actions to sell the yards in accordance with the Disposal of Land Policy and to take into account the local government elections, it is recommended that Council resolve to allow the lease to enter a holding over period on a month to month basis from 21 October 2012 until the land is sold.

OPTIONS:

1. **Extend the lease on a month to month basis until the land is sold; or**
2. **Close the saleyards on 21 October 2012.**

CONCLUSION:

As the saleyards continue to be used, and Council intends to sell the yards as a going concern, the preferred option is to allow the yards to remain active whilst Council undertakes the sale process in accordance with the Disposal of Land Policy.

COUNCIL IMPLICATIONS:

a. Policy:

Disposal of Land Version 1.1.

b. Budget/Long Term Financial Plan:

Nil.

c. Legal:

Not Applicable.

d. Communication/Engagement:

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

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
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required
- 3 Strengthening the Economy
- 3.4 Provide land and infrastructure to underpin economic development and employment
- 3.4.3 Manage Council business enterprises to provide economic stimulus and maximise returns to the community
- 3.4.3.3 Operate a cattle saleyard at Murwillumbah

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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6 [GM-CM] Australia Day Advisory Committee of Council

SUBMITTED BY: Communications and Marketing



Supporting Community Life

SUMMARY OF REPORT:

The Tweed Australia Day Committee has up to 20 community representatives who assist Council with the selection of nominations for the Australia Day Awards. It has been more than a decade since a general invitation has been made to Tweed residents to join the Committee and the purpose of this report is to seek Council's endorsement for the calling of expressions of interest. This will help to encourage Tweed residents to be involved in the awards nominations process and will also assist with greater awareness of the Committee and its activities.

The Australia Day Advisory Committee is to become a Committee of Council and operate under Council's Code of Conduct. As well as selecting the Australia Day awards, the Committee will advise and support Council in the promotion of nominations as widely as possible throughout the community. Council will review the selection of awards by the Committee at the December Council meeting. The expressions of interest process for Committee members will be renewed every four years.

RECOMMENDATION:

That Council calls for expressions of interest from across the Shire to be part of the Australia Day Advisory Committee and thanks the outgoing Committee for their service to the community over many years.

REPORT:

The Tweed Australia Day Committee has up to 20 community members who assist Council with the selection of nominations for the Australia Day Awards and many also help organise local celebrations on Australia Day each year. It has been more than a decade since a general invitation has been made to Tweed residents to join the committee and the purpose of this report is to seek Council's endorsement for the calling of expressions of interest. This will help to encourage Tweed residents to be involved in the awards nominations process and will also assist with greater awareness of the Committee and its activities.

The renewal of the Committee membership may also help to increase the number of nominations, which have been declining in recent years. The Committee will assist Council to provide greater awareness and reach into the community for the awards. The expressions of interest process will be renewed every four years.

Council calls for nominations in October each year for several categories of the Tweed Shire Australia Day awards including Citizen of the Year and Volunteer of the Year. The nominations are considered by the Australia Day Committee and selected awardees are presented with certificates at the main Australia Day function.

The Australia Day Advisory Committee is a Committee of Council and operates under Council's Code of Conduct. As well as selecting the Australia Day awards, the Committee advises and supports Council in the promotion of nominations as widely as possible throughout the community. Council will review the selection of awards by the Committee at their December Council meeting.

Council organises the official Shire Citizenship Ceremony and Awards Presentation held on Australia Day, 26 January, where 30 to 50 residents are welcomed as new citizens of Australia to the Shire and awardees receive their certificates. NSW Australia Day Committee (Department of Premier and Cabinet) assists Council by providing an Australia Day Ambassador, who is usually a well known sports, arts or community representative to present the awards. Council also provides promotional and in-kind support to small community based celebrations that are held in parks, sport centres and community halls on Australia Day. All events are listed in the Tweed Link and included in Council's calendar of events on the website.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Budget \$15,000 allocated to Australia Day celebrations.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Empower-We will give the community greater opportunity to participate in a transparent flow of information and feedback to Councillors who have been empowered as the Community representatives to make decisions in accordance with the Local Government Act 1993.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.6 Provide social, economic and cultural initiatives which enhance access, equity and community well-being
- 2.1.6.8 Host Council facilitated events in the Tweed
- 2.1.6.8.1 Host annual community and educational events in the Tweed

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Tweed Shire Australia Day Advisory Committee Terms of Reference (ECM 52876894)
 - 2. Tweed Shire Australia Day Advisory Committee Expression of Interest as a Community Member Form (ECM 52876886)
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7 [GM-CM] World Rally Championship Coffs Harbour 2011

SUBMITTED BY: Communications and Marketing



Strengthening the Economy

SUMMARY OF REPORT:

At the Council meeting of 15 November 2011, Council resolved:

"The General Manager brings back a report clearly showing the economic impact of the World Rally Championship in Coffs Harbour in 2011 in comparison to the rally held in Tweed Shire in 2009".

A letter requesting information from Destination NSW was forwarded on 1 March 2012 (Attachment 1). To date no response has been received.

A report was tabled in Parliament in August 2010 with regard to the 2009 Repco Rally held in the Tweed and Kyogle shires (refer Attachment 2). The 2009 Repco Rally Report was a requirement under the *Motor Sport (World Rally Championship) Act 2009*. The Act does not require similar reviews to be undertaken for successive Rally events.

While there was no economic impact report of the World Rally Championship 2011 held at Coffs Harbour tabled in Parliament, Southern Cross University undertook a survey (Attachment 3) of the impacts of the World Rally Championship 2011 on the Coffs Coast Business Community (Arianne C. Reis and Grant Cairncross 2011). This was a small, low budget study that provides a picture of the event's successes and problems, but cannot be used to measure the full impact of the event on that local business community.

The basis of Dr Reis' findings was on 226 surveys completed by businesses based in the region. According to Dr Reis's report, approximately an extra \$460,000 was recorded as additional revenue by the businesses surveyed and 34 percent of business indicated that they had additional customers compared to the same time the previous year. Still a considerable proportion of businesses reported losses due to the event, but aggregated data indicates that a net gain was reported by surveyed businesses.

A media release from Rally Australia following the 2011 event in Coffs Harbour said it had a higher than expected final attendance total of 92,223. This is compared to the total attendance at the 2009 Repco Rally event in Tweed and Kyogle of 86,000.

RECOMMENDATION:

That Council receives and notes the update on the Notice Motion of 15 November 2011 regarding the economic impact of the Coffs Harbour 2011 World Rally Championship event in comparison to the rally held in Tweed Shire in 2009.

REPORT:

A report was tabled in Parliament in August 2010 with regard to the 2009 Repco Rally held in the Tweed and Kyogle shires (refer Attachment 2). The 2009 Repco Rally Report was a requirement under the *Motor Sport (World Rally Championship) Act 2009*. The Act does not require similar reviews to be undertaken for successive Rally events.

A media release from Rally Australia following the 2011 event in Coffs Harbour said it had a higher than expected final attendance total of 92,223. This is compared to the total attendance at the 2009 Repco Rally event in Tweed and Kyogle of 86,000.

In 2011 more than 25,000 attended the Super Special stage at The Jetty, Coffs Harbour and there were also large numbers at the spectator points on the various stages. Less numbers attended the Super Special stage at Murwillumbah in 2009 with approximately 18,000 but to offset this, the spectator points were overwhelmed with people particularly in Kyogle.

Rally Australia Chairman Ben Rainsford said of the 2011 Rally *"we reached saturation point on local accommodation very early and we had to span out ...but that has been good for surrounding shires."*

Rally Australia announced on 20 June 2012 that it has signed a contract with Federation Internationale de l'Automobile to stage another round of the World Rally Championship in Australia in 2013. The final date is yet to be determined as it depends on freighting the vehicles and teams to Australia. Discussions are still underway on Australia being allocated an annual event.

According to Rally Australia the most recent staged event in Coffs Harbour proved highly popular with fans and international competitors. *"Locals embraced the event with unprecedented enthusiasm"*. Coffs Harbour will host the Bosch Australian Rally Championship on 13 – 14 October this year.

While there was no economic impact report of the World Rally Championship 2011 held at Coffs Harbour tabled in Parliament, Southern Cross University undertook a survey (Attachment 3) of the impacts of the World Rally Championship 2011 on the Coffs Coast Business Community (Arianne C. Reis and Grant Cairncross 2011). This was a small, low budget study that provides a picture of the event's successes and problems, but cannot be used to measure the full impact of the event on that local business community.

The basis of Dr Reis' findings was on 226 surveys completed by businesses based in the region. According to Dr Reis's report, approximately an extra \$460,000 was recorded as additional revenue by the businesses surveyed and 34 percent of business indicated that they had additional customers compared to the same time the previous year. Still a considerable proportion of businesses reported losses due to the event, but aggregated data indicates that a net gain was reported by surveyed businesses.

In brief the survey found that some businesses benefited and others lost business as locals and the usual visitors stayed away. Negative comments focussed mainly on what was perceived as an over estimation of visitors by Rally Australia 2011 organisers.

The vast majority of survey respondents wanted the event to come back to the region, with 88% of businesses supporting staging more major events in the region. Most respondents were positive about the Rally event and emphasised the positive feedback from visitors to the region and the festive atmosphere the event brought to town. Several respondents mentioned the long-term benefits that may be derived from the positive exposure of the region to other markets, possibly attracting new visitors and trade to the region.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

In a related matter, Council is currently pursuing an outstanding debt with regard to the 2010 Speed on Tweed track build to which Rally Australia is a joint shareholder. This matter will be the subject of a further report to Council.

c. Legal:

Advice has been sought regarding the outstanding Speed on Tweed debt.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities
- 3.1.2 Attract major events to the Tweed

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Letter to Destination NSW dated 1 March 2012 (ECM 46971658)
 2. A review of the impact on the Northern Rivers region of the World Rally Championship 2009 (ECM 52879037)
 3. Commissioned Study by Southern Cross University - The impacts of Rally Australia 2011 on the Coffs Coast Business Community (ECM 52719030)
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REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

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

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:

- (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

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

SUBMITTED BY: Director



Civic Leadership

SUMMARY OF REPORT:

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

RECOMMENDATION:

That Council notes the June 2012 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

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

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

DA No.	DA10/0704
Description of Development:	35 lot subdivision (32 industrial lots)
Property Address:	Lot 2 DP1139059, Lot 1 DP232745, Lot 17 DP712954, Lot 228 DP1122768 & Lot 10 DP1071301 No. 10 Lundberg Drive, No. 92 Wardrop Valley Road, Quarry Road and Wardrop Valley Road, South Murwillumbah
Date Granted:	28/6/2012
Development Standard to be Varied:	Clause 20(2)(a) - Minimum lot size 40ha
Zoning:	7(l) Environmental Protection (Habitat)
Justification:	Variation to clause 20(2)(a) land zoned 7(l) area of at least 40 Hectares. The existing lot is already less than 40ha, with the proposed lot remaining less than 40ha. In addition, the area zoned 7(l) is less than 40ha (approximately 9ha).
Extent:	Development standard is 40ha with the proposed allotments size being approximately 9ha.
Authority:	Director General of the Department of Planning and Infrastructure

DA No.	DA12/0125
Description of Development:	Two storey dwelling and in-ground swimming pool
Property Address:	Lot 46 DP 1027531 No. 7 Beason Court, Casuarina
Date Granted:	28/6/2012
Development Standard to be Varied:	Clause 32B(4)(b) - overshadowing
Zoning:	2(e) Residential Tourist and 7(f) Environmental Protection (Coastal Lands)
Justification:	Council has received an application to construct a single residence on the subject property. The property is beach front land in an approved residential subdivision. A SEPP No. 1 variation is sought to Clause 32B of the North Coast Regional Environmental Plan 1988 relating to overshadowing of waterfront open space. The proposed two storey dwelling will cast a shadow on the adjacent waterfront open space during the nominated times in the development standard. The Shadow encroachment cast by the development into the foreshore is considered only minor and will have minimal impact on the public's enjoyment of the foreshore land. The shadows cast only impacts on the coastal dune vegetation and do not reach the beach.
Extent:	The Shadow encroachment cast by the development into the foreshore is considered only minor and will have minimal impact on the public's enjoyment of the foreshore land. The shadows cast only impact approximately 12.5 metres into the coastal dune vegetation and do not reach the beach, which is approximately 125m from the rear property boundary.
Authority:	Tweed Shire Council under assumed concurrence

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

No-Legal advice has not been received.

Attachment of Legal Advice-Not Applicable.

d. Communication/Engagement:

Not Applicable.

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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9 [PR-CM] Aboriginal Cultural Heritage Management Plan update and Memorandum of Understanding

SUBMITTED BY: Planning Reforms

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



Supporting Community Life

SUMMARY OF REPORT:

This report has two purposes; to provide an update on the progress being made with the Draft Aboriginal Cultural Heritage Management Plan (ACHMP) and, to seek Council's endorsement of a Memorandum of Understanding (MOU) and the signatories to it.

Following grant funding approval from the NSW Heritage Office Local Government Heritage Planning in June 2011 Converge Heritage + Community Pty Ltd (Converge) were appointed as Council's Consultant in December 2011, following an extensive tender process.

Critical to the success of the ACHMP is open and meaningful consultation and information sharing with the Aboriginal community, both through the Aboriginal Advisory Committee (AAC) the wider Aboriginal community and also the public generally.

Fundamental to this process and for ensuring the proper guardianship and management rights of the information in a culturally acceptable manner is the necessity for an MOU detailing the roles and responsibilities and custodianship of the main parties involved in preparing the Plan and providing the information and for clarifying those who are empowered to speak about country.

To date Council and Converge have been consulting with the AAC. The AAC, as the representative body for the Aboriginal Community, provide the signatory role to the MOU however, the project will require wider consultation with other Aboriginal groups, as acknowledged in the preamble to the MOU. Tweed Council, represented by the Mayor and the General Manager are recommended, along with the Group General Manager representing Converge.

The report seeks Council's endorsement of the MOU and a commitment to abide by its protocols, particularly with regard to communication generally, parameters for sharing of information, protection of sensitive information and keeping places.

RECOMMENDATION:

That:

- 1. The Memorandum of Understanding between Tweed Shire Council, the Tweed Shire Aboriginal Advisory Committee and Converge Heritage + Community Pty Ltd guiding the preparation of the Tweed Shire Aboriginal Cultural Heritage Management Plan is endorsed by Council.**
- 2. The Mayor and General Manager be authorised to sign the Memorandum of Understanding on behalf of Council.**

REPORT:

Background

As part of the updating of the Community Based Heritage Study (CBHS), recommenced in March 2011, and a Notice of Motion by Council (20 July 2010), it was highlighted that an Aboriginal Cultural Heritage Management Plan (ACHMP) was required to complement the CBHS, which is focussed on the built and natural European heritage of the Tweed.

In February 2011 a grant application was lodged through the NSW Heritage Office Local Government Heritage Planning Study Projects funding. In June 2011 Council was notified that this application was successful, receiving a funding offer up to \$50,000.

At the Council Meeting of 19 July 2011 Council resolved:

- "1. The report on the Grant to Undertake the Aboriginal Cultural Heritage Study be received and noted; and*
- 2. Council endorses the acceptance of the successful NSW Heritage Office grant to undertake the preparation of an Aboriginal Cultural Heritage Management Plan for the Tweed and votes the expenditure."*

Council has matched the grant funding on this project.

In August 2011, Council undertook a formal tender process seeking a qualified consultant to assist with the preparation of the ACHMP. Converge Heritage + Community Pty Ltd (Converge) were engaged in December 2011 and commenced the project in January 2012.

The ACHMP broadly aims to provide a planning framework to support:

- The Aboriginal community's sense of identity – of its beginnings, its present and its future;
- A thematic history which will assist the Elders to educate and pass on knowledge to both the Aboriginal and non-Aboriginal community;
- A sense of ownership and cultural awareness within the Aboriginal community.
- Heritage tourism strategies; and
- Management strategies, processes and procedures for the consideration and assessment of development for the Aboriginal community, Council staff and the wider community.

The preparation of the ACHMP is undertaken consistent with the NSW Office of Environment and Heritage (OEH) guidelines, as follows:

- *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*
- *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*
- *Operational Policy: Protecting Aboriginal Cultural Heritage*
- *Guide to Determining and Issuing Aboriginal Heritage Impact Permits*
- *Protecting Aboriginal Objects and Places*

The success of the ACHMP is critically dependent on consultation with the Aboriginal community, both through the Aboriginal Advisory Committee (AAC) and the wider Aboriginal community, to ensure acceptance of the project, its aims and outcomes and to ensure that as the management plan is developed, information is shared and/or revealed in a culturally appropriate manner and with the community's and Council's agreement.

To date Council and Converge have been consulting with the AAC. The AAC, as the representative body for the Aboriginal Community, provide the signatory role to the MOU, however, the project will require wider consultation with other Aboriginal groups, as acknowledged in the preamble to the MOU, which is provided as an attachment to this report.

Aboriginal Cultural Heritage Management Plan aims and outcomes

The ACHMP aims to specifically:

1. Develop an effective working relationship with the local Aboriginal community groups and Local Aboriginal Land Council.
2. Identify and assess the significance of known, and any potential, Aboriginal cultural heritage which may be located within the Tweed Shire area and potentially impacted by future development.
3. Develop strategies to manage Aboriginal sites and places and to assist in developing a protocol for ongoing Aboriginal community liaison.
4. Ensure the input of the Aboriginal community is sought and recorded as part of this process to ensure appropriate outcomes for all groups are reached.
5. Provide the Aboriginal community and wider Tweed Shire community with a historical record of the Aboriginal people of the Shire.
6. Develop sound management guidelines and policies to assist in minimising any possible impact on Aboriginal cultural heritage and implement those policies as part of the planning and development assessment processes.
7. Provide clarity and understanding for Aboriginal people, residents, Council staff and proponents of development seeking to:
 - a) Determine the presence of Aboriginal heritage;
 - b) Submit a development application;
 - c) Understand the legislative requirements and processes which must be complied with; and
 - d) Understand what results may be expected from the process.
8. To develop Aboriginal cultural heritage identification, appropriate and acceptable to the Aboriginal community for inclusion in the Heritage Schedule of the Tweed LEP.

The ACHMP is a five stage project encompassing the following key outcomes:

1. Consultation with the Aboriginal community and development of a MOU between the Council, the Consultants and the AAC, as representatives of the Tweed's Aboriginal community groups.

2. Documentary research and culturally appropriate mapping of known sites and places, including destroyed and damaged sites.
3. A thematic history of Aboriginal culture in the Tweed. A thematic history is not developed chronologically; rather it is based on historic themes. The themes are still to be determined in consultation with the Aboriginal community.
4. Landform and predictive modeling for Aboriginal sites and places. This component of the project will develop predictive mapping based on a sound methodology including assessment of landscape elements and Aboriginal community input.
5. Recommendations for land use planning and Aboriginal cultural heritage management.

Aboriginal Cultural Heritage Management Plan Memorandum of Understanding

The MOU is a significant first step in the project as it seeks to clarify the roles and responsibilities of the parties; outline communication protocols, such as who may speak for Country, ensure protection of sensitive cultural information and keeping places; and outline the above broad project objectives.

Converge have been working closely with the AAC, as Council's representative body of the Aboriginal community. In turn the AAC members have been disseminating information to the wider Aboriginal community and representing their views into the process.

Council staff are encouraged by the in principle support for the project shown by the Aboriginal community and their willingness to work with Council staff to achieve the outcomes of the project, particularly with regard to increasing the recognition and the need for better management of Aboriginal cultural heritage.

The Tweed Byron Local Aboriginal Land Council (TBLALC) is proactively consulting with the local Aboriginal community and recently published an article on the project in their newsletter of April 2012.

The AAC members attended a half day work shop on the project which had a specific focus on the development of the MOU on 14 March 2012. This is a recurring item on the AAC monthly agenda that promotes ongoing consultation and liaison on the project.

A draft MOU was tabled at the AAC on 4 May 2012 for the review of the representatives and the community. Feedback on the draft MOU was provided at the following AAC meeting of 1 June 2012.

At the June AAC meeting, the MOU was accepted in principle with the following knowledge and considerations:

- *The group was advised that Council would be required to continue its process of internal review, information sharing and endorsement of the MOU document which may include reporting to Councillors and Council Executive.*
- *That Converge would touch base with members who were both on leave at the time of the meeting to ensure that any questions or considerations they may have were considered prior to the next AAC meeting in July. Converge have subsequently undertaken the follow up meetings and feel that there is support to present the MOU in its current form to Council in readiness for the AAC representatives to sign at an agreeable time.*

- *That a semi-formal meeting to recognise the signing of the MOU, once finalised, could take place at a convenient date and time with the three signatory groups was well received by all.*
- *The MOU will be further discussed with a view to gain final endorsement at the July 13 AAC meeting.*

It is noted that the MOU nominates an Aboriginal community nominee for assisting with the project. The AAC are still working through their decision on the nominee(s) for the MOU. The nominee(s) will be detailed prior to the final signing of the MOU.

The MOU, provided in Attachment 1, represents a commitment by Tweed Council, the AAC, as the representative body of the local Aboriginal Community, and Converge to work collaboratively and in accordance with the requirements agreed in the MOU. The document is to be signed by all three parties to the agreement. As such it is an important step that Council endorses the MOU and abides by its protocols, particularly with regard to communication generally, parameters for sharing of information, protection of sensitive information and keeping places.

It should also be noted that the MOU is not a contract and is not legally binding but rather a statement of the parties commitments to each other.

Next steps

Signing of the MOU is a significant milestone in the project and will allow the extensive engagement, research and modelling of stages 2-5 of the project to proceed and without which will severely jeopardise the project aims being attained.

OPTIONS:

1. That the Memorandum of Understanding between Tweed Shire Council, the Tweed Shire Aboriginal Advisory Committee and Converge Heritage + Community be endorsed by Council and that Council staff make suitable arrangement for signing of the MOU. This will enable the effective progression of delivering ACHMP and the attainment of its core objectives; or
2. That Council does not endorse signing of the Memorandum of Understanding between Tweed Shire Council, the Tweed Shire Aboriginal Advisory Committee and Converge Heritage + Community. This would severely limit the ability of, if not prevent, the Council staff and Converge to complete the ACHMP and would significantly compromise the relationship between Tweed Council and the Aboriginal community.

CONCLUSION:

The development of the MOU and acceptance of the MOU by the Aboriginal community through the AAC is a significant milestone in the success of the ACHMP.

The MOU represents a commitment by the Council, the AAC, as the representative body of the local Aboriginal Community, and Converge to work collaboratively and in accordance with the requirements agreed in the MOU. As such it is an important step that Council endorses the MOU and abides by its protocols, particularly with regard to communication generally, parameters for sharing of information, protection of sensitive information and keeping places.

The MOU provided as Attachment 1 to this report comprises the MOU to be signed by the parties and may be subject to minor variation. It is suitable for endorsement.

COUNCIL IMPLICATIONS:

a. Policy:

Aboriginal Statement Version 1.3.

b. Budget/Long Term Financial Plan:

The project is jointly funded by the NSW Heritage Branch and Council. The NSW Heritage Branch funding requires completion of the project by May 2013.

c. Legal:

The MOU is not intended to be, construed, or used as, a contract, deed or other legal instrument binding on the parties at law. It is a formal statement of the parties' intentions and commitments to each other in respect of the project.

d. Communication/Engagement:

Empower - We will give the community greater opportunity to participate in a transparent flow of information and feedback to Councillors who have been empowered as the Community representatives to make decisions in accordance with the Local Government Act 1993.

Involve/Collaborate - We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.2 Preserve Indigenous and Non-Indigenous cultural places and values
- 2.1.2.2 Pro-active awareness and advice to the community and Councillors on impacts of any new strategic plans or policies on Indigenous cultural places and values

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Aboriginal Cultural Heritage Management Plan Memorandum of Understanding (ECM 52581476)
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10 [PR-CM] Tweed Development Control Plan 2008 - Section B15 Seabreeze Estate Pottsville, Amendment No. 1

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/DCP/B15 Pt1



Civic Leadership

SUMMARY OF REPORT:

At its meeting of 19 October 2010, Council resolved to amend the Tweed Local Environmental Plan 2000 (TLEP 2000) to enable the use of a number of properties immediately north of the 'Seabreeze Estate' for urban purposes. A Development Control Plan (DCP) is required prior to the development of the subject site to address the following matters:

- Manage the distribution and availability of reticulated wastewater in light of capacity constraints within the existing network;
- Analyse the existing DCP designation for a potential future school; and
- Reinforce the need for a 50m riparian buffer to Cudgera Creek, as per the Tweed Coast Estuaries Management Plan.

The wastewater and riparian buffer matters are straight forward and present no major issues for the drafting and implementation of the DCP.

In terms of the existing DCP designation for a future school site, the NSW Department of Education and Training (DET) have recently provided verbal advice that the site will not be required, and have undertaken to provide a written confirmation of this advice.

Concurrently, the current owners of the site Metricon have advised Council that, given the DET's lack of interest in purchasing the site, they are urgently seeking for Council to proceed with the amended DCP process, to provide them greater certainty and to advance a development application for the residential subdivision of the designated school site.

Given the time elapsed since the original school concept, this is considered to be a reasonable request.

It is therefore recommended that Council endorse the preparation and public exhibition of an amendment to Section B15 - Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008, including the removal of the identification of the current school site within the northern, undeveloped portion of the Seabreeze Estate.

RECOMMENDATION:

That:

1. The preparation of an amendment to Section B15 – Seabreeze Estate, Pottsville of the Tweed Development Control Plan 2008 to remove the identification of the school site within Seabreeze Estate be endorsed;
2. The amended Tweed Development Control Plan Section B15 – Seabreeze Estate, Pottsville be publicly exhibited for a minimum period of 30 days, in accordance with section 74E of the *Environmental Planning Assessment Act 1979* be endorsed; and
3. Following public exhibition of Draft Tweed Development Control Plan, Section B15 – Seabreeze Estate, Pottsville, a further report is submitted to Council on the public consultation.

REPORT:

At its meeting of 19 October 2010, Council resolved to amend the Tweed Local Environmental Plan 2000 (LEP 2000) to enable the use of a number of properties immediately north of the 'Seabreeze Estate' for urban purposes. The subject land is identified in Figure 1 below.

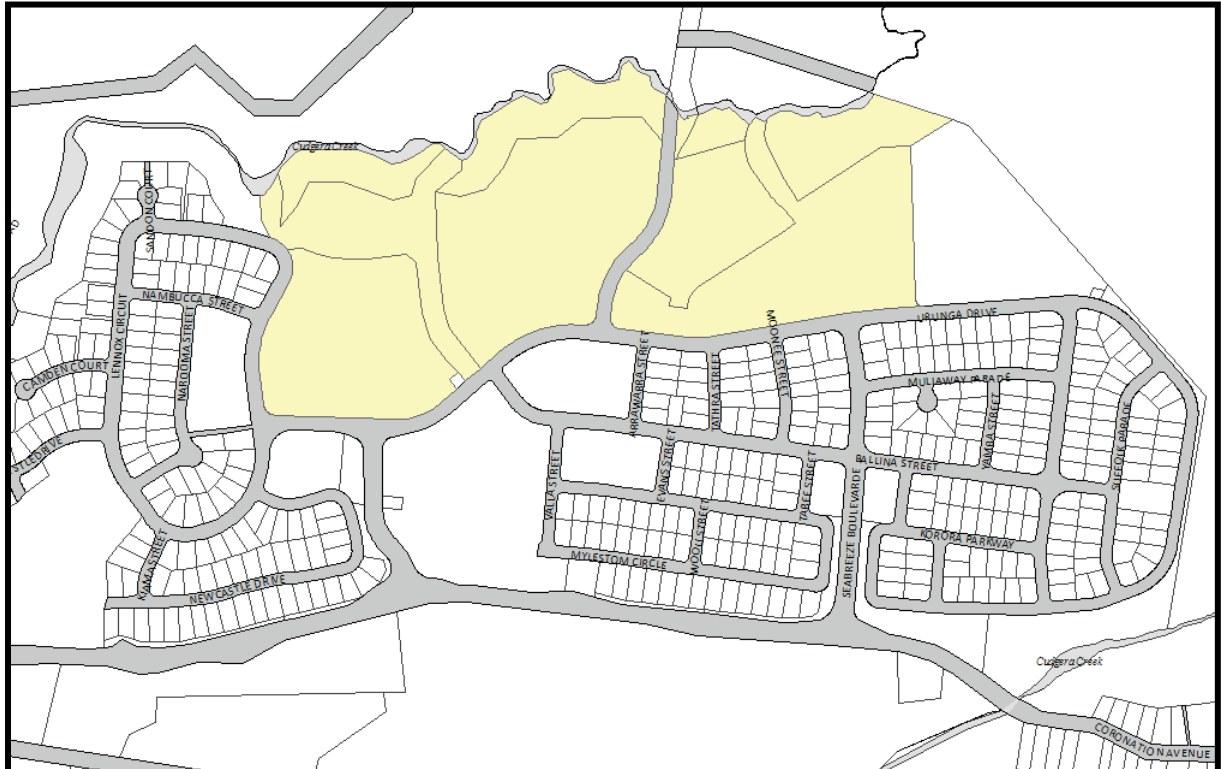


Figure 1 – LEP Amendment Area

As part of the LEP amendment, Clause 53E, requires preparation of a Development Control Plan (DCP) to address a range of matters, prior to the development of the subject land. An amendment to the current DCP Section B15 – Seabreeze Estate, satisfies this clause and would enable the DCP to be amended to address the following outstanding matters:

1. Manage the distribution and availability of reticulated wastewater in light of capacity constraints within the existing network;
2. Analyse the existing DCP designation for a potential future school; and
3. Reinforce the need for a 50m riparian buffer to Cudgera Creek, as per the Tweed Coast Estuaries Management Plan

The landowner has prepared and submitted a DCP amendment request, which is currently being reviewed by Council staff. The DCP amendment will adequately address points 1 and 3 above and seeks the removal of the identified school site to enable other residential land uses of this site. The requested DCP amendment has not yet been comprehensively drafted and will occur upon receipt of a Council resolution on this matter.

History

Prior to consolidation of all Tweed Development Control Plans into one Development Control Plan in 2008, the Seabreeze Estate Development Control Plan was titled Development Control Plan No. 38 – Seabreeze Estate Pottsville, which came into force on 1 January 2000. Within this document an indicative Structure Plan (titled Map 7 and displayed in Figure 2) identified a 'Potential School Site'. This DCP carried over into the consolidated DCP as DCP Section B15 – Seabreeze Estate.

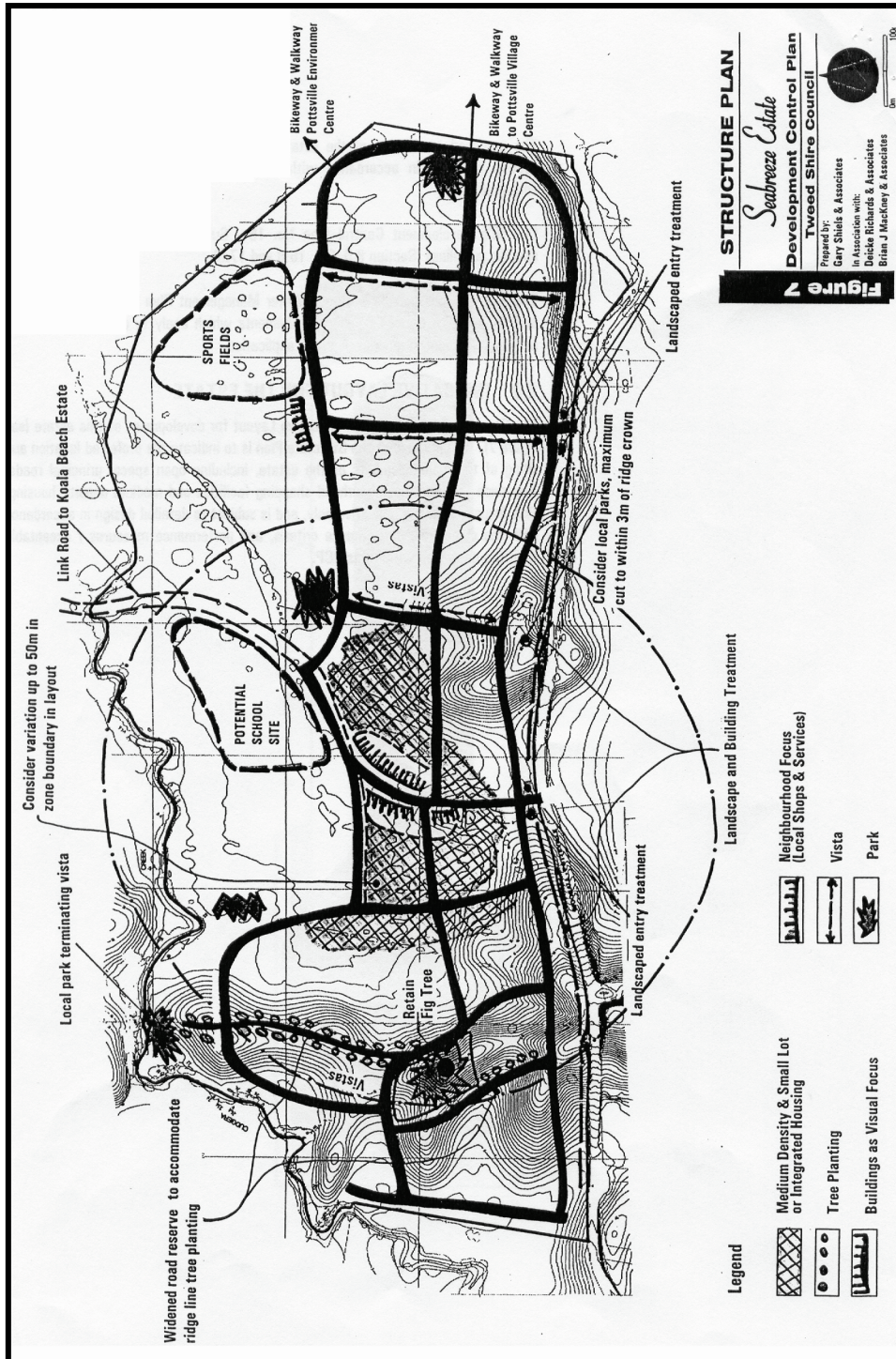


Figure 2 – DCP 38 – Indicative Structure Plan

The subdivision and associated works was approved by Tweed Shire Council and development consent issued on 7 September 2000 (Development Application K99/1837). Within the approved masterplan, an area of 6 hectares was identified for a 'Possible School Site'. The possible school site was located in keeping with the indicative provisions of DCP 38.

In June 2008, Council endorsed a Whole of Shire Cultural and Community Facilities Plan (CFP). The CFP made a number of recommendations, of which the following are relevant to the subject site and the wider Pottsville locality:

- The use of a 40% threshold in the provision of community facilities in the Tweed local government area (LGA) in order to ensure that the highest level of social cohesion and development of social capital are achieved in all localities across the region, i.e. Whilst youth centres should be provided at a rate of 1 per 20,000 people, once a population of 8,000 is achieved, a youth facility should be provided.
- An estimated 3 year lead time for the development of primary schools and 5 years for high school provision.
- An additional high school is required within the coastal catchment.
- 2 additional preschools are required within the coastal catchment.

Section B21 - Pottsville Locality Based Development Code (the Code) was adopted in April 2010. The Code sought to embody the CFP's findings and after considering population demographics, growth rates and the opportunities for further residential development within the locality concluded there would be demand for additional primary school and establishment of a local high school within in Pottsville. The Code undertook a desktop analysis of a number of potential sites, including the subject site and identified that:

- The site, identified in DCP Section B15 – Seabreeze Estate, is logically placed; neighbouring playing fields in both Seabreeze Estate and Koala Beach as well as the Seabreeze-Koala Beach link road, allowing an effective cross utilisation of existing infrastructure;
- The identified site is still largely in a 'greenfield' state, allowing appropriate opportunities to achieve a high quality, use specific outcome; and
- There is also opportunity for the development of a child care centre, integrated with a 'neighbourhood shop' site adjoining, to consolidate community uses.

The Code ultimately concluded identification of a school site within Seabreeze Estate or within the Dunloe Park Release Area should be explored as the priority and suitable locations.

The Local Environmental Study undertaken to facilitate the LEP amendment (completed in 2010) indicated that the land could cater for a school.

School Site Demand

Discussions with Department of Education and Training (DET) staff over the past 12 months have identified that there is currently insufficient demand to warrant a High School within the Pottsville locality, however demand may be present for a Kindergarten and/or Primary School. Consistent with these findings, DET formally requested the landowner identify a 3 hectare school site in any amendment to the DCP.

With regards to the actual acquisition process, DET provided the landowner with the following information:

“The Department is not in the position to purchase the site this financial year, and possibly the following as funding allocations have been locked in.

The provision of a new School in Pottsville is still contingent on enrolment projections at the current school at Pottsville being achieved and the Dunloe Park Development progressing.

The site acquisition will generally occur in the financial year prior to the planning of the school. Developers can gift the land to the Department as part of their State Infrastructure Contribution and claim the credit to hasten the acquisition of land by the Department.”

In light of the above advice, the landowner finalised the DCP amendment request, without identifying a designated school site. Within the submitted DCP amendment request, the applicant specifically states:

“...please note that we have not had final advice from the Department of Education in relation to acquisition of a proposed school site in Stage 15 and therefore we have retained the residential designation. Exhibition of the amended draft Development Control Plan will provide the Department with an opportunity to finally determine if they want a site and if so, a commitment to acquire the site promptly.”

A copy of the requested DCP amendment has referred to DET officers for formal comment; however comments are not anticipated to be received until August. Informal discussions with DET staff indicate that that local demographic trends, enrolment projections and timing of future urban release areas within Pottsville (specifically Dunloe Park) continue to be monitored. DET is also monitoring the progress of a separate Catholic primary school application currently before Council in Charles Street, Pottsville. This proposal is to cater for 420 students from Kindergarten to Grade 6.

Based on current trends and potential school facilities in Pottsville village centre the demand for an additional state primary school in Pottsville is likely to be delayed for the foreseeable future.

Whilst a potential school has long been earmarked for the subject site, it does not appear that the demand for such infrastructure will arise in the immediate to short-term. The release of Dunloe Park is likely to be the threshold for DET in requiring any additional state school, as opposed to residual growth remaining in the undeveloped urban areas within the Pottsville locality. The Dunloe Park urban release area is not anticipated to provide actual population growth within the next five years. This is the basis of the DET not prioritising the need for acquisition of land for a primary school site at this time and represents a significant time delay to the landowners of the subject site should a 3 hectare parcel be retained as a possible school site. This should nonetheless be weighed against the proponent's commitment to providing a school site in the original masterplan for the Seabreeze Estate upon which development consent was granted.

The removal of the school site designation does not preclude a school being developed on the subject site in a legal sense as this is a permissible landuse under the existing 2(a) Low Density Residential zone. However, in a practical sense this is likely to be the net result as the landowner has expressed an intention to erect 141 single dwelling lots and 9 multi-dwelling housing' lots resulting in 18 dwellings in its place

In light of the above and to provide a fair opportunity for the proponent to test their proposed amendment it is recommended that the Draft DCP amendment be prepared and publicly exhibited as this will give DET and the wider public an opportunity to provide formal comment on the amendment, prior to Council having to make a final decision on whether the amendment is appropriate in the circumstances.

From a strategic planning perspective, the land use shift from a school to residential uses does reduce the potential for the integration of vibrant community uses within the Seabreeze Estate, which the masterplan and subsequent DCP foreshadowed. Whilst the Seabreeze Estate is still to develop its 'Town Centre', which is to include retailing activities appropriate to the day-to-day needs of the precinct's residents, the remainder of the estate has been largely developed as intended for residential and open space purposes, as well as an aged care development.

OPTIONS:

1. Act on the proponent's request to amend the DCP by removing the school site designation and thereby permit additional residential landuses, or
2. Reject the proponent's request to amend the DCP thereby retaining the school site designation, or

The officers recommend Option 1.

CONCLUSION:

The DCP amendment seeks to remove the identification of a potential school site to enable the development of that land for residential purposes.

The provision of an additional school for the Pottsville locality has long been discussed amongst the community, developers, Council and education providers. Since 2000, the subject land within Seabreeze Estate has been identified for a potential school site. When considering the previous land size allocation and surrounding infrastructure provision, the most likely use was for a high school. However, more recent population and demographic trends, as well as other factors in the way educational needs can be accommodated have led DET to conclude that a high school is not required for the foreseeable future and subsequently indicated a preference to retain a reduced footprint for a primary school. This is now in doubt with DET most recently indicating that an alternative site in the future may be more appropriate to meet their and the community's needs.

DET have not currently prioritised acquisition of land within the Pottsville locality for a school site and have indicated that the Seabreeze site is not required. Written confirmation from the DET is yet to be received.

Given the uncertainty and timeframes involved for the required population growth thresholds it is considered appropriate to prepare and publicly exhibit an amendment to the Tweed Development Control Plan 2008 Section B15 – Seabreeze Estate, Pottsville. This will involve the removal of the school site designation for public exhibition purposes to allow for community comment on the proponent's request.

It is concluded that the best means for testing the appropriateness of the proposal, and to allow time for DET to consider and formally respond on the issue, is to proceed with a Draft DCP to public exhibition.

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.

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
 - 1.5.1 Sustainable management of the population in accordance with strategic decisions of previous councils, the NSW and Commonwealth Governments and the Far North Coast Regional Strategy, including provision of amenities, infrastructure and services
 - 1.5.1.1 Preferred population or environmental carrying capacity of the Tweed
 - 1.5.1.1.1 Council planning documents are prepared in accordance with the State Plan and North Coast Regional Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

11 [PR-CM] PP10/0001 Boyds Bay Garden World Planning Proposal - Lot 10 DP 1084319 Banksia Street - Referral to Department of Planning and Infrastructure to Have the Plan Made

SUBMITTED BY: Planning Reforms

FILE REFERENCE: PP10/0001 Pt4



Civic Leadership



Strengthening the Economy

SUMMARY OF REPORT:

This report provides an overview of the public exhibition process, an assessment of submissions received and seeks the resolution of Council to refer the attached Planning Proposal to the Department of Planning and Infrastructure (DP&I) to have the Draft Amendment to the Tweed Local Environmental Plan (TLEP) made.

At the Council meeting of 20 September 2011 Council resolved to publicly exhibit Planning Proposal PP10/0001 for Lot 10 DP 1084319, Banksia Street, Tweed Heads West, commonly known as the Boyds Bay Garden World site.

The original Planning Proposal as presented to the Gateway for determination was for a rezoning of the site from the current 1(a) Rural zone to 3(c) Commerce and Trade under the TLEP 2000 to facilitate a mixed use employment generating development comprised predominantly of business park styled development.

Prior to public exhibition, the proponents requested a variation to the agreed landuse composition from predominantly Business Park, trade and industrial, to one predominantly of bulky goods retail, which was endorsed by Council at its meeting of 17 April 2012.

Public exhibition occurred during the period 23 May 2012 to 22 June 2012 and concluded with four submissions received. These consisted of one in support, and three raising concern, largely about a perceived uncertainty regarding the ultimate mix of land-uses. The report addresses the issues raised through the public exhibition and strategies for managing future land-use ahead of concluding that the Draft LEP Amendment is suitable to be made.

RECOMMENDATION:

That Council endorse:

- 1. Planning Proposal PP10/0001, Lot 10 DP 1084319 Banksia Street, Tweed Heads West, commonly known as the Boyds Bay Garden World site, for rezoning from 1(a) Rural to 3(c) Commerce and Trade, as provided as in Attachment 1 to this report be referred to the Department of Planning and Infrastructure to be made in accordance with section 59 of the Environmental Planning and Assessment Act 1979; and**

2. **A site-specific Development Control Plan be prepared for the site consistent with the requirements of Draft Tweed Local Environmental Plan 2000 (Amendment No.93), Clause 53G.**

REPORT:

Purpose of the report

This report provides advice on the public exhibition of Planning Proposal PP10/0001 Boyds Bay Garden World site, Lot 10 DP 1084319, Banksia Street, Tweed Heads West and seeks Council's endorsement to refer the Proposal to the Department of Planning and Infrastructure (DP&I) to have the LEP amendment made.

Background

Council received a Gateway Determination Notice dated 6 September 2010, which specified a one year completion timeframe from that date for the LEP amendment to be made. Subsequent extensions have been granted with the current deadline for making of the Plan now being 13 December 2012.

This Planning Proposal has been reported to Council on a number of occasions, with the latest report of 17 April 2012 endorsing an amendment to draft clause 53G under TLEP 2000 for a variation of the composition of landuses on the site from a development comprising predominantly business park style development, to one which is predominantly bulky goods retail.

Due to the extent of constraints affecting the site, its proximity and alignment to the Gold Coast Airport runway, the Pacific Highway Tugun Bypass, and potential other local road network related issues, a range of studies were prepared in addition to those mandated by the Gateway Determination, and detailed consultation with Gold Coast Airport Limited (GCAL), and Roads and Maritime Services (RMS) undertaken prior to exhibition.

The draft Planning Proposal was placed on public exhibition during the period 23 May 2012 to 22 June 2012, during which time four submissions were received. These are addressed in a further section of this report.

Overview of the Planning Proposal

The Planning Proposal supports a request by the proponents for a rezoning of the site from 1(a) Rural to 3(c) Commerce and Trade under TLEP 2000, or B7 Business Park under draft TLEP 2012.

The final Planning Proposal can be viewed in Attachment 1 to this report; but can be summarised as seeking to provide flexibility to develop contemporary employment generating opportunities within a business park style development consisting of a mix of landuses not previously available under Council's planning provisions.

Need for a Development Control Plan

While rezoning of the site will facilitate outcomes of the Planning Proposal, detailed provisions regarding appropriate landuse composition, development standards, and planning controls will be defined in a site-specific Development Control Plan (DCP) to be prepared for the site.

LOCALITY PLAN



Locality Plan

Planning Proposal PP_2010_TWEED_001_00 -- Lot 10 DP 1084319
Parkes Drive, Tweed Heads West

Figure 1

<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a 'dial before you dig' enquiry must be made by calling 3100. The information contained on this document remains valid for 30 days only from the date of supply.</p>	<p>Cadastra: 26 August, 2011 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</p>	<p>0 0.5 1 Km 1:50,000 @ A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</p> <p>GDA Map Projection: Universal Transverse Mercator Horizontal Datum: Geostatic Datum of Australia 1994 Grid: Map Grid of Australia, Zone 56</p>	<p>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484 PO Box 816 Murwillumbah NSW 2484 T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</p>	 <p>TWEED SHIRE COUNCIL</p>
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Public Exhibition and Consultation

In accordance with the resolution of Council on 20 September 2011 and the requirements of the Gateway Determination dated 6 September 2010, Planning Proposal PP10/0001 Boyds Bay Garden World site was publicly exhibited during the period 23 May 2012 to 22 June 2012, along with the following additional information and supporting documentation:

- Public Exhibition Notice;
- Gateway Determination;
- Revised concept plans;
- Council Report of 20 September 2011;
- Draft LEP Amendment 93;
- Transport Assessment Report;
- Gold Coast Airport Impact Operational Study;
- Odour Dispersion Modelling;
- Stage 1 Preliminary Site Investigation – Site Contamination;
- Preliminary (Due Diligence) Cultural Heritage Assessment;
- Aircraft Noise Impact Assessment; and
- Economic Impact Assessment.

Copies of the studies and exhibition material are provided on CD under separate cover to this report.

The public exhibition material was made available at the Tweed Heads and Murwillumbah Civic and Cultural Centres and on Council's website, with two notifications presented in the Tweed Link on 22 May and 5 June 2012.

Direct notification of the public exhibition was sent to the seven adjoining landowners.

Submissions

Four submissions were received in response to the public exhibition. One submission was received from a private individual, and one each from Roads and Maritime Services, Gold Coast Airport Limited, and DEXUS Property Management Group. Each submission is summarised and a response presented below.

Roads and Maritime Services

Summary of submission

The submission refers to previous correspondence dated 27 April 2012 (Copy attached to submission) which references the revised traffic study prepared by Bitzios Consulting based upon the revised landuse composition of the site being predominantly bulky goods retail.

The letter provides support for the proposal conditional upon a number of road and pedestrian improvement works being constructed during the development of the site.

Response

Support of the proposal conditional upon the undertaking of road and pedestrian improvement works as prescribed in the letter of 27 April 2012 is acknowledged.

Details of these road and pedestrian improvement works will be included in the DCP to be endorsed by Council prior to the making of this plan by the DP&I.

Gold Coast Airport Limited

Summary of submission

The Gold Coast Airport Limited (GAL) submission refers to previous correspondence dated 14 July 2011 which advised that GCAL's position concerning development of the site remains unchanged since its even earlier letter of 18 November 2009 and its submission to the then draft Employment Lands Strategy in 2008.

The submission notes the substantial changes which have occurred to the original proposal commented upon in earlier stages of the planning process, and the general lack of detail and fresh analysis of the currently exhibited proposal. Approval of the new Master Plan for the airport and potential impact of revised ANEF contours on the site which may be somewhat more severely impacted by aircraft noise.

Devotion of the majority of the site's floor space to bulky goods retail and office activities will impose requirements for enhanced insulation against aircraft noise. It also raises concerns about "Public Safety Zones" affecting land near the end of airport runways which should not attract large concentrations of people, and has suggested that the type of development proposed should be discouraged from such locations.

The submission concludes with a suite of matters for consideration when preparing the associated DCP, which includes itemising the issues of relevance under the Airports Act and Protection of Airspace Regulations, noise attenuation requirements and requests that Council adopt the contents of the GCAL letter of 14 July 2011 and the aircraft noise acoustic review by Wilkinson Murray dated 12 July 2011, which address matters such as height limits, public safety, lighting restrictions, emissions, turbulence and aircraft noise.

Response

While a number of matters have been raised which will require detailed assessment at the development application stage, no matters have been raised in the GCAL submission which would prevent the rezoning of the site to 3(c) Commerce and Trade.

Notwithstanding the desire to minimise concentrations of people near the end of the airport runway, and absence of any formal Public Safety Zone under New South Wales legislation, any activities or development which attracts large concentrations of people should be addressed at the development application (DA) stage and through requirements of the DCP and is not seen as an impediment to the rezoning.

Matters raised in the GCAL letter of 14 July 2011 and the Wilkinson Murray report of 12 July 2011 will be considered during preparation of the DCP.

Community

Summary of submission

Two submissions were received, one supporting the proposal on the basis of a need for "new economic activity", while the second raised a number of matters specific to the strategic intent and final composition of the site, and seeks clarification from the proponent prior to advancing the matter.

Concerns were raised about the lack of certainty about the end landuse(s) of the Planning Proposal which if not fully considered could adversely impact economic viability of the Shire's existing centres, and lack of evidence/economic analysis to support the proposal based on an assumption that the site will be developed predominantly retail based activities.

It was requested that the Planning Proposal be amended by removing shops as a nominated permissible use, and the zone objectives be strengthened to provide greater certainty as to the retail role of the site and its relationship with the surrounding retail hierarchy.

These points are expounded further noting that the development, being a “retail shopping destination” implies that the development will be characterised by predominantly retail uses and not a business park as proposed or intended by the future B7 zone, and suggests clearer objectives about the retail role of the site.

It was further claimed that the introduction of shops as a permissible use specifically for the Boyds Bay site will have the effect of removing the requirement for consistency with the provisions of clause 8(2) of the TLEP 2000 and that adequate provisions exist within the 3(c) Commerce and Trade zone, and it is recommended that the removal of clause 53(G)(4), which makes shops permissible with consent, from draft LEP Amendment 93.

Response

The Planning Proposal as presented to, and the Gateway Determination received from, the DP&I refers, in its most general terms, to a rezoning from Rural 1(a) to 3(c) Commerce and Trade.

At this stage in the planning process it is to be expected that only very broad conceptual development outcomes can be anticipated as was presented in the original planning proposal, which was composed predominantly of ‘business park’ style development, comprising principally of business, commerce, industry, trade, and retail.

Subsequent to the receipt of the Gateway Determination the proponent, in response to more detailed market investigations has sought an amendment to the composition of the landuses on the site seeking to develop the site predominantly as a bulky goods retail style development, yet with other landuses supporting the development of the site to assist in creating more of a destination.

When first identified for inclusion in the Tweed Urban and Employment Land Release Strategy 2009 (TUELRS), the site was envisaged as being part of a much larger employment generating envelope known as Site 2- Airport Precinct, which included land to the west and north. Since then, this adjoining land has been withdrawn from the TUELRS, leaving the Boyds Bay Garden World site, an area of just over five hectares, now isolated yet still suitable for development.

This relative isolation, small area, and other limitations imposed by the adjoining road network, including the Tugun Bypass, adjoining West Tweed Waste Water Treatment Plant, absolute controls imposed by its proximity and alignment to the Gold Coast Airport runway, and landuse mix and design controls to be imposed by the DCP, present this site as a unique location but with a need for a coordinated approach to maximise its development potential.

This proposal is for a rezoning to 3(c) Commerce and Trade zone under the current LEP and is intended to translate to the B7 Business Park zoning under the Draft TLEP 2012 (Standard Instrument LEP). This latter zoning when in force will facilitate employment generating development which is both contemporary and, flexible, and that can adapt to meet market demand and community expectations.

While the original studies were prepared for development dominated by business park style development, additional investigations were completed to the satisfaction of RMS showing that development of the site with a focus on bulky goods retail could be achieved without adversely affecting traffic generation rates, conditional upon certain road improvement works being undertaken. Likewise, limitations imposed under Federal legislation related to proximity to Gold Coast Airport runway will remain regardless of whether the site is developed for industrial, commercial, or retail uses, and as such will be addressed in detail at the DA stage through standards and controls embedded in the site-specific DCP.

Concept plans have been exhibited showing an indicative layout for the site, which can only be used as an indicator of potential ultimate development of the site. It will only be at the development application stage that a detailed assessment of any proposal can be undertaken. The proponent has now presented a concept for development of the site dominated by bulky goods retail (19,416m²), some business park development (6,584m²), and shops as an additional permitted with consent use, thereby providing flexibility in development outcome as intended and discussed above.

Regarding the request to have shops removed as an additional permissible with consent use, shops are conditional permissible within the current 3(c) Commerce and Trade zone should they satisfy the requirements of clause 8(2) of TLEP 2000.

Clause 8(2) requires the consent authority to be satisfied that:

- the development is necessary for any one of the following reasons:
 - it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,
 - it meets an identified urgent community need,
 - it comprises a major employment generator, and
- there is no other appropriate site on which the development is permitted with consent development (other than as advertised development) in reasonable proximity, and
- the development will be generally consistent with the scale and character of existing and future lawful development in the immediate area, and
- the development would be consistent with the aims of this plan and at least one of the objectives of the zone within which it is proposed to be located.

Under draft TLEP 2012, in the equivalent B7 Business Park zone, shops will similarly be permissible with consent albeit without the need to comply with the additional provisions of clause 8(2).

The intent of both the 3(c) Commerce and Trade zone, and clause 8(2) of TLEP 2000, and the objectives of the proposed B7 Business Park zone under draft TLEP 2012 is that shops be permissible with consent, the assessment of which would occur at the development application stage through guidance provided by the site-specific DCP.

This proposal is for a bulky goods retailing venture which, based on the concept plans provided estimates a maximum gross floor area of about 19,416m², and business park development of about 6,584m², leaving limited land for any additional landuses. The clear focus of this proposal is for bulky goods retail development with some business park and retail development to a scale substantially subordinate to the predominant landuse.

Consistent with the more flexible approach to employment generating land development, and given the scale of bulky goods retail on the site, and the intent of the site as a stand alone destination, a component of small scale retail development could form part of an overall development of the site.

Certainty about the final development outcome for the site will rely heavily upon the DCP to be prepared prior to the making of the plan by the DP&I. Matters relating to the final composition of landuses on the site, traffic generation limitations, and airport operational requirements will be embedded in the DCP for the site.

In response to the submission, an additional aim has been added to draft Amendment 93 addressing the need to retain the retail primacy of Tweed Heads South.

In summary, concerns raised in the submission are well presented and it is agreed that further clarification of the intended final landuses would have assisted in allaying concerns about the potential of this site to compete with established retail centres in the Tweed. However, the revised proposal for the site is for a bulky goods retail and business park style development with some shops to be permitted on a limited scale, all of which will be controlled by the site-specific DCP to be endorsed by Council.

The proponent's response to this submission can be viewed in Attachment 2 which clarifies the intended potential future landuses of the site, the intended character being mixed commercial and bulky goods retail consistent with other business park developments, and the subordinate role of retail development on the site.

Post Exhibition Amendments to Draft Amendment 93

In response to the review of the submissions and to ensure that issues raised are better represented, the following additional wording has been added to the aims of Draft Tweed LEP 2000 (Amendment 93):

1. Additional Aim added reading "Retain the primacy of the retail centre of Tweed Heads South, and
2. Additional Aim added reading "Ensure that proximity to Gold Coast Airport and traffic related matters are addressed.

Council owned land

The Proposal does not include any Council owned land.

OPTIONS:

That:

1. Council adopt the recommendation to refer the Planning Proposal to the Department of Planning and Infrastructure to make the plan, and proceed to preparing a Development Control Plan; or
2. Council decides not to proceed with the Planning Proposal, and provide reasons for doing so.

The Council officers recommend Option 1.

CONCLUSION:

Planning Proposal, PP10/0001, Boyds Bay Garden World site, seeks rezoning of the site from 1(a) Rural to 3(c) Commerce and Trade under TLEP 2000, B7 Business Park under Draft TLEP 2012.

The site presents a range of unique constraints relating to its relative isolation and proximity to the West Tweed Waste Water Treatment Plant, Gold Coast Airport and the Tugun Bypass.

While the original proposal was for development dominated by business park style development, the planning proposal and revised concept plans as placed on public exhibition was for a development dominated by bulky goods retail with a component of business park style development and retail.

While the majority of studies were prepared for the original business park development, further traffic investigations were undertaken to ensure that the traffic generating impact of the revised planning proposal did not alter the impacts simulated for the original proposal. The RMS submission supports the revised proposal.

Of the four submissions received, one was supportive, and the remainder raised issues to be addressed in the site-specific DCP, and included the strategic context of the site and the potential for development to compete with existing retail centres in the Tweed, traffic generation impacts, and development standards as relating to airport operations were considered relevant to be considered in more detail in the DCP.

Rezoning of the site will provide opportunity for the creation of further employment generating opportunities in the Tweed.

It is concluded that Planning Proposal PP10/0001 Lot 10 DP 1084319, Banksia Street, Tweed Heads West, commonly known as the Boyds Bay Garden World site, as exhibited, and identified in Attachment 1 with minor amendments, is suitable to be referred to the DP&I for the Plan to be made.

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.

This report responds to the submission made in response to the public exhibition of Planning Proposal PP10/0001. Further community consultation will be undertaken as part of the future DCP process for this site.

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
- 1.5.3.1 Effective updating of Tweed LEP
- 3 Strengthening the Economy
- 3.4 Provide land and infrastructure to underpin economic development and employment
- 3.4.1.1 Supply of employment lands

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Planning Proposal (ECM 52914235)
 - 2. Proponent's response to DEXUS submission (ECM 52914239)
 - 3. Draft Tweed LEP Amendment 93 - clause 53G Boyds Bay Business Park (ECM 52914240)
 - 4. Gateway Determination (ECM 52914253)
 - 5. Revised concept plans (ECM 52915256)
 - 6. Traffic Assessment Reports (ECM 52915259)
 - 7. Gold Coast Airport Impact Operational Study (ECM 52915283)
 - 8. Odour Report (ECM 52915296)
 - 9. Site Contamination Report (ECM 52915299)
 - 10. Cultural Heritage Assessment (ECM 52915339)
 - 11. Aircraft Noise Impact Assessment (ECM 52916419)
 - 12. Economic Impact Assessment (ECM 52917442)
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12 [PR-CM] Development Application DA03/0476.02 for an Amendment to Development Consent DA03/0476 for the Establishment of an Art Gallery/Coffee Shop to Include a Refreshment Room & Extend Trading Hours on Saturdays Including the Option of Live Music at Lot2 DP 575934; No. 17 Bambery Street, Fingal Head

SUBMITTED BY: Development Assessment

FILE NUMBER: DA03/0476 Pt4



Civic Leadership

SUMMARY OF REPORT:

Approval was granted in October 2003 for an art gallery/coffee shop to include a refreshment room and extend trading hours to 11.30pm on Saturdays including the option of live music.

Along with an outdoor dining area within the road reserve, the approval required three car spaces to be provided on site.

Following a complaint, the applicant was asked to re-instate the three spaces for the purposes of parking, as required under the conditions of development consent.

The applicant subsequently has lodged this application, proposing to delete all parking requirements from the subject site, as well as extending trading hours on Friday nights to 9.00pm and Sunday nights to 8.00pm.

Council staff have undertaken a thorough assessment of the proposed modifications against the provisions of Council's parking policy and do not support the removal of parking requirements from the development site.

Given the substantial amount of public submissions on this development application, Council's Director Planning and Regulation considered that it was appropriate to refer the matter to Council for determination.

This report highlights the issues raised by the proposed development and provides reasons for refusal of the proposed modifications.

RECOMMENDATION:

That:

- A. Development Application DA03/0476.02 for an amendment to Development Consent DA03/0476 for the establishment of an art gallery/coffee shop to include a refreshment room and extend trading hours on Saturdays including the option of live music at Lot 2 DP 575934; No. 17 Bambery Street, Fingal Head be refused for the following reasons:**

1. The proposed modification is not considered to be consistent with the provisions of Clause 8(1)(c) of Tweed Local Environmental Plan 2000, in that the deletion of onsite parking provisions would have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.
 2. The proposed modification is not considered to be in accordance with the provisions of Council's Development Control Plan Section A2 – Site Access and Parking Code, in that onsite parking provisions are not being maintained.
 3. The proposed modifications are considered not to be in the public interest, with regard to the precedent the proposal would set if parking requirements were removed.
 4. The proposed modification to extend trading hours is not supported, given the non-compliance with existing approved trading hours.
 5. The proposed modification to use the approved parking area for alternate uses is not supported, in that the area is required for on site car parking purposes.
- B. The applicant is formally advised in writing that:**
- The three approved car spaces are to be reinstated on site;
 - The use of live music on a Sunday is to cease;
 - The development must comply with existing approved trading hours;
 - A Section 138 application must be submitted to Council for approval within 60 days of the date of the written notification in relation to all structures within the road reserve;
 - A development application must be submitted within 60 days of the date of the written notification in relation to all signage associated with the development.

REPORT:

Applicant: Ms A McKay
Owner: Mr Richard B Steenson
Location: Lot 2 DP 575934 No. 17 Bambery Street, Fingal Head
Zoning: 2(a) Low Density Residential

BACKGROUND:

The subject site is located on Fingal Road, adjacent to the intersection with Bambery Street, overlooking the Tweed River to the west and adjacent reserve. The following is a summary of the history of the development of the site.

Existing Use

- 8 September 1993 – Council acknowledged that the marine showroom (Fingal Head Marine) had existing use rights.

D93/487

- Approved 25 March 1994 for the “*conversion of an existing commercial vacant building to two (2) separate occupancies being **retail plant nursery, arts and craft shop and an office** for business development advice*”.
- The application noted that there was provision for three car spaces on site.
- Council’s Development Assessment Panel (DAP) minutes acknowledge that the provision of on-site parking is limited and not in accordance with Development Control Plan (DCP) 2, however it also notes the existing use situation.
- A condition of consent (Condition 14) required “*the provision of **three (3) on site car spaces** to be suitably located and marked out to the satisfaction of Council’s Director of Development Services*”.

D93/487.01

- Proposed amendments to engineering conditions and proposed change of use to ‘Shop 1’ from Business Consultancy to a Real Estate office.
- The assessment noted no objection to the change of use – no change to parking requirements.
- Approved 8 July 1994 for the “*conversion of an existing commercial vacant building to two (2) separate occupancies being **retail plant nursery, arts and craft shop and a Real Estate office** for business development advice*”.
- A condition of consent (Condition 14) remained the same, requiring “*the provision of three (3) on site car spaces to be suitably located and marked out to the satisfaction of Council’s Director of Development Services*”.

K99/96

- This application proposed to locate the three car spaces at the rear of the existing dwelling, accessed off Bambery Street. This design was not supported and the applicant was requested to provide the three spaces on the existing concrete slab accessed off Fingal Road. The applicant was also requested to provide turning areas to allow vehicles to turn and leave in a forward direction.

- Approved 11 May 1999 for the “**addition of a staircase to an existing dwelling and amenities to a commercial building**”.

K00/0303

- The applicant proposed a change of use to ‘Shop 1’ for a tea and coffee shop to allow for serving beverages and cakes. The proposal also requests an extension of art gallery opening hours. Also included provision of an outdoor eating area containing five tables and 20 seats within the road reserve – consent not required for this component.
- The DAP report notes the conversion of 21m² of office area to a kitchen for the provision of tea and coffee. No indoor seating proposed – only outdoor seating in road reserve, which did not trigger parking requirements.
- The DAP report acknowledged that three car spaces exist on site for the commercial building, which has existing use rights. The report concludes that no additional parking is required.
- The report also notes the following:

“On street parking in front of the site will not be able to be provided due to the width of the road and the location of the site. However, the site is in close proximity to the Fingal boat ramp which has ample car parking. It is noted that Council’s Engineering Services Division has raised no objections to the application in this regard.”
- A Deferred Commencement approval was issued on 28 April 2000 for the purposes of a “**coffee shop and extension of art gallery opening hours**”.
- The approved plan indicates the three car spaces (as approved under K99/96). **No specific conditions were applied with regard to car parking.**
- Condition 5 states that ‘no customer seating for the coffee shop is to be provided within the boundaries of the subject land’.
- The deferred commencement condition stated that ‘the toilet facilities approved by way of development consent K99/96 are to be installed and operational to the satisfaction of the Director Environment and Community Services’. Council records do **not** show that the deferred commencement conditions were met.

K00/0303.01

- The applicant proposed an amendment to the operating hours of the gallery in July 2002. The applicant was trying to change the nature of the coffee shop to a refreshment room, which was a change of use. The applicant was request to withdraw the application and submit a new Development Application. The Section 96 was withdrawn in August 2002.

DA03/0476

- Fresh application for use of a refreshment room (as opposed to the approved coffee shop) and art gallery. The application also requested an extension to trading hours to 11.30pm on Saturdays with live music on Saturdays to 10.30pm.

- The DAP report notes the following:
 - *DCP 2 does not generate the need for on-site parking to be provided for alfresco dining. The existing development operates under a footpath dining agreement with Council. All of the existing seating is located on the road reserve and is therefore regulated by the footpath dining agreement.*
 - *The existing development and the proposed refreshment room with extended hours will utilise the same area of land regulated by the footpath dining agreement, and therefore the proposed development does not generate any on-site car parking requirements.*
 - *The existing consent for the site requires the provision of three (3) on-site car parking spaces accessed by a driveway from Fingal Road. These exist on the site however casual seating has been placed over these spaces. Conditions of consent would be imposed ensuring that these three car parking spaces are provided.*
- A Deferred Commencement approval was issued on 27 October 2003 for the establishment of an “**art gallery/coffee shop to include a refreshment room & extend trading hours to 11.30pm on Saturdays including the option of live music**”. The consent was limited to a 12 month period from when it becomes operational.
- Condition 10 required ‘*the provision of **three off street car parking spaces** as identified on the approved plan for Development Consent K2000/303. The layout and construction standards to be in accordance with DCP2*’.
- Condition 5 states that ‘*no customer seating for the coffee shop shall be provided within the boundaries of the subject land*’.
- The deferred commencement condition stated that ‘*the applicant shall demonstrate compliance with all of the conditions of consent contained in K2000/303. This shall include providing proof of payment for monetary contributions and a written submission demonstrating compliance with other conditions. **The site shall be provided with the on-site car parking as identified on the approved plan***’. Council records do show that the deferred commencement conditions were met and the **consent was operation from 1 November 2004**.

DA03/0476.01

- Proposed amendment to remove Condition 2, which limited the consent to a period of 12 months only.
- Prior to the assessment being determined, Council staff met with the applicant to resolve outstanding matters such as:
 - The post and rail fence running parallel with Fingal Road is to be removed and reinstated on the agreed outdoor dining lease alignment;
 - Vegetation outside the correctly aligned fence alignment had to be removed to improve sight lines for motorists exiting Bambery Street; and
 - Car parking requirements were not being kept clear for use as customer car parking.
- All of the above issues were resolved prior to approval being issued.

- It was also noted that the description of the development consent had erroneously noted the proposed trading hours as opposed to the approved hours. The amended consent revised the description appropriately.
- Approved 9 May 2006 for the “**establishment of an *art gallery/coffee shop to include a refreshment room & extend trading hours on Saturdays including the option of live music***”.
- No changes to parking requirement – 3 on site spaces.

PROPOSAL:

Following a complaint being lodged in June 2011 against the Sheoak Shack business not operating in accordance with its development consent (in terms of car parking provisions), Council initiated an investigation into the non-compliance.

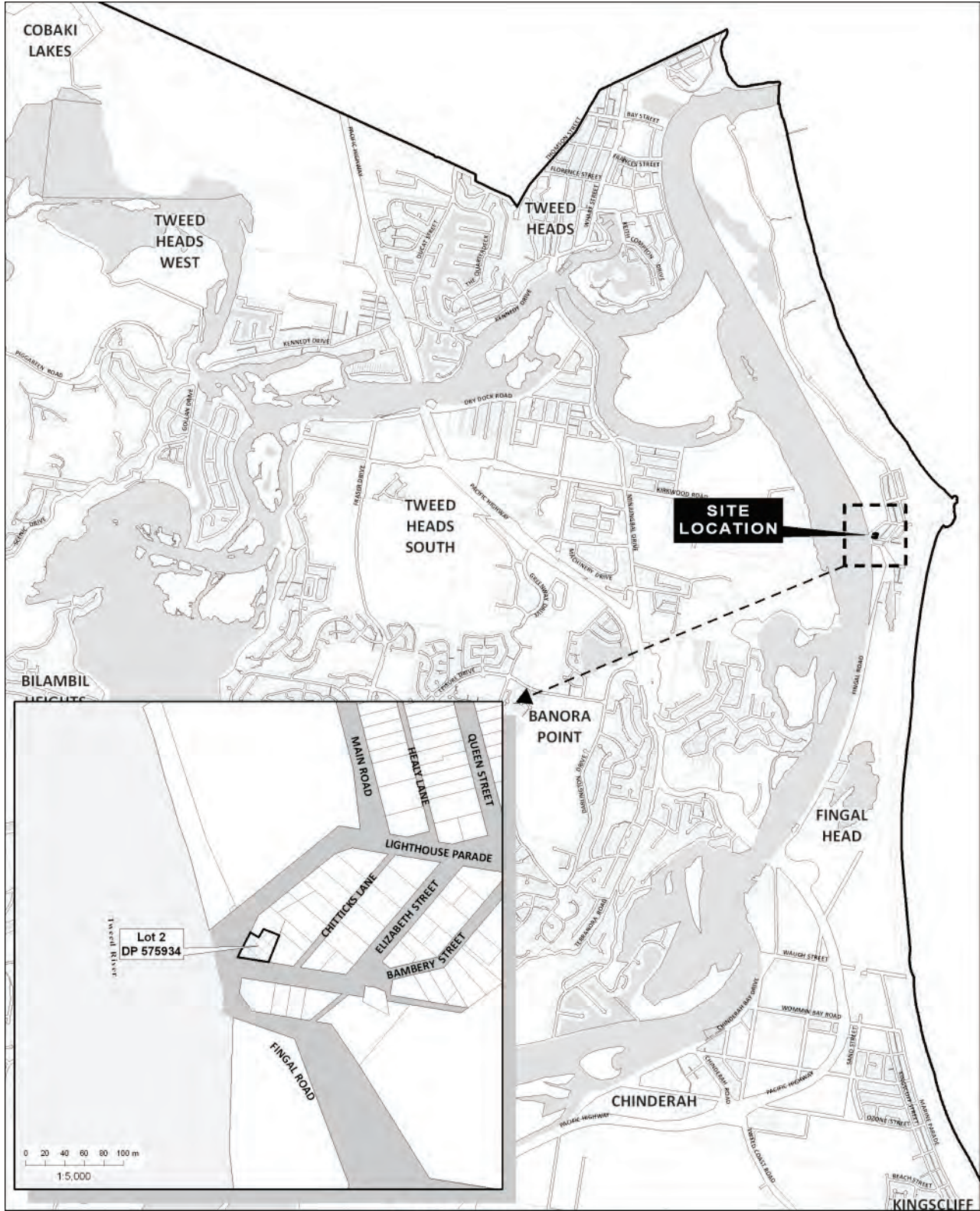
A site inspection on 17 August 2011 concluded that the required three car spaces were not being utilised in accordance with the approved plans for the business. The business owner was requested on 21 September 2011 to reinstate the three approved car spaces, as there no other options considered to be available for onsite parking.

Following several meetings with various Council staff and requests for extension of time, the business owner lodged this Section 96 application on 9 March 2012 to modify the approved development. The application seeks the following:

- The deletion of the requirement for the provision of three on-site parking spaces (Condition 10);
- To use the parking area as an informal area for such uses as reception area, separated seating area for dog owners and smokers, dancing area, staff amenities, and community events such as exhibition openings also during inclement weather conditions; and
- Amend the trading hours of the business to 9.00pm on Friday and 8.00pm on Sunday (Condition 22).

Included with the application was 1000 letters of support from...*‘concerned customers, staff and artists’*.

SITE DIAGRAM:



Locality Plan
 Lot 2 DP 575934
 No. 17 Bambery Street, Fingal Head

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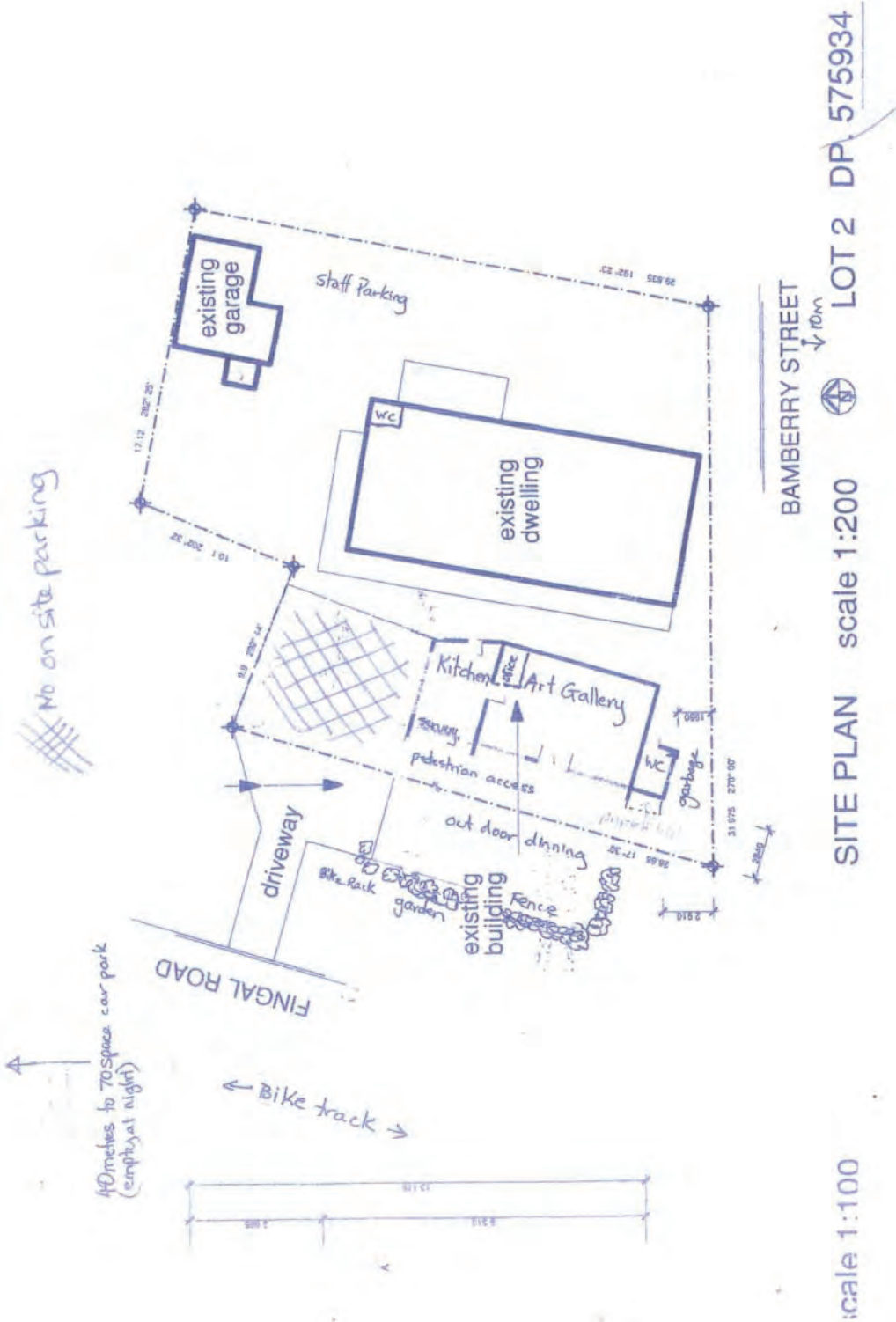
Cadastre: 04 July 2012
 © Land and Property Management Authority (LPMA) & Tweed Shire Council.
 Boundaries shown should be considered approximate only.

0 0.5 1 Km
 1:40,000 @ A4 Portrait
 DO NOT SCALE
 COPY ONLY - NOT CERTIFIED
 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidetic Datum of Australia 1994
 GDA
 Author: @Statistik - Planning Information Unit

Civic and Cultural Centre
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PROPOSED AMENDED PLAN:



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

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 8 – Consent Considerations

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

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

As noted below, the proposed modifications are considered to be consistent with the primary objective of the 2(a) zone.

Other relevant clauses of the TLEP 2000 have been taken into consideration.

The proposed deletion of parking provisions is considered to have an unacceptable cumulative impact on the locality or the community as a whole. As such, the proposal is not considered to meet the provisions of Clause 8(1)(c) of the TLEP 2000.

Clause 11 – Zone Objectives

The subject land is zoned 2(a) Low Density Residential under the Tweed Local Environmental Plan 2000.

The objectives of the zone are:

- *To provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.*
- *To allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale and height is compatible with the primary objective.*
- *To allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objectives of the zone.*

The existing use of the site and proposed continuing use of the site are non residential uses. In assessing the original application, Council was satisfied that the proposed development would not detract from the primary objective of the zone being a predominantly low density residential environment, subject to conditions of consent.

The change in hours of operation relates to Friday night trading to 9.00pm and Sunday night trading to 8.00pm. The proposed modification to trading hours is not considered to be a significant impact to the residential environment and is not considered to undermine the objective of the zone.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

With regard to **car parking requirements**, the applicant has noted the following:

“The requirement for the provision of 3 on-site parking spaces exceeds the requirements of the Tweed DCP Section A2 – Car Parking Code (DCP) for the use of the property.

The approved consent for the property requires all dining to be accommodated on the adjoining road reserve, which has been undertaken by means of successive licences from Council for an area of 44m² in front of the gallery. The latest licence was granted on 7 November 2011.

The DCP requires a footpath dining area to be considered in accordance with council’s Footpath Dining Policy which makes no provision for parking.

The DCP requirements for an art gallery are 2 customer car parking spaces per 100m² of display area, and 0.5 space per staff.

As the approved art gallery display area totals 50m² it requires 1 parking space. In respect of staff parking the proprietor of the gallery lives in the existing dwelling on the site and therefore it is considered that the required parking is met by the parking associated with that dwelling.

Consequently, the total parking requirement for the current use of the Shack is 1 space and not 3 spaces as required by development consent DA03/0476.”

Comment

The subject site has three uses on it, these being: residence, gallery and refreshment room. In addition to standard residential requirements, the subject site must incorporate the following parking provisions:

	Bicycle	Service Vehicle	Staff	Customers
Gallery	2	1	*	1
Cafe		**	4*	***
Total	2	1	4	1

* As the owner resides on site, one (1) additional staff spaces is not required

** Service vehicle requirements for the Café can be combined with the Gallery

*** Customer parking is not required for footpath dining

Although it is acknowledged that the footpath dining component of the business associated with the refreshment room does not trigger any parking requirements, the kitchen associated with the refreshment room generates the need for one car space per staff at peak operating time.

The applicant has not provided sufficient information to date with regard to staff numbers. However, Council staff has estimated that the café would utilise five staff at peak operating times. This generates a need for four staff spaces for the refreshment room (allowing for the owner of the business being a staff member and not requiring a car space as they reside on the subject site).

In addition to the staff and customer spaces, the development requires parking provisions for service vehicles. Council's Traffic Engineer requested further information with regard to service vehicles for the existing development. The applicant provided the following comment:

“Appendix 1 to the Town Planning Assessment sets out the planning history of the subject property. This highlights the existing use rights emanating from the original marine showroom on property, which have formed the basis for subsequent development approvals. None of those approvals have required provision for service vehicle parking, including the approval for the establishment of an art gallery/coffee shop (DA03/0476). This did not include any requirement for service vehicles, nor did the approved plan include any such arrangements. Moreover, the relevant DAP notes do not include any discussion in respect of this parking.

Notwithstanding the lack of any requirement the following additional comments are made:

- *The nature of the activities at the Gallery do not require delivery in a vehicle other than a car*
- *For the reasons outlined in the Town Planning Assessment to use of the approved 3 parking spaces on the site are not considered to be safe and are therefore inappropriate for use for deliveries to the gallery.”*

In terms of never requiring a service vehicle before under previous assessments, the applicant has essentially requested a re-assessment of parking requirements applicable to the proposed development. As such, all aspects of applicable parking, including service vehicles and bicycle parking, has been undertaken.

In response to the applicant's submission, Council's Traffic Engineer notes the following:

“Service delivery by smaller vehicles is reasonable; however, this still needs to be catered for on site. Although there are no parking requirements to the Outdoor Dining area it is not unreasonable to assume that these activities require deliveries for consumables.”

As such, the development requires a total of two bicycle spaces and six car spaces (4 staff + 1 customer + 1 service). This figure is obviously well in excess of the single space being calculated by the applicant, largely as a result of Council incorporating staff requirements for the café. Although it is recognised that there are staff parking opportunities at the rear of the existing dwelling, the applicant has not delineated the number of spaces available, despite being requested to do so at a pre-lodgement meeting.

It should also be noted that staff have been observed by various Council staff on several occasions parking in the reserve across the road, which suggests that the available parking at the rear of the site is unlikely to be used by staff. In any case, even if the staff parking can be accommodated on site, the applicant must still provide two off-street spaces within the subject site in relation to customer parking and service vehicle.

In terms of **potential impact**, the applicant has noted the following:

“The required car parking arrangements are considered to be inappropriate because of the potential impact on traffic safety and the safety and amenity of patrons, including exhaust fumes being blown onto diners as well as into the kitchen.

Figure 1 details the parking arrangements required by DA03/0476, which include:

- *a vehicular access on the inside bend of Fingal Road, which has a ‘no right turn’ restriction at Bamerry Street*
- *a turning area on the road reserve to allow vehicles to leave the parking area in a forward gear, and*
- *parking spaces and turning area alongside the dining area, servery and kitchen.*

As a consequence the proprietor has concerns that:

- *access is difficult being located on the inside of a bend, with limited sight distances from inside of the corner*
- *manoeuvring on-site is unsafe because of the conflict with pedestrians entering the Shack.*
- *manoeuvring on-site is unsafe because of the proximity of car parks to tables etc*
- *manoeuvring on-site is unsafe because of inadequate turning space to allow vehicles to leave the Shack in a forward gear*
- *the proximity of vehicles to dining area/kitchen is a health hazard*

Originally the gallery had on-site parking and for a number of years this area was reserved for parking for the gallery patrons as required but nobody parked there because it was safer to park across the road. As patronage grew this empty area gradually became an area for exhibition openings, dog owners and smoking. It is also used as an alternative on windy days. More lately this area has been used for dining.

The issues concerning the provisions of parking at the property has been addressed by Council over many years. Appendix 1 sets out the planning history of the property. The relevant elements of that history are as follows.

In September 1993 Council acknowledged “that the marine showroom on the subject land has “existing use rights” under the provisions of Part IV Division 2 of the Environmental Planning and Assessment Act 1979.”

When assessing DA93/487 for the conversion of an existing commercial vacant building to two (2) separate occupancies (a retail plant nursery, arts and craft shop and an office for business development advice), the Development Assessment Panel on 16 March 1994 noted that “the most contentious aspect of this proposal relates to the location of the subject site and less than desirable traffic conditions existing and the potential for the proposed use to exacerbate the situation.”

The Panel notes state that, "on balance the Engineer has recommended certain upgrading requirements which should improve the traffic situation both on site and in respect to general flows along Fingal Road." These recommendations were included as conditions in the consent.

The submitted plans included 3 parking spaces.

In respect of concerns raised in submissions the DAP notes make the following comments:

"Provision for onsite off-street parking is limited and not in accordance with the normal requirements of Development Control Plan No. 2 – Parking Controls. However this is an existing use situation and as outlined in the Engineers comments, subject to adherence to conditions of consent regarding formalising of access arrangements and flow through conditions the on-site situation in relation to car parking provision should be improved."

At a later date when assessing K2000/303 for a coffee shop and extension of art gallery opening hours the Panel Notes dated 28 April 2000 state that the,

"proposed change of use does not require any additional on-site parking.

Parking is limited on site and would not meet Council's current requirements if the proposal was for a new building. As the commercial component of the building has existing use rights no additional parking is required.

On street parking in front of the site will not be able to be provided due to the width of the road and the location of the site. However, the site is in close proximity to the Fingal boat ramp which has ample car parking. It is noted that Council's Engineering Services Division has raised no objections to the application in this regard."

The clear inference to be drawn from this is not only that Council have known of the problems of providing on-site parking but also been aware of the availability of parking at the boat ramp."

Comment

The applicant has raised the issue of potential impact on traffic safety and amenity of patrons. Whilst it is acknowledged that the site is located on the inside of a bend, sight distances can be achieved to safely enter and exit the site in a forward manner.

In terms of manoeuvrability on site, Council staff has acknowledged in pre-lodgement discussions with the applicant that the approved car parking layout is undesirable given its proximity to table and chairs. However, measures could be put in place to reduce any potential impact. Bollards could be utilised to ensure that vehicles do not enter the dining area. The area of tables and chairs could be reduced to increase the separation between the dining and carparking. The entrance to the café could be relocated to encourage customers to enter the site through the middle of the dining area.

With regard to manoeuvring on site, Council's Traffic Engineer has noted the following:

“It is the responsibility of the applicant to ensure that vehicle parking movements associated with the development are able to be carried out safely. This requirement would include provisions for vehicles to enter and leave the property in a forward direction and clearly defined separation of parking areas and pedestrian/customer facilities.”

In terms of proximity of vehicles to the dining area/kitchen, it should be noted that the Sheoak Shack is very similar in nature to outdoor dining experiences across the Shire. The images below in Figure 1 provide examples in Kingscliff where outdoor dining customers are located directly adjacent to cars being parked and driven along Marine Parade.



Figure 1: Existing footpath dining along Marine Parade, Kingscliff

The applicant's argument that no-one has parked in the approved parking area for a number of years is not supported as being a valid argument for not providing such spaces. Customers are unlikely to park their vehicles on the subject site when various structures inhibit the use of the car spaces. The following images (in Figure 2 below) indicate the structures that have been in place, which are considered to discourage customers from parking on site.



Figure 2: Existing structures at entrance of Sheoak Shack

With regard to **existing parking facilities**, the applicant has noted the following:

“There is ample supply of parking in area around the Shack. The council have built a 70 space car park only 40 metres away, dedicated for recreational boat users. This car park is empty at night, at the same time that Sheoak Shack is at its busiest. In particular there is a row of 9 car spaces fronting Fingal Road which are too small for car-and-boat trailer parking following the construction of the bike track.

This parking area could easily accommodate the one parking space which is proposed not to be provided at the Shack, without causing any adverse impacts on current usage.

The DCP provides specific opportunities for relaxation of parking standards, which cannot be applied to the Shack as it is not included

- *in the area covered by CP 23, or*
- *the specific areas nominated for concessions by Section 2.4.8.*

Whilst not explicitly stated the reasons for these parking concessions include the desire to

1. *foster development in town and village centres*
2. *foster economic development*

Fingal Head has no easily definable village centre or location where the community can congregate. Over the years the Shack has been operating it has come to fill an important niche. In particular it has brought the people of Fingal together. Since the gallery first started 12 years ago the community have used this as a meeting place.

The gallery has a strong focus on supporting the Indigenous and non Indigenous locals with their art and music. It provides an important outlet for artists and is the longest running private art gallery in the Tweed.

The area identified in the Tweed LEP 2000 for commercial development in Fingal Head is inappropriate, as witnessed by the lack of any commercial development there since the land was first zoned approximately 30 years ago. The Shack is the only viable and available location for a café/gallery, as proven by 12 years of successful trading without complaint.

Motor vehicles are not the sole means of transport to the Shack: a combination of local residents and visitors (particularly to Council's caravan park) are choosing to walk and cycle to the premises.

Therefore although the specific concessions of the DCP cannot be applied to the Shack it is considered that the concession as proposed in this application fits with the overall intention of the DCP. Hence the proposal to include a dedicated bicycle parking area.

The existing commercial use of this property in this residentially zoned area is not causing any problems and only adds to the social, cultural and economic well-being of the area."

Comment

With regard to the existing parking facilities raised by the applicant, it should be noted that the boat ramp car park is in fact located a minimum of 80m walking distance from the café (as opposed to 40m noted by the applicant). Council does not consider the boat ramp to be an acceptable solution for parking associated with the Sheoak Shack. In Council's experience, the general public are generally unlikely to want to walk a distance of 80m to their destination. It should be noted that customers dining at the licensed premises in the evening would be required to walk over 80m in a poorly lit area, with no designated pedestrian crossing facility.

Although not stated by the applicant, the majority of Sheoak Shack customers and some staff regularly park in the reserve across the road (adjacent to the Tweed River), as shown the aerial photo in Figure 3 below.

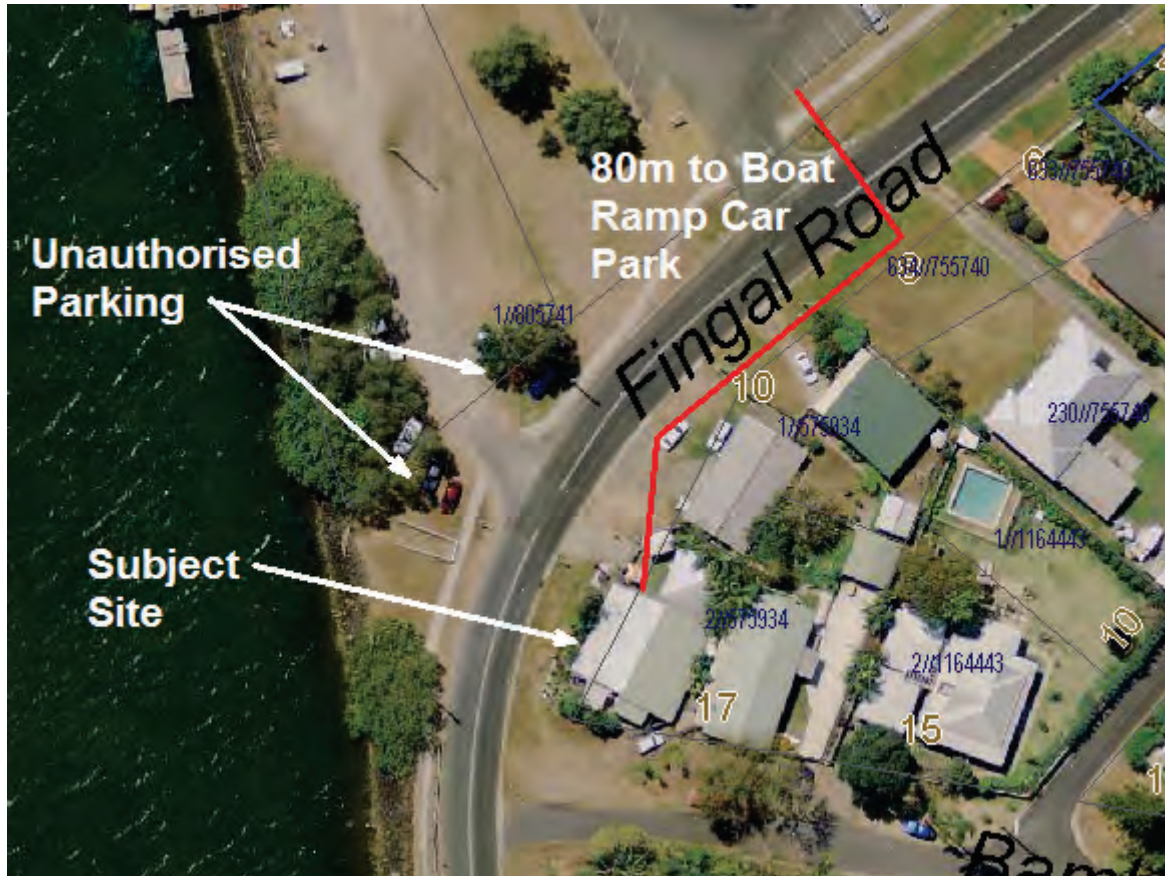


Figure 3: Aerial Photo indicating location of parking across from the subject site

The issue of the Sheoak Shack being a meeting place for the Fingal (and surrounding) community is not disputed. The issue is the disregard for compliance with the conditions of consent in relation to this development. The proprietor has consistently chosen not to provide car spaces on site. Rather, the proprietor has filled this area with tables and chairs and utilised the area for unlawful purposes without consent.

Whilst it is acknowledged that parking for outdoor dining areas can generally be absorbed by surrounding on street parking, it is not considered acceptable for this development to simply supply no customer parking on site. Council has consistently required development to provide off street parking, as per the provisions of DCP A2. Those applications that cannot do so, without the support of a detailed traffic report to accompany any variation to DCP A2, are generally not supported.

It is noted that the nearby Fingal General Store (D93/0499) was required to provide off street parking. There are many other instances where developments are required to provide off street parking provisions. To ignore the provisions of DCP A2 is to set an unacceptable precedent.

As noted above, customers and staff regularly use the reserve directly across from the business, as there are no longer any off street parking spaces being provided and the existing boat ramp car park is seemingly too far for people to walk. It is considered unreasonable to allow one business to profit from the unauthorised use of the community foreshore and again sets an unacceptable precedent.

The use of the reserve across the road from the subject site is not considered to be safe in its current form. Council's Traffic Engineer notes the following in this regard:

"There is however a significant risk to pedestrians crossing Fingal Road, particularly at night, to access the (unauthorised) parking area."

Previous pre-lodgement meetings have been held with the applicant and Council staff to determine if any acceptable parking alternatives are available.

The area to the south of the outdoor dining (adjacent to the Bambery Street intersection) was taken into consideration. However, this area was ruled out as a potential car parking area for several reasons:

- A single access point off Bambery Street would be required (set back from the intersection);
- There would need to be provision for cars to turn around. This was unlikely be achieved on such a slope without the need for a retaining wall (on the road reserve);
- There would also be a need to accommodate the loss of street parking along Bambery Street; and
- Any proposal in this area would need to address how customers would access the parking area, as they could not turn right into Bambery Street. This area would be unlikely to be used by patrons (due to the existing no right turn into Bambery Street).

Taking all of the above into consideration, the proposed deletion of the onsite parking requirements is considered to be contrary to the provisions of DCP A2 and is not supported. Given that there does not appear to be any other opportunity to provide parking elsewhere on the site, the previously approved car parking spaces should be reinstated and used as such in perpetuity.

A4-Advertising Signs Code

The original assessment of this application did not incorporate any proposed signage. The following standard signage condition was applied as Condition 3:

3. *Advertising structures/signs to be the subject of a separate development application, where statutorily required.*

Council records indicate that no application has been submitted in relation to proposed signage. Figure 4 below demonstrates that unauthorised signage has been erected for the development, within the road reserve.



Figure 4: Existing signage

A11-Public Notification of Development Proposals

The proposed modifications were advertised for a period of 14 days. Further details are provided later in this report.

- (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**

Access, Transport and Traffic

The issues raised under the DCP A2 assessment clearly indicate that the proposed modifications will result in an unacceptable precedent and as such, the proposed deletion of parking provisions is not supported.

Trading Hours

As noted above, the applicant has requested an extension of trading hours on Fridays and Sundays. Condition 22 of the development consent notes the following:

22. *Hours of operation are limited to the hours 8.30am - 5.00pm Monday to Sunday inclusive, except Saturdays where trading hours are 8.30am - 10.30pm. In addition the art gallery is permitted to be open until 9.30pm on ten nights of every calendar year.*

The applicant has provided the following justification for the proposed extension of trading hours:

“The community expectations for refreshment rooms are extended trading hours at weekends. The consent only allows this on Saturday evening. Therefore a modification to condition 22 is requested to provide for trading until 9.00pm on Friday and 8.00pm on Sunday. This would allow the Shack to extend to the local community similar hours to those enjoyed by other village and town centres in the Shire, without community members having to leave Fingal Head and to cater for visitors to this recognised major recreational area. The extended trading hours would not require any additional facilities at the Shack.

There have been no adverse impacts of the extended trading on Saturday and therefore the proposed modification is considered to be reasonable.”

Council’s Environmental Health Unit has assessed the proposed modification of Condition 22 and has provided the following comments:

“The application requests that the permissible trading hours be modified to 9.00pm on Friday nights and 8.00pm on Sunday nights.

The matter has been discussed with Grant Seddon, Licensing Sergeant, Tweed Heads Police. Sergeant Seddon advised that the current Liquor License permits trading up until midnight 7 days, except Sunday which is restricted to 10.00pm. Therefore the trading hour restrictions are created under Condition 22 of the development consent. Sergeant Seddon also advised that is familiar with the premise and has not received any notifications regarding the premise in his capacity as Licensing Sergeant. He did not raise any objection to the proposed amendment to permissible hours.

No complaints about the premise were identified in Dataworks, except one historical notification from one individual about several matters, including permissible trading hours.

It is noted that as the premise has a liquor license, the Office of Gaming and Racing is responsible for any noise or amenity notifications. Having regard for the above information and the fact that the Licensing Sergeant has not raised any concerns about the modified hours, no objection is raised by the Environment and Health Unit.

Further, it is noted that condition 23 will remain unchanged, which restricts the playing of live or amplified music to Saturday nights before 9.30pm.”

Although the extended trading hours are not being opposed by Council's Environmental Health Unit, the issue of live music is of concern. Condition 23, as shown below, clearly states that live music is only permitted on Saturday nights.

23. *Outdoor amplified music may only be played on Saturday night. This may only occur up until 9.30pm and speakers shall be directed away from residential premises. The playing of amplified or live music must cease upon request by any Council or Police officer.*

Despite this, the proprietor currently disregards Condition 23 by way of allowing live music to be played on a Saturday and Sunday. As shown in Figure 5 below, the website for the business clearly notes that live music is on Saturdays and Sundays, with a listing of upcoming gigs for June and July. It is also noted that the current trading hours for Sundays is 6.00pm (rather than 5.00pm as required by Condition 22). As such, the proposed extension of trading hours is not supported.



Figure 5: Opening hours and live music information from Sheoak Shack website

Noise

As noted above, Condition 23 stipulates that live music can only occur on Saturdays. Although Council has not received any recent official complaints regarding noise, the current situation is not compliant and may result in unnecessary noise impact, particularly given the low density residential zoning of the surrounding locality.

During the original assessment, it was noted that Council's Environmental Health Unit advised that the proposed amplified music could be directed away from the residential premises and that through conditions of consent (Condition 23) the impact of the proposed live music would be minimal. The live music was been assessed as being reasonable for **Saturday nights only** with time limited to 10.30pm.

The applicant should immediately cease any live music on a Sunday. Council's Environmental Health Unit has verbally advised that they would be unlikely to support a future application for live music on a Sunday, particularly without a full acoustic report supporting the application.

Use

The proposed use of the existing car parking area is of concern. As a result of the original application only proposing dining within the road reserve, the following condition was applied:

5. *No customer seating for the refreshment room shall be provided within the boundaries of the subject land.*

The applicant was advised at a pre-lodgement meeting that any on site seating (i.e. seating where the three car spaces should be) will trigger car parking requirements in addition to the 3 spaces currently required by the development.

During the assessment of this application, the applicant was requested to indicate the proposed use of the parking area, so that Council could determine if any additional parking was generated, which would thereby exacerbate the existing parking non-compliance.

The applicant responded by way of the following:

“The parking area is proposed to be used as an informal area for the kind of uses listed in the Statement of Environmental Effects. This descriptive list I suggest is self explanatory: the area will essentially be devoted to seating, with some open areas for dogs. In a similar manner this area will provide relaxation and a smoking area for staff, i.e. ‘staff amenities’. There are no additional structures in this area, As the layout will be flexible to allow the area to be adapted to daily requirements I do not consider it is realistic to provide a layout plan. The use of the area could be controlled by a condition attached to any amended development consent.”

The applicant’s response is not considered to be acceptable. As is the case with a multi use area, the use generating the highest level of parking should be taken as the use for the purposes of calculating parking provisions. If the area is to be seating for dining purposes (which the applicant has acknowledged is currently the case as is shown in Figure 6 below), then applicable parking provisions apply at a rate of 1 space per 7m² of dining area for a refreshment room.



Figure 6: Seating located within the approved car parking area

The carparking area (where seating is currently located) is estimated at approximately 20m². Therefore an additional three car spaces are required for customer parking. This raises the carparking provisions to 1 service vehicle, 4 staff and 4 customer spaces, equating to a total of nine spaces.

This is obviously well beyond the 1 customer car space calculated by the applicant. The provision of the 4 customer spaces, 4 staff spaces and 1 service vehicle space must be provided on site, as per the requirements of DCP A2.

If such parking provisions are unachievable, this suggests an overdevelopment of the site. The deletion of any on site car parking provisions from this development is opposed. The off street parking spaces should be reinstated, rather than being used as additional dining area (or any other traffic generating use).

If Council was in support of the proposed use of the parking area, Condition 5 of the development consent would need to be deleted.

Structures within the Road Reserve

The outdoor dining area is surrounded by various structures providing shade, fencing, signage etc, as shown in Figure 7 below. At a pre-lodgement meeting, the applicant was requested to provide structural certification all of the structures with the road reserve. The documentation provided by the applicant was not considered to be adequate.



Figure 7: Examples of structures within the road reserve

During the assessment of this application, it was noted that Council's Footpath Trading policy requires development consent for all permanent structures in association with a footpath trading area. The applicant was requested to provide any previous written approval from Council for structures that are currently in place on the road reserve.

The applicant provided the following comment:

“The use of the road reserve for out-door dining has been the subject of separate approvals process. A series of footpath dining licences have been granted by Council, the most recent on 7 November 2011 (ref S68/FT000007).

The structures within the road reserve were erected following the grant of the first licence. Having spoken to Council at the time I was under the belief that as these structures were lashed together on all sides and are removed during winter to allow more sunshine they are not permanent structures and therefore did not require approval. However, I understood that an approval was required for the fencing fronting the dining area for which approval was sought when I faxed to Council details of the fencing on 28 August 2000. These details were approved by Council. The structures within the road reserve have subsequently been maintained and replaced as necessary.

Following the original licence for the use of the road reserve for out-doors dining my premises have been visited and inspected by Council officers on a number of occasions. But until Sept. 2011 there have been no comment on the structures in the reserve. In a letter dated 21 September 2011, Council required require engineering details of all of the structures in the road reserve (with the exception of the front fence), for consideration by Council's Coordinator Planning & Infrastructure Unit. An engineers report was submitted to Council in response to this request in November. To date there has been no response to this material and therefore I am unable to respond further to the request for any written approval for these structures."

In response to the applicant's submission, Council's Traffic Engineer noted the following:

"It is noted that the applicant was unable to provide any evidence of prior approval of the structures placed within the road reserve. A separate s138 application should be submitted for all structures contained within the road reserve. The application is to include a report on the existing structure's integrity, by a suitably qualified and experienced structural/civil engineer or other appropriately qualified person."

(c) Suitability of the site for the development

Whilst the existing approved development is considered to be suitable for the site, the proposed modifications are not considered to result in a suitable development, in terms of acceptable parking provisions. The use of the parking area as additional dining area generates even more parking requirements. If these are unable to be provided on site, the proposal is clearly an overdevelopment and as such, not suitable for the subject site.

The proposed trading hours are considered to be suitable, subject to live music only on Saturdays, as required by Condition 23 of the development consent.

(e) Public interest

Whilst the proposal has received overwhelming support from the local community, there is a public expectation that Council upholds the provisions of the relevant Council policies and controls. Having undertaken a thorough assessment of the development, particularly in terms of car parking requirements, the proposed modifications are not considered to be in the public interest.

CONSIDERATIONS UNDER SECTION 96(1)(a) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

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

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations."*

Likely Environmental Impact

As noted above under Section 79c considerations, Council's Development Assessment Unit and Traffic Engineer have undertaken a detailed assessment of the proposed modifications. The proposal is not supported, given its likely environmental impact with particular regard to car parking.

Substantially the Same Development

An assessment needs to be undertaken in terms of whether the proposed development is "substantially the same" as the originally approved development, pursuant to the provisions of the Environmental Planning and Assessment Act.

The proposed modifications seek to remove the need to provide on-site car parking, which has the effect of freeing up an area for other purposes/uses, such as additional dining area, which in itself generates additional parking requirements.

Therefore, the proposed modifications are not considered to meet the provisions of being substantially the same development as originally approved and as such, the proposed modifications are recommended for refusal.

Notification/Submissions

The proposed development was advertised for a period of 14 days, during which 213 submissions were received, many of which were in the form of a pro forma letter. Of those submissions, only three were objections to the proposed modifications. The issues raised by the objections are noted below.

ISSUE	RESPONSE
The business is in breach of current council laws by allowing unleashed dogs to roam freely around tables and eat off the floor. The kitchen area is in breach of several health regs e.g. the area is not enclosed with screens as requested.	Regarding the food related matters, Council's Environmental Health Unit has advised that there is an insect screen in place across the kitchen servery and screen doors on all doorways, as required by Condition 7 of the development consent. They have also advised that the proprietor has also been made aware of the regulations regarding dogs in an outdoor dining area.
Other developments within the Fingal area have been required to provide off street parking at considerable expense. The proposed development should be required to do the same. Consistency by the Council should prevail.	Council officers recognise that other developments have consistently been required to provide off-street parking at their expense. The proposed modifications are not supported in this regard.
The Development Application states that this establishment must provide three off street car spaces and as such should be enforced. As to the argument that "it would be impossible to run the café with the parking so close to the kitchen and dining area" then this should have been identified long ago and the owner should not have incorporated dining and customer seating in close proximity to the parking area.	As noted within the body of this report, it is considered that there are solutions to improving the parking area in proximity to the outdoor dining area.
The points put forward that manoeuvring on site is unsafe because of the proximity of car parks and tables can be resolved by removing the tables from the "designated car parking spaces" and put up safety rails or barrier to stop pedestrian access to the area.	As above

ISSUE	RESPONSE
The owner has admitted that the proximity of cars to the food preparation area and dining area is a health hazard. The owner should be made to correct this issue by possibly erecting a separate partition/wall that will stop any potential health issues.	The existing development consent requires the development to operate in accordance with the requirements of the Food Act. Council's Environmental Health officers ensure compliance with this condition of consent.
The submission notes the comments by the Fingal Head Community Association re: there being "over 100 available parking spaces around the Sheoak Shack that are never full." The submission states that this is totally misleading as there are numerous times especially on fine weather weekends when the parking is at a premium in the boat harbour area.	Council officers do not consider that parking in the boat ramp is acceptable. The proposal to delete onsite parking for the Sheoak Shack is opposed.
On one hand the owner of the business wants to reduce the parking, yet they also want to extend the trading hours and increase patron numbers.	This issue has been addressed within the body of the report. The use of the approved parking area as additional dining is not supported, as it will only add to the parking issues.
The extended trading hours should also be looked at to ensure that any modifications to the original approvals are strictly adhered to.	This issue has been addressed within the body of the report. Live music on Sundays is not supported.

It should be noted that many of the submissions to Council in support of the proposal have asked Council not to enforce the "parking changes" on the Sheoak Shack. It should be clarified that Council is not trying to make any "changes". Rather, simply enforce the conditions of development consent. The applicant has always been aware of the requirement for three car spaces on site and has simply chosen to ignore such requirement.

OPTIONS:

1. Refuse the proposed modifications; require the originally approved three car spaces to be reinstated on site; require the use of live music on a Sunday to cease; require the development to comply with existing approved trading hours; require the submission of a Section 138 application to be submitted for approval; and require the submission of a development application for all signage associated with the development, or
2. Approve the proposed modifications as proposed by the applicant, in principle and bring back a further report to Council with suitable modified conditions.

CONCLUSION:

Despite the overwhelming support for the development, the proposed deletion of car parking requirements is not considered to be acceptable. The support of this application would set an unacceptable precedent in terms of off street parking provisions.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Should the applicant be dissatisfied with the determination by Council they have an opportunity to appeal to the NSW Land and Environment Court. Should Council defend such an appeal costs would be incurred.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

UNDER SEPARATE COVER/FURTHER INFORMATION

Nil.

13 [PR-CM] Development Application DA12/0098 for a Free Range Poultry Farm (Maximum 4,500 Birds) Including 8 Moveable Sheds at Lot 1 DP 881996 No. 576 Cudgen Road, Cudgen

SUBMITTED BY: Development Assessment

FILE NUMBER: DA12/0098 Pt1



Civic Leadership

SUMMARY OF REPORT:

Following compliance matters at the subject site Council received a Development Application (on 16 March 2012) seeking approval for a free range poultry farm (for egg production) utilising a maximum of 10,000 birds and five portable sheds within a fenced run area of approximately 35,000m², at No. 576 Cudgen Road, Cudgen.

The compliance matters have been resolved as a separate matter and accordingly the subject development application has been assessed independently of the compliance matters and on its merits having regard to 79C of the Environmental Planning and Assessment Act 1979 (as amended).

The proposal is best defined as an 'animal establishment' in accordance with the Tweed Local Environmental Plan 2000 (TLEP 2000) which states:

animal establishment a building or place used for any one or more of the purposes of intensive animal husbandry, or the boarding, training or the keeping of animals, birds, fish, crustaceans, insects or the like, generally requiring the importation of feed from outside the land on which the establishment is conducted.

An animal establishment is a permissible land use (with consent) in the 1(b1) Agricultural Protection Zone.

The application was advertised and notified for a period of 14 days and during this time Council received 13 letters opposed to the proposed development. The objections raised valid issues in regards to odour, noise, dust, flies, disease, sediment and soil erosion, visual amenity, poor management practises, site access, and water quality.

Having reviewed the objections and undertaken an initial assessment of the application Council wrote to the applicant on 9 May 2012 raising serious concerns with the level of information provided within the application and the capacity of the application to satisfy the numerous setback guidelines for poultry farms. The letter requested that the applicant withdraw the application given the unsuitability of the site for the proposed activity.

The applicant verbally responded to Council and advised that he would be providing a written response to Council's letter and that he wanted a determination.

On 15 June 2012 Council staff met with the applicant to further explain Council's letter of 9 May 2012 and the applicant handed staff a one page letter of response which incorporated a request to amend his Development Application. The changes to the development application are as follows:

- The reduction of the number of birds from 10,000 down to 4,500 birds.
- An increase from 5 movable sheds to 8 movable sheds;
- Relocation of the fenced run area to increase setbacks to neighbouring properties;
- Revised site access from the existing driveway associated with the existing dwelling;
- Sole operator proposed;
- Surface water management of free range area will comprise of the utilisation of an existing 1m high silt barrier; and
- Proposed vegetative buffers to improve visual amenity.

Council staff has re-considered the amended application and have accordingly produced this assessment report. Having regard to 79C of the Environmental Planning and Assessment Act 1979 the proposal is not considered suitable for the subject site as the proposed facility is too close to dwellings having regard to the best practice guidelines for such facilities. Therefore the subject development application is recommended for refusal.

RECOMMENDATION:

That amended Development Application DA12/0098 for a free range poultry farm (maximum 4,500 birds) including 8 moveable sheds at Lot 1 DP 881996 No. 576 Cudgen Road, Cudgen be refused for the following reasons:

- 1. The activity as proposed cannot be accommodated within the subject allotment (specifically having regard to buffers/separation distances) in accordance with accepted industry and regulatory guidelines, that being the, Environmental Guidelines for the Australian Egg Industry (2008), Model Code of Practise for the Welfare of Animals 4th Ed (2002) and the Living and Working in Rural Areas Handbook (2007).**
- 2. The proposed development does not satisfy the provisions of the Tweed Local Environmental Plan 2000 specifically in regard to:**
 - (a) Clause 4: Aims of the plan as the application does not have adequate regard for the environmental and residential amenity qualities of the area.**
 - (b) Clause 8(1): Consent Considerations- Council is not satisfied that the development adequately satisfies the primary objective of the zone or will not have an unacceptable cumulative impact on the community, locality or catchment arising from the proposed operation of the development.**
- 3. The existing driveway access (which is proposed as the only access for the operation of the poultry farm) is not considered adequate for the operation.**

4. The application as amended (15 June 2012) satisfies the definitional criteria of “Designated Development” under the Environmental Planning & Assessment Act 1979 as set out in the Schedule 3 of the Environmental Planning and Assessment Regulation 2000 – Clause 21 Livestock Intensive Industries, as there is an approved dwelling within 150m of the fenced free range area. However, the application has not been lodged as Designated Development.
5. Insufficient information has been supplied in regards to;
 - (a) community amenity and health;
 - (b) environmental impacts;
 - (c) animal welfare; and
 - (d) internal site managementto enable a proper assessment of the application.
6. The application is not considered to be in the public interest.

REPORT:

Applicant: Mr G Temessi
Owner: Mr Dean Sikiric
Location: Lot 1 DP 881996; No. 576 Cudgen Road, Cudgen
Zoning: 1(b1) Agricultural Protection
Cost: \$15,000

BACKGROUND:

The Subject Site & Surrounds

The subject site is known as No. 576 Cudgen Road, Cudgen being identified as Lot 1 DP 881996 and is located on the southern side of Cudgen Road, Cudgen being roughly equidistant from Collier Street to the northwest and Plantation Road to the south.

The site is 10.09ha in size and is irregular in shape as it surrounds 572 Cudgen Road, Cudgen (Lot 1 in DP 613261) which currently accommodates an auto electrician's business.

The site is undulating with a natural depression in the mid eastern section of the site which displays a modified drainage system that incorporates a natural waterbody (dam). The highest elevation of the site is approximately RL 30m AHD in the south western corner of the site.

The subject site currently accommodates a dwelling house in the north eastern corner of the site, a dam in the mid eastern section of the site and is currently vacant in all other regards (as the sheds and chickens associated with the compliance matter were removed from the site by 8 June 2012).

Excluding the existing auto electricians business at 572 Cudgen Road the area is dominated by dwellings and small crops or hobby land. Cudgen residential village is located 500m to the north east of the site. It should be noted that 572 Cudgen Road has a house design situated in the south western corner of the site which was approved on 21 October 2011 by way of Development Application DA11/0246. If constructed this house would be within approximately 100m of the fenced free range area.

The nearest dwelling not associated with the poultry farm is located 120m away from the proposed fenced free range area.

Site History

Lot 1 in DP 881996 was registered on 7 December 1998 and was formed as a result of a seven lot subdivision (Council Reference S94/144) which was a plan of subdivision comprising the following allotments: Lot 2 in DP 615133; Lot 3 in DP 615133; Lot 2 in DP 593990; and Lot 2 in DP 613261.

The area that comprises Lot 1 in DP 881996 today was predominantly contained within Lot 2 in DP 613216.

The following applications, consents and approvals relate to the land which is now known as Lot 1 in DP 881996:

- Development Application D89/733 and development consent dated 27 November 1989 which sought consent for the erection of a rural workers dwelling. The nature of the agriculture that was undertaken to warrant the workers dwelling included 8 acres of beans, 2 acres of avocados, and 5 acres of mangoes.

- Building Application 1261/89B and approval thereof dated 1 December 1989, for a mobile home to be used as a rural workers dwelling. This Building Application directly related to the Development Application D89/733 for the rural workers dwelling.
- Building Application 0984/95B and approval dated 1 September 1995, for alterations to an existing dwelling. This application sought approval for the addition of a rumpus room, verandah, and carport to an existing dwelling. From the plans this is an addition to the previously approved rural workers dwelling as approved by D89/733 and 0984/95B. An approval was subsequently issued on 1 September 1995.

As detailed above Lot 1 in DP 881996 was predominantly created from Lot 2 in DP 613261. Prior to the subdivision in 1998 that created Lot 1 in DP 881996 the subject land was accommodated predominantly within Lot 2 in DP 613261. Prior to 1998, Lot 2 in DP 613261 accommodated a dwelling and the above mentioned rural workers dwelling.

The subdivision in 1998 excised the existing dwelling off the subject land, and accordingly that dwelling is now located within Lot 2 in DP881996. Therefore the current Lot 1 DP 881996 only has approval for the rural workers dwelling and the subsequent alterations approved to this structure.

Lot 1 in DP881996 has a dwelling entitlement by virtue of its size (10.09ha) in a 1(b1) Agricultural Protection zone.

The Proposed Development

The Development Application (as lodged on 16 March 2012) sought approval for a free range poultry farm (for egg production) utilising a maximum of 10,000 birds and five portable sheds within a fenced run area of approximately 35,000m², at 576 Cudgen Road, Cudgen.

The following paragraphs have been extracted from the applicant's Statement of Environmental Effects to detail the development as proposed:

"The development application is for no more than a total at any one time of 10,000 (ten thousand) layer birds. Laying of eggs and roosting to take place in five (5) portable sheds.

No male birds will be kept at any time.

No hatchery or rearing activities will take place at the above site.

No further processing of eggs will take place at the above site.

No further processing of eggs will take place on site. Only the collection and packing into trays for transport to a grading floor. Packing will take place at the existing dwelling on site.

As a requirement of the NSW Egg Food Safety Scheme, the production of eggs for human consumption will be regulated and subject to annual inspection by the NSW Food Authority.

Water efficient drinkers will be used. The system is designed to eliminate any occurrence of "wet litter". Wet litter is the greatest cause of odour in poultry systems.

The birds will feed, once a day, by hand into troughs in the sheds. The use of hand feeding prevents both machine noise from mechanical feeders and bird noise, as birds are able to access feed at all times, rather than only during the operation of a mechanical feeder.

The feed will be removed by hand from the storage bin, placed in 20 litre buckets, and poured into the troughs daily.

The proposed business will operate 24 hours per day, 7 days per week.

The maximum number of staff at any time will be two (2). It is anticipated that the business will be owner-operated.

No on farm sales will occur. Biosecurity requirements will limit the access of visitors to the free range area and sheds.

It is anticipated that feed deliveries will take place once a month, via small delivery vehicle. The vehicle will be a light 5 tonne truck or the owner's current vehicle, a 4WD utility.

Sheds will be open sided with mesh for air circulation. No mechanical ventilation will take place.

The sheds will be constructed of recycled materials and wire mesh and are designed to be portable, in order to minimise nutrient loading of run areas and provide vegetation rotation in order to maintain an even ground cover of the range area, year round. Sheds will be designed to minimise storm water entry by way of a raised floor that sits upon the beams used to slide the sheds from one location to another. The open sides, covered in mesh will provide a screen against wild bird entry into the sheds, in accordance with Biosecurity Guidelines. The solid floor will contain all manure generated while birds are roosting and will be removed upon de-stocking every 65 weeks.

Due to the portable nature of the sheds, it is believed that no building certificate is required.

Similar egg production enterprises are currently operating in both the Byron Bay and Lismore areas, utilising portable sheds and permanent free range access.

A vermin/predator proof fence will surround the proposed run area to prevent access by wild dogs, foxes, rabbits and ground birds, such as scrub turkeys and effectively prevent birds from exiting the property. All feed will be stored in sealed bins, to prevent access by rodents and other vermin, prior to feeding. Feeding and access to drinking water will take place inside the sheds to discourage access by wild birds.

A significant vegetation infiltration area will be maintained in order to prevent storm water runoff exiting the property.

Live bird deliveries will take place approximately once every six (6) months, in conjunction with destocking. To limit bird noise, trained handlers will conduct the de-stocking after dark.

Only one shed will be stocked and de-stocked at a time, due to the need to have production constant throughout the year.

Sheds will be cleaned upon de-stocking. Each shed will be de-stocked each 65 weeks. Litter will be gathered via the use of a bucket on a "Dingo" and placed immediately on a small tipper truck of a 5 tonne capacity. The load will be covered and removed from site upon completion of the cleaning of the shed. Consideration will be given prior to commencement of shed cleaning to wind speed and direction. No cleaning will take place if there is any wind present or expected on the proposed day, in accordance with the Environmental Guidelines for the Egg Industry. The wind speed is to be less than 10 knots before any work will commence.

No hazardous materials will be stored on site. All veterinary treatments to birds will be completed prior to the birds arriving on site.

Stormwater will be collected from shed roofs by guttering diverting into rainwater tanks. The slope of the land will allow for diversion of groundwater to the range area, and utilised by the vegetation planted, including the 1000 plus trees for permanent fodder.

A vegetation filtration system will be maintained outside the range area, in order to prevent any stormwater leaving the property. A containment dam located at the Eastern boundary of the property will prevent any storm water resulting from a rain event exiting the property."

On 15 June 2012 Council staff met with the applicant to further explain Council's letter of 9 May 2012 and the applicant handed staff a one page letter of response which incorporated a request to amend his Development Application.

"With regards to my development application (DA 21/0098) and to your response letter dated 9/5/2012, I would like to notify council of several amendments to my original proposal and hope that these changes may enable my application to be looked at more favourably.

The first of these changes is the most significant, the reduction of the number of birds to be kept. Following the guidelines set out in the SCARM REPORT (4th Edition), the recommended number of birds per hectare is 1,500. I would like to amend my original application to represent a stocking number of 4,500 birds. As the site proposed is approximately 3.5 H/A, this number is well within the SCARM guidelines.

The next of my changes relates to the free-range area. The fence line is to be positioned to provide the appropriate buffer zone to the approved house at 572 Cudgen Road and all neighbouring proprietors (Please note that existing fences on property do not represent the free-range area, a new site map has been provided). Perimeter fencing will be constructed from wire-mesh, at a height of approximately 1.8 meters.

Another amendment is site access. Site access is to be gained from existing driveway to the residence at 576 Cudgen Road. The reduced size of the proposal negates the need for truck turning circles, staff parking etc. This will be a one man operation, with all transport activities conducted via a small van and trailer.

With regards to ground water management (surface run-off), it is proposed that the mobile sheds be positioned to take advantage of an existing silt barrier (approximately 1 meter high) that runs the length of the free range area. The barrier allows for surface water to be slowed and sediment deposited behind the barrier, allowing it to be redistributed as topsoil.

It is also proposed that vegetative buffers are placed in strategic areas to provide an aesthetically pleasing operation.

To aid in the management of the vegetation in the free-range area, mobile sheds are to be used to allow for rotation of stocking areas. This, combined with the seeding of stocking areas with grained food, should allow for constant regeneration of ground cover. (Detailed drawings of sheds will be made available to council).

I believe my application to be in the best interest of the local community, as my aim is to help the local area to become more self sufficient in regards to food supply, surely the council can work with me to help achieve this goal. The Tweed Shire's Sustainable Agriculture Strategy (Page 23) mentions the benefits of local food production. As my proposal seems to be in line with Council policy, I am looking forward to a favourable outcome to my Development Application."

In summary the changes to the development application are as follows:

- The reduction of the number of birds from 10,000 down to 4,500 birds;
- An increase from 5 movable sheds to 8 movable sheds;
- Relocation of the fenced run area to increase setbacks to neighbouring properties;
- Revised site access from the existing driveway associated with the existing dwelling;
- Sole operator proposed;
- Surface water management of free range area will comprise of the utilisation of an existing 1m high silt barrier; and
- Proposed vegetative buffers to improve visual amenity.

Applicable Guidelines for a Poultry Farm

The following extract from the Local Government Air Quality Toolkit clearly defines a typical egg production setup:

"Free-range accommodation represents about 5% of eggs produced in NSW. The average flock size is much smaller than in the other systems, typically being only 1,000 to 2,000 birds. However, a few free-range farms in NSW have flock sizes ranging from 5,000 to 20,000 birds. Free-range systems consist of a weatherproof shed where hens can roost, lay, drink and eat. Adjoining the shed is an open-aired outdoor range. The sheds protect the birds from the elements and predators while the free-range area allows them access to open space and vegetation. Free-range egg production is considerably more expensive than the alternatives because of the greater land area needed, increased labour requirements, higher feed consumption and small economies of scale. Mortality rates can be considerably higher."

Such facilities need to be assessed against a range of best practice guidelines that aim to educate readers on the requirements for certain facilities. Following is a brief description of the applicable guidelines:

- *Environmental Guidelines for the Australian Egg Industry, Australian Egg Corp Ltd, Commonwealth Department of Agriculture, Fisheries and Forestry, June 2008.*

This Guideline provides for Best Management Practice within the industry to ensure both the economic and environmental sustainability of the Australian egg industry. The sectors of the industry covered by the guidelines include hatcheries, pullet rearing facilities, egg production facilities (cage, free range and barn), grading floors and egg product manufacturing. Regulators can use the guidelines to ensure egg production, egg grading and egg product manufacturing facilities are developed, designed and managed to minimise the risk and severity of adverse environmental impacts.

- *Model Code of Practice for the Welfare of Animal - Domestic Poultry, 4th Edition SCARM Report, Primary Industries Ministerial Council, 2002*

This Code is intended as a set of guidelines which provides detailed minimum standards for assisting people in understanding the standard of care required to meet their obligations under the laws that operate in Australia's States and Territories.

- *Living and Working in Rural Areas, NSW Department of Primary Industries, 2007*

This document represents a handbook for the management of land use conflicts.

The ability to adequately achieve the recommended buffers and separation distances is considered to be a critical factor in determining any application of this nature. Such buffers would ensure best management practices and would alleviate current community concerns raised to date with regards to odour, noise, dust, flies, disease, sediment and soil erosion, visual amenity, poor management practises, and water quality.

The following table and map provides an overview of the permissible buffers and separation distances sourced from the above documents.

TABLE 1 - Buffers and Features

Feature	Criteria		
	Environmental Guidelines for the Aust. Egg Industry	Model CoP for Welfare of Animals	Living and Working in Rural Areas,
Minimum Distance to Watercourse	100m		100m
Flood Level	Above 1 in 100 year		
Maximum Free Range Stocking Density - shed	30kg/m ²	30kg/m ² ¹	
Maximum Free Range Stocking Density - range		1500 birds/ha	
Minimum Distance to Residential Zone	500m		1000m
Minimum Distance to Neighbouring Dwelling with same land use zone (including "as of right" dwelling)	250m		500m
Minimum Distance from Egg Facility to property boundary	100m		100m
Minimum Distance from Egg Facility to public road carrying >50vehicles/day	100m		100m

¹ Maximum stocking densities may only be used if there are cooling systems and ventilation fans in place to ensure temperature control during extreme conditions.

AERIAL IMAGE - BUFFERS

Lot 1 DP 881996
No.576 Cudgen Road,
Cudgen
2009 Aerial Photography

-  Property Boundary 100m Buffer
-  Residential Zones 500m Buffer
-  Natural Waterbody 100m Buffer
-  Existing & Future Residences 250m Buffer
-  Road Reserve 100m Buffer



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Scale: 1:10000
North Arrow

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The above map shows the recommended buffers and separation distances which have been applied to an aerial photograph of the site. Based on this information the development as proposed cannot be achieved on the site as the recommended buffers consume the entire site.

The subject site is therefore considered unsuitable for a poultry farm and accordingly the application cannot be supported by Council staff.

This opinion was expressed to the applicant in Council's letter of 9 May 2012.

Whilst the applicant submitted comment that the fence line for the free range area will be repositioned "to provide the appropriate buffer zone to the approved house at 572 Cudgen Road and all neighbouring proprietors" the accompanying plan does not reflect the Council specified buffers. It is noted that the applicant has not nominated his "appropriate buffer" distance.

The further information submitted by the applicant does not, address the concerns raised, provide alternative solutions, refute the reference documents sourced, validate submitted variations from the stated buffers/separation distances nor provide alternative reference documents.

Council Officers had discussions with officers of the NSW Office of Environment and Heritage and NSW Department of Primary Industries - Agriculture to confirm that the documents sourced are applicable.

It is considered that the applicant has therefore not adequately addressed the concerns raised within Council correspondence dated 9 May 2012. Therefore the buffer issues remain unsatisfied and form part of the reason that the application is recommended for refusal.

Designated Development

In accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2000 a poultry farm may constitute Designated Development in accordance with Clause 21 (4) of Schedule 3 as follows:

21(4) Poultry farms for the commercial production of birds (such as domestic fowls, turkeys, ducks, geese, game birds and emus), whether as meat birds, layers or breeders and whether as free range or shedded birds:

- (a) that accommodate more than 250,000 birds, or
- (b) that are located:
 - (i) within 100 metres of a natural waterbody or wetland, or
 - (ii) within a drinking water catchment, or
 - (iii) within 500 metres of another poultry farm, or
 - (iv) within 500 metres of a residential zone or 150 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.

The underlined text represents the sequence of the clauses that relate to the original application (16 March 2012). The below image shows this criteria mapped based on the applicant's submitted fencing plan.

AERIAL IMAGE - DESIGNATED DEVELOPMENT ORIGINAL PLAN

Lot 1 DP 881996
No.576 Cudgen Road,
Cudgen
2009 Aerial Photography

- Residential Zones 500m Buffer
- Natural Waterbody 100m Buffer
- Existing & Approved Residences 150m Buffer
- Proposed Fence Line - DA120098



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DA120098
2012/07/17
CUDGEN ROAD
DA120098

Scale: 1:10,000
North Arrow

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The above diagram shows that

- The fenced free range area is clear of the 100m buffer to the waterway;
- The fenced free range area is clear of the 500m buffer to residentially zoned land; and
- The fenced free range area is clear of the 150m to the existing house at 542 Cudgen Road





However the fenced free range activities are not clear of the 150m buffer to the approved house at 572 Cudgen Road.

Accordingly the application as originally submitted would have been considered statutorily invalid as it was not lodged as Designated Development.

The below image shows these criteria mapped, based on the applicant's amended fencing plan (as lodged on 15 June 2012):

AERIAL IMAGE - DESIGNATED DEVELOPMENT AMENDED PLAN

Lot 1 DP 881996
No. 576 Cudgen Road,
Cudgen
2009 Aerial Photography

-  Residential Zones 500m Buffer
-  Natural Waterbody 100m Buffer
-  Existing & Approved Residences 150m Buffer
-  Proposed Fence Line - DA130086



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CAUTION: 03 JUL 2012
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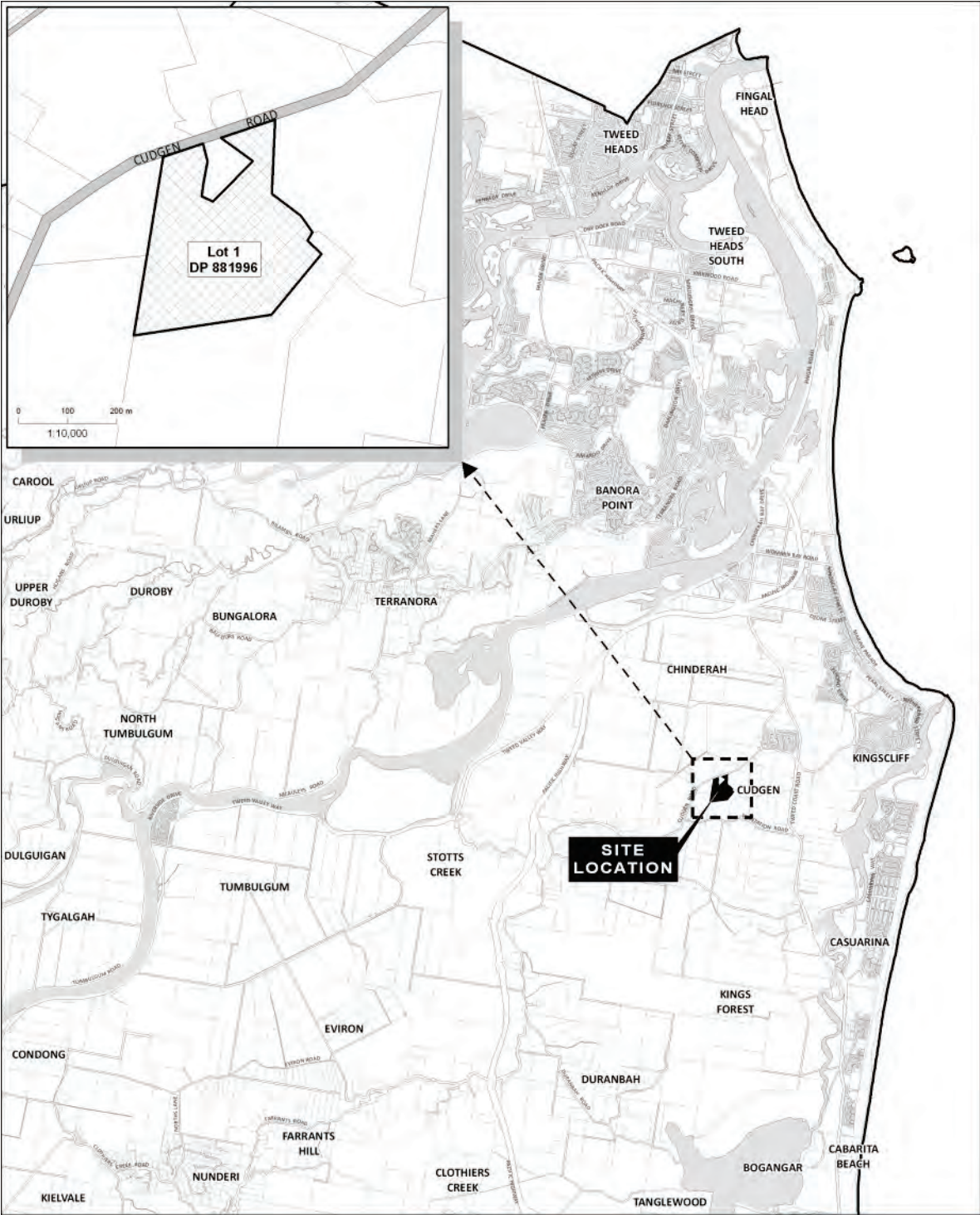
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As per the original application, the amended application shows the fenced free range activities are not clear of the 150m buffer to the approved house at 572 Cudgen Road.

Accordingly the application as amended is statutorily invalid as it was not lodged as Designated Development.

Council acknowledges that the fenced area could be moved outside of the designated buffer areas, however, this would not negate Council's other concerns as identified in this report.

SITE DIAGRAM:



Locality Plan
 DA12/0098 - Lot 1 DP 881996
 No. 576 Cudgen Road, Cudgen

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AERIAL IMAGE:



SOURCE: Aerial imagery taken October 2009 by Fugro Spatial Pty Ltd

Aerial photography can be purchased online from Fugro Spatial Pty Ltd. at: <http://www2.fugroworld.com/>

Aerial Photo - taken October 2009
 DA12/0098 - Lot 1 DP 881996
 No. 576 Cudgen Road, Cudgen

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

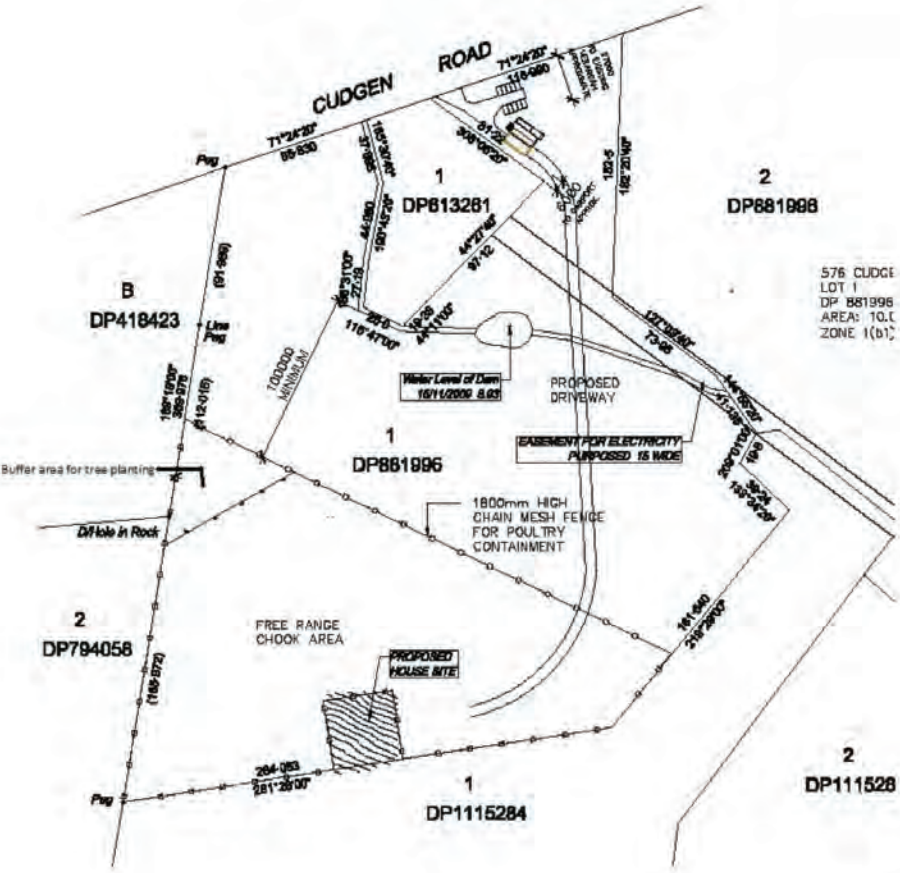
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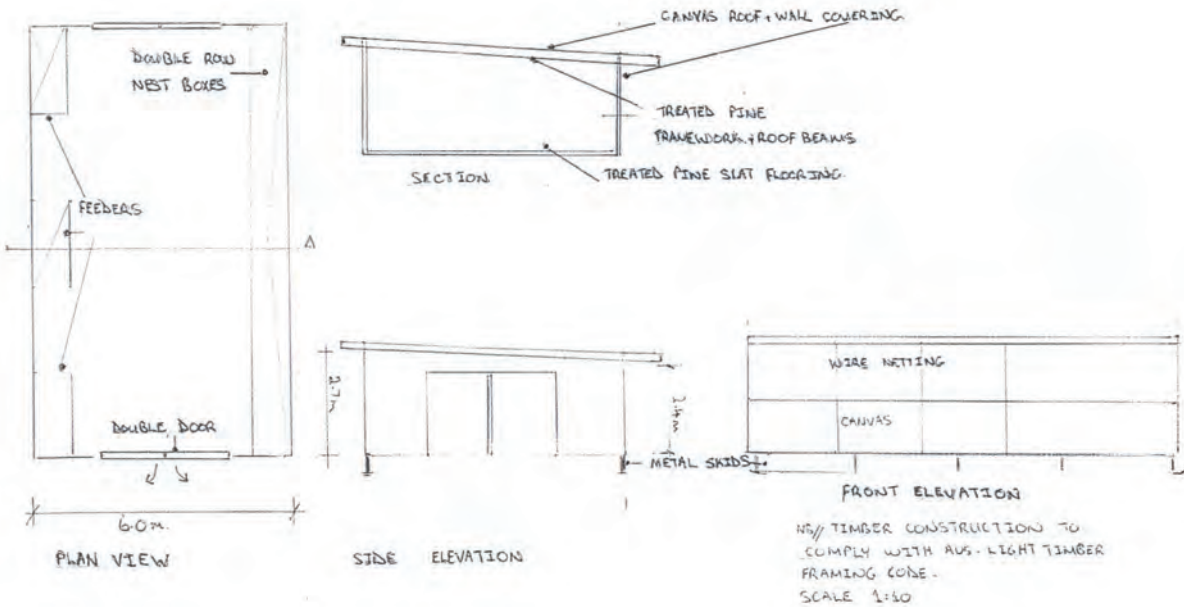
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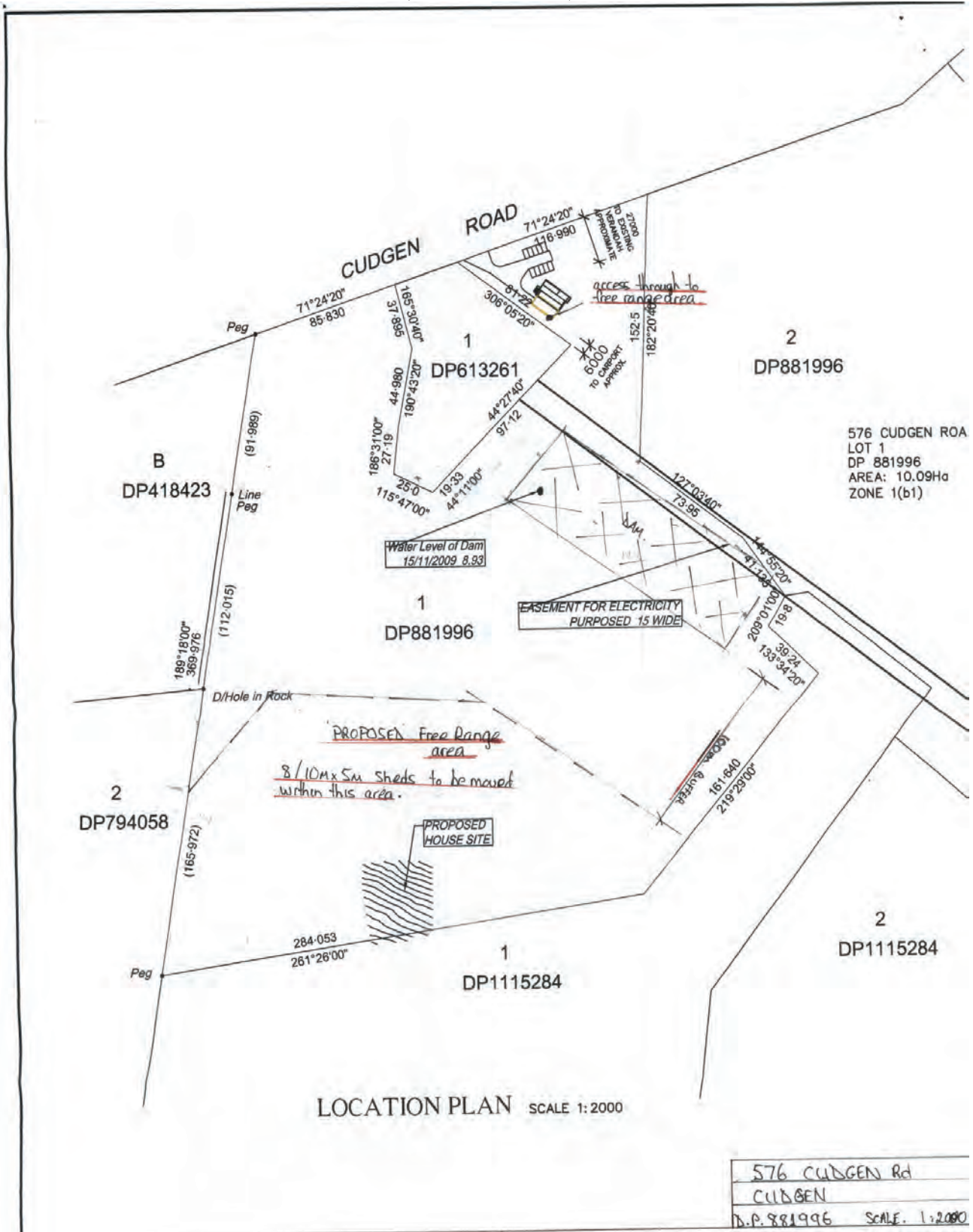
ORIGINAL DEVELOPMENT PLANS:



MOBILE NESTING STRUCTURE.



AMENDED DEVELOPMENT PLANS (15 JUNE 2012):



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 2 (TLEP 2000)

Clause 4 - Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan.

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

One of the aims of the plan is:

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

The proposed development would negatively affect the residential amenity qualities for adjoining neighbours as the development is located too close to neighbouring dwellings.

Clause 5 - Ecologically Sustainable Development

The TLEP 2000 aims to promote development that is consistent with the four principles of ecologically sustainable development, being the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms.

The proposed development has not demonstrated that a poultry farm could be operated at the subject site without adversely affecting the environment and accordingly non compliance with these provisions forms one of the recommended reasons for refusal.

Clause 8 – Consent Considerations and Clause 11 Zone Objectives

This clause specifies that the consent authority may grant consent to development only if:

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

The subject site is located in the 1(b1) Agricultural Protection zone which has the following objectives:

Primary objective

- *to protect identified prime agricultural land from fragmentation and the economic pressure of competing land uses.*

Secondary objective

- *to allow other development that is compatible with agricultural activities.*

The proposed development seeks approval for an animal establishment. This land use whilst permissible with consent must still satisfy the primary objective of the zone.

The subject site and surrounding properties have a dominant form of dwellings (residential), small crops (agriculture), hobby land (agriculture) and the one auto electrician's business. The approved dwellings have been determined to be compatible with that dominant agricultural form (as per the secondary objective).

Therefore to determine the suitability of any new use such as an animal establishment it must be reviewed having regard to its suitability with the existing form, which is residential and agricultural.

This report details that the proposed animal establishment is not consistent with the existing dominant form and that the sites use as a poultry farm would have a negative impact on the residential amenity of the existing and proposed properties in the immediate vicinity.

Consideration has been given to other aims and objectives of the plan that are relevant to the development elsewhere in this report.

The potential cumulative impact of other such non compatible uses would further impact on the residential amenity of the existing and proposed properties in the immediate vicinity. Additionally the environmental impact of this development and other potential future developments of this nature could have an unacceptable cumulative impact on the environment specifically having regard to water quality and pollution.

Accordingly non compliance with this clause forms part of the reasons for recommending refusal of the subject application.

Clause 15 - Essential Services

This clause of the TLEP 2000 requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. Having regard to the proposed development, on a site which currently has an approved dwelling, it is considered that adequate services are available to the proposed sheds.

Clause 16 - Height of Building

Clause 16 of the TLEP 2000 requires development to be undertaken in accordance with a building height plan, which identifies the site as being limited to three storeys. The proposed dwelling complies with this criterion at a maximum height of approximately 2.7m from finished ground level.

Clause 17 - Social Impact Assessment

The scale of this development proposal does not necessitate a social impact assessment.

Clause 22 – Development Near Designated Roads and Clause 24 Setbacks

The proposed development adjoins Cudgen Road which is a Council Designated Road and accordingly Clause 22 applies.

The amended application alters the proposed access to the site so that the development is only accessible from the existing driveway that's servicing the existing dwelling.

This access would need to be redesigned to accommodate small/large truck access.

Access to this site would be achievable in accordance with Clause 22 however inadequate information has been provided in this regard.

In regards to setbacks the proposed structure whilst movable would always be greater than 30m from the street boundary and accordingly Clause 23 could be satisfied.

Clause 35 - Acid Sulfate Soils

The subject site exhibits Class 5 ASS with respect to this clause.

The site could be adequately managed to avoid ASS.

Clause 47 – Advertising Signs

The proposed development does not contain any details of future signage.

State Environmental Planning Policies (SEPP)

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

This clause states that council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The subject site is listed on Council's GIS Enlighten system as being partially within an area which is identified as being State Significant Farmland.

Approval of an animal establishment on this site would preclude agricultural pursuits while the animal establishment was in operation.

Clause 15: Wetlands or Fishery Habitats

Clause 15 of the North Coast Regional Environmental Plan (NCREP) is applicable to any application to carry out development adjoining a river or stream or within the drainage catchment of a river or stream.

The subject site accommodates a waterbody (in the north eastern part of the site) which forms part of a natural waterbody, which included a lake or lagoon either naturally formed or artificially modified by the observation of the path of the watercourse that traverses across the subject site west to east and enters the dam located on the eastern boundary of the site and flows thereafter through a series of dams and ponds to the east into Cudgen Creek.

The cadastral and topographical map series for the immediate area of the site as displayed on the Department of Lands Spatial Information Exchange - Six Viewer clearly denotes the path of the waterway by way of a blue line commencing in the west within 542 Cudgen Road and progressing through the subject lands on an easterly path where it enters the dam on the site where after it flows to the south east through a series of dams and ponds eventually flowing into Cudgen Creek.



This Clause requires the applicant to consider the impact of the development upon the waterbody. The applicant's documentation does not adequately address this matter.

Clause 32B: Coastal Lands

The proposal does not contradict the strategic aims of the NSW Coastal Policy, the Coastline Management Manual or the North Coast: Design Guidelines.

SEPP No 71 – Coastal Protection

The matters for consideration under Clause 8 of this SEPP have been addressed.

The subject land does not have frontage to the coastal foreshore reserve and therefore many of the objectives from a) to p) do not apply to the subject site.

However, of note is matter for consideration (d) and (m):

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

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

The proposed development is not considered suitable given the potential impacts on adjoining residential amenity and the potential impact on the waterbody that traverses the site.

SEPP (Rural Lands) 2008

This SEPP introduces rural planning principles to facilitate the orderly and economic use and development of rural lands for rural and related purposes. It provides controls for rural subdivisions and identifies State significant agricultural land. It also implements measures designed to reduce land use conflicts.

Provisions contained within this SEPP must be taken into account in consideration of granting consent for a dwelling on rural land. Measures designed to reduce these land use conflicts are aimed at creation of residential land uses through subdivision on land that is adjacent existing farming activities.

The subject site is mapped as State Significant Farmland. However, this SEPP does not specifically apply to this development as no dwellings or subdivision is proposed on rural land.

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

The subject site is proposed to be zoned RU1- Primary Production under the Draft TLEP 2010. The objectives for this zone include provisions to encourage sustainable primary industry production, to encourage diversity in primary industry enterprises, to minimise fragmentation, and to minimise conflict between land uses within this zone and land uses within adjoining zones.

The proposed development would be defined as an animal boarding or training establishment. Whilst this land use would be permissible with consent in this zone the subject site is considered unsuitable for the proposed facility given the number of houses within close proximity to the site. Therefore given the potential land use conflicts the proposed development has been recommended for refusal and is not considered to satisfy the provisions of the Draft LEP.

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

Tweed Development Control Plan

Section A2 – Site Access and Parking Code

There are no specific provisions for an animal establishment. The applicant would need to demonstrate that adequate on site car parking is available to accommodate all required vehicles.

Council's Development Engineer has reviewed the amended proposal and stated that:

"The applicant may utilise the existing driveway as an entry point for the free range poultry farm, however it is required to be upgraded for small/large truck access.

During an onsite meeting with the applicant it was identified that there were ongoing issues with the owner of Lot 1 DP613261, apparently he encroached onto Lot 1 DP881996 with earthworks cut. This will potentially restrict access through to the rear of the site at the proposed chicken area.

Council cannot accept the proposed driveway access due to current access constraints."

Additional information would be required to address these matters.

Section A11-Public Notification of Development Proposals

This Development Application was notified for a period of 14 days, during this period 13 objections were received. These are discussed in detail later in this report.

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

Clause 92(a) Government Coastal Policy

The subject site is governed by the requirements of Clause 92(a) Government Coastal Policy. The development does not pose a threat to coastal processes.

Clause 92(b) Applications for demolition

The Development Application does not contain any provisions for demolition on the site.

Clause 93 Fire Safety Considerations

The subject application was referred to Council's Building Section, who provided recommended conditions with respect to the proposed movable sheds. Suitable conditions could be drafted were the application to be approved.

Clause 94 Buildings to be upgraded

Not applicable. The proposal does not include the upgrade of any buildings.

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

Tweed Shire Coastline Management Plan 2005

Not applicable.

Tweed Coast Estuaries Management Plan 2004

Not applicable.

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

Not applicable.

(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**

On 9 May 2012 Council wrote to the applicant and advised that as a result of the non complying buffers (that could not be satisfied on the site) the application should be withdrawn. In that same letter Council stated that:

"There are additional problems with the application which are detailed below for your information purposes only.

Satisfying these additional matters would not alter the primary issue as appropriate buffers cannot be achieved on the subject site.

Therefore Council is not requesting additional information as this would only cost you time and money which in Council's opinion would not change the ultimate outcome of the assessment.

The application lacks in site design detail and information within the following areas:

- *Perimeter Fencing Requirements*
- *Surface and Groundwater Management - protection, sediment and erosion control*
- *Soil Management*
- *Landscaping and Vegetation Management*
- *Lighting and Alarm systems*
- *Shed Design*
- *Pest Control*
- *Dead Bird Management*
- *Waste Egg Management*

- *Feed Storage Areas*
- *Egg Storage Areas*
- *Solid and Liquid waste management*
- *Chemical Storage Areas*
- *Drinking water source and security, storage and treatment*
- *Employee Requirements*
- *Range Rotation*
- *Land Contamination*
- *Community Consultation and Liaison*
- *Food Authority Licence Provision*
- *On-site activities - Farm Management Plan*

Despite this the applicant wanted the opportunity to respond to Council's issues.

Council staff has now reviewed the applicants additional information (one page of text and an associated plan) and makes the following comments:

Further information submitted fails to address the concerns raised.

Concerns raised are required to be addressed at the development application stage to ensure an appropriate development can be designed, accommodated and operated so as to minimise adverse impact on public health, community amenity, the environment and, animal welfare, that is that an appropriate standard of care to the animals is considered and not compromised.

The proposed operation of the activity has the potential to generate water pollution, air pollution/odour nuisance and noise pollution under the provisions of the Protection of the Environment Operations Act 1979 therefore it is considered essential that an adequate assessment of the design and operation of the activity can be undertaken at the application stage. Reference documents sourced provide guidance to minimise potential impacts identified.

The Environmental Guidelines for the Australian Egg Industry (2008) identifies potential site impacts of egg production being:

Community Amenity and Health

The potential for nuisance depends upon a range of factors, including:

- The location of the enterprise in relation to sensitive sites.
- The adequacy of separation and buffer distances.
- Design features of the enterprise.
- The on-going management of the enterprise; and
- Communication between those operating the enterprise and neighbours.

The management of sheds and the application of manure and spent litter to land must be carefully managed to avoid any potential human health impacts.

The application does not achieve best industry practice for consideration of surrounding sensitive land uses and separation and buffer distances. The application does not provide design features of the enterprise and inadequate information is provided to assess the on-going management practices. Information submitted does not provide details of the location/management of feed storage, manure storage, litter storage, drinking water nor dead birds.

The Guidelines state that buffer distances for egg industry facilities include sheds, manure storages and litter storages.

Surface Water and Groundwater:

Nutrients exported in surface water from waste storage sites and areas where organic by-products are spread may cause eutrophication in water bodies with the potential to promote the growth of algae. High nitrate levels in water are also toxic to fish, birds, wildlife, stock and humans. Elevated organic matter levels in water reduce oxygenation affecting fish and other aquatic life. Nutrients and salts can leach through the soil and contaminate groundwater.

Good siting, design and management are therefore critical in protecting water resources. Secondary protection is provided through measures that slow the movement of runoff and eroded soil.

Limited information has been provided to adequately determine if proposed stocking rates are adequate to ensure adequate vegetation coverage of range areas are sustainable during operations. Whilst it is acknowledged that the most impact upon vegetation is within a distance from the sheds the sheds are only proposed to be rotated within the 3.5 ha range area. No "resting" of range areas is proposed and the limited range area available will exclude the option of further expansion. The previous unapproved operations where bird numbers are less than proposed display extensive range areas of denuded vegetation.

Accordingly the potential impact on the environment coupled with insufficient information form reasons for refusal of this application.

(c) Suitability of the site for the development

As detailed within this report the recommended buffers and separation distances for an operation of this nature cannot be achieved on the site as the recommended buffers consume the entire site. The subject site is considered unsuitable for a poultry farm and accordingly the application has been recommended for refusal.

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

The application was not considered Integrated Development and therefore not referred to public agencies for comment.

The application was advertised and notified to adjoining owners for a two-week period from 4 to 20 April 2012. Following the exhibition period Council received 13 submissions opposed to the proposed development.

Some of the objections were extremely detailed and critically reviewed the applicant's submitted material and highlighted areas of contradiction and the overall lack of detail within the application.

The following points summarise the main issues raised by the objectors:

- The applicant's information is misleading (e.g. aerial images out of date, details not provided for when or where samples were taken from etc).
- The calculators used in the applicants assessment relate to calculating separation distances for meat broiler sheds (boilers are young birds reared from chicks for about 20 weeks) which would produce a very different noise level.
- The wind directions quoted in the applicants DA are not accurate and do not reflect the yearly figures.
- The applicants stocking rates are incorrect. For an area of 35,000m² the maximum number of birds should be 5250 not 10,000.
- The development should be lodged as Designated Development.
- There is insufficient information in the DA.
- The site is inappropriate for the proposed enterprise in regards to noise, smell, foul airborne dust and effluent runoff affecting the neighbouring residences and the water course.
- The proposed sheds would be an eyesore on the existing rural landscape.
- The facility will produce an unacceptable noise and smell for adjoining residences which are within 500m of the facility.
- The Cudgen village is within 1000m of the site.
- The facility will attract vermin to the area and affect nearby residences.
- Such a farm would affect my quality of life. We want to enjoy the benefits of living in a quiet rural area that was predominantly fruit and vegetable farming. The noise from the facility when it was operating without consent was unacceptable with only 3000-4000 birds.
- When the facility was operating without consent we experienced a bad smell from the thousands of chickens. Very often we were unable to have our doors or windows open because of the smell. This was more evident after rain. We were unable to entertain friends due to the smell. And this was with only 3000-4000 chickens not with the proposed 10,000.
- The facility will produce animal waste pollution and affect existing waterways in the area.
- Intensive animal farming is inconsistent with the Cudgen plateau prime agricultural land use zoning and small lot activity objectives.
- The applicants Statement of Environmental Effects says that the site can accommodate year round vegetation but with just 2000 birds and very favourable growing conditions the site was void of vegetation and nude from the chickens grazing the site.
- The proposed development is within 100m of a watercourse which flows into other properties.

- The applicant has demonstrated a long term disregard for compliance with planning requirements, council planning staff directions, or court orders. This non compliant behaviour is a clear indication that there will be future non compliances.

These issues raised by the 13 objectors contribute to the unfavourable recommendation of the subject application.

(e) Public interest

The concerns raised within the submissions with respect to loss of residential amenity are considered valid and contribute to the reasons for refusal. The proposed animal establish is not considered to be a suitable land use as the buffer/setback requirements for poultry farms cannot be achieved on this site. Therefore it is in the public interest for this application to be refused.

OPTIONS:

1. Refuse this application in accordance with the recommendation for refusal; or
2. That Council grant in-principle support for the proposal, and that officers bring back a further report to Council with possible conditions of development consent.

CONCLUSION:

The application submitted is deficient in detail. However, sufficient information has been submitted to determine that the proposed development is unsuitable for the site. This unsuitability is reflected in the proposal's non compliance with the best practice documents pertaining to poultry farms.

Having regard to the assessment of the development against the applicable planning instruments and the objections received following notification, the proposal is not considered suitable and therefore the subject development is recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Should the applicant be dissatisfied with the determination by Council they have an opportunity to appeal to the NSW Land and Environment Court. Should Council defend such an appeal costs would be incurred.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

UNDER SEPARATE COVER/FURTHER INFORMATION

Nil.

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14 [PR-CM] Development Application DA10/0516 for a Telecommunications Facility at Lot 17 DP 1157351 No. 57 Elkhorn Road, Cobaki Lakes

SUBMITTED BY: Development Assessment

FILE NUMBER: DA10/0516 Pt2



Civic Leadership

SUMMARY OF REPORT:

Council has received a request for a Section 82A Review of Determination for the refusal of a development application for the construction of a telecommunication facility at Lot 17 DP 1157351, No 57 Jabiru Drive, Cobaki Lakes.

The development application proposed:

- One 30m high monopole with a triangular headframe (with space allowed on the headframe for an additional nine future panel antennas if required);
- Three panel antennas (2.63m x 0.3m x 0.115m) at 30 metres in standard factory colour;
- One Telstra equipment shelter (measuring 3.28m x 2.28m x 2.995m) within the proposed Telstra compound (measuring 6m x 10m);
- Telstra compound including security fence 2.4m in height with double access gates;
- Construction and operational access will be via an existing track at the western end of Jabiru Drive, and a proposed Telstra track serving the facility (29m in length).

A report recommending refusal of DA10/0516 was submitted to Council as it was considered that the proposal would create a range of adverse environmental impacts, particularly in relation to the impact on threatened species, including the koala.

Council resolved to refuse the development application at its meeting of 21 June 2011.

A request for a Section 82A Review of Determination was received by Council on 7 June 2012. In its request for a Review of Determination the proponent has provided a Fauna Assessment to address the substantive ecological issues that led to the recommendation to refuse the development application.

The Review of Determination has been referred to Council's Natural Resource Management (NRM) Unit who have advised that the findings of the Fauna Assessment adequately clarify the uncertainties originally raised in Council's assessment of the development proposal. Whilst a number of minor concerns remain it is considered that these issues can be appropriately conditioned.

Following an assessment of the additional information against the relevant heads of consideration, it is therefore recommended that the application be approved.

Councillors are also advised that a Class 1 Appeal was lodged with Council on 22 June 2012 against the refusal of the development application. Should Councillors adopt the

recommendations made and approve the proposal, it is understood that the Class 1 Appeal shall be withdrawn. The call over hearing has been set down for 23 July 2012.

It is advised that Council will need to consider the options of this report which includes defending an appeal should the application be refused, or the applicant continues with the appeal to dispute the conditions.

Please note that the subject site was originally known as No. 55 Jabiru Drive in Lot 15 and Lot 17 DP 1157351. However a new application to amalgamate these lots has since been approved by the Land and Property Management Authority (LPMA). The subject site is now legally known as Lot 17 DP 1157351, No. 57 Elkhorn Road, Cobaki Lakes. For clarity, access to the site remains from Jabiru Drive over a registered easement for right of carriageway. The proponent has included a copy of this easement for reference with the original application details.

RECOMMENDATION:

That Development Application DA10/0516 for a telecommunications facility at Lot 17 DP 1157351; No. 57 Elkhorn Road, Cobaki Lakes be approved subject to the following conditions:

GENERAL

1. **The development shall be completed in accordance with the Revised Statement of Environmental Effects and Plan Nos Q109462 S1 Index (Locality Plan & Site Access); Q109462 S1-1 Index (Site Layout) and Q109462 S3 Index prepared by Telstra and dated 13 December 2010, except where varied by the conditions of this consent.**

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

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

[GEN0135]
4. **The approved development shall not result in any clearing of native vegetation without prior approval from the relevant authority.**

[GEN0290]
5. **Pruning or removal of vegetation to establish and maintain a 10m inner protection zone around the facility to meet bushfire safety standards or to provide access to the site must be carried out to the minimum extent necessary.**

[GENNS01]
6. **The mobile phone tower may not exceed a maximum height of 135.36m AHD at the location given including any attached antenna, aerials or other appurtenances.**
7. **The tower is to be lit with a low intensity red obstacle light in accordance with the Manual of Standards for Part 139 of the Civil Aviation Safety Regulations (refer MOS Part 139-Aerodromes, Chapter 9, Section 9.4 <http://www.casa.gov.au/wcmswr/assets/main/rules/1998casr/139/139mfull.pdf>).**

8. If the obstacle light is rendered unserviceable for any reason the proponent (Telstra) must ensure the light is repaired *within 24* hours maximum for the continued safe operation of aircraft within the vicinity.
 9. A separate application must be submitted to Gold Coast Airport for any equipment or crane planned to be used in the installation of the mobile phone tower that exceeds the maximum height of the OLS at 82.42m AHD.
 10. Proponent is to notify Gold Coast Airport 48 hours prior to commencing works.
 11. The proponent must notify Gold Coast Airport upon completion of the communications tower.
 12. Finished height must be provided to Gold Coast Airport upon completion (in AHD), so that it can update its plans and other records for the Airport and its surrounds.
- [GENNS02]
13. Any construction certificate issued for this development must include details for the construction of the access track extension.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

14. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.
- [PCC0945]
15. A construction certificate application for works that involve any of the following:
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control workswill not be approved until prior separate approval to do so has been granted by Council under Section 68 of the Local Government Act.
 - a) Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.
 - b) Where Council is requested to issue a construction certificate for civil works associated with a subdivision consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under Section 68 of the Local Government Act will then NOT be required.

[PCC1145]

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

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

[PCC1155]

17. Prior to the issue of a Construction Certificate, a Construction and Environmental Management Plan, generally in accordance with Appendix F of the Revised Statement of Environmental Effects dated May 2012, must be submitted and approved in writing by the General Manager or delegate officer. Works shall be carried out in accordance with the approved details.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

18. The erection of a building in accordance with a development consent must not be commenced until:

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

[PCW0215]

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

[PCW0225]

20. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

21. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

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

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

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

[PCW0985]

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

[DUR0215]

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

[DUR0245]

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

[DUR0375]

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

[DUR0405]

28. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

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

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

[DUR1005]

30. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

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

[DUR1875]

32. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

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

[DUR2185]

34. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

35. During construction the applicant must ensure that no damage or detrimental effect is caused to the shared driveway (within the Right of Carriageway) by construction vehicles.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

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

[POCNS01]

USE

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

[USE0125]

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

[USE0175]

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

[USE0225]

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

[USE0875]

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

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

REPORT:

Applicant: Telstra Corporation Limited
Owner: Mr Raymond W Staff
Location: Lot 17 DP 1157351; No. 57 Elkhorn Road, Cobaki Lakes
Zoning: 1(a) Rural
Cost: \$230,000

BACKGROUND:

At the Council meeting of 21 June 2011, Councillors resolved to refuse a development application for the construction of a telecommunication facility at Lot 17 DP 1157351, No. 57 Jabiru Drive, Cobaki Lakes. The telecommunication facility proposal involved:

- One 30m high monopole with a triangular headframe (with space allowed on the headframe for an additional nine future panel antennas if required);
- Three panel antennas (2.63m x 0.3m x 0.115m) at 30 metres in standard factory colour;
- One Telstra equipment shelter (measuring 3.28m x 2.28m x 2.995m) within the proposed Telstra compound (measuring 6m x 10m);
- Telstra compound including security fence 2.4m in height with double access gates;
- Associated works such as foundations, running underground fibre and power routes;
- Construction and operational access will be via an existing track at the western end of Jabiru Drive, and a proposed Telstra track serving the facility (approximately 29 metres to the site).

Within the submitted details the applicant, Telstra, stated that the telecommunication tower is required to provide for 'NextG' mobile phone and wireless broadband coverage to the new development of Cobaki Lakes and would extend into Piggabeen. Telstra advised that the proposal would provide high quality mobile telecommunications services into the area and would form an integral part of the overall Telstra network.

As previously detailed within the original assessment of the proposal, the subject site is located approximately 400m to the north west of Jabiru Drive on an elevated rural property. The subdivision pattern in this vicinity comprises of a mixture of small and large rural holdings used for both agricultural practices and residential occupation. The closest dwelling to the vicinity is approximately 500m to the south east on Jabiru Drive.

The proposed location for the telecommunication facility is located on a large rural lot with a total site area of approximately 36 hectares. The lot is heavily vegetated with native species. Access to the proposed site would be achieved firstly via the existing driveway and secondly by a proposed access track. The revised details indicate that the proposal involves the use of a small area of the site (60m² compound and approximately 123m² of new access track) which correlates to a small percentage of the site overall.

Within the original submission, the proponent advised that the proposed site was preferred as opposed to other locations in the surrounding area for the following reasons:

- The landowner is willing to agree to commercial terms with Telstra;

- The location provides for sufficient height to achieve Radio Frequency (RF) objectives of the proposal;
- The Rural 1(a) zoning of the site was considered suitable;
- The size of the lot and scale of the works the current land use of the site will not be greatly impeded;
- There is adequate site access for construction and maintenance purposes;
- The site is located away from sensitive land uses;
- The site does not contain any known items of environmental or cultural heritage significance nor is identified as being located within a conservation area.

Following an assessment of the development application against the relevant policy framework, it was considered that the proposed communication facility would enhance the telecommunications services in the surrounding locality.

The development application was assessed under Division 21 of the State Environmental Planning Policy (SEPP) (Infrastructure) 2007 and the Guidelines referred to in Clause 115(3) of the SEPP found within the *NSW Telecommunications Facilities Guideline Including Broadband July 2010* (Guideline). As detailed further within this report, the Guideline sets out four Principles in relation to visual impact, co-location, health standards and the minimisation of disturbance and risk. It was considered that the development application was consistent with Principles 1 through 3 as the location and design of the proposal was such that it would not impact on the visual amenity of the locality and would also be consistent with the requirements of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) with regard to Radio Frequency Electromagnetic Energy guidelines and human health.

However, the development application was referred to Council's Ecologist who advised that the proponent had failed to demonstrate the application's consistency with the requirements of Principle 4 of the Guidelines, in relation to the minimisation of disturbance and risk. It was considered that, although the tower was proposed within an area that requires little clearing, the surrounding area is of high conservation significance, particularly for koalas and arboreal marsupials and bats.

On the basis of the submitted information it was considered that the development would introduce disturbance to the site in a number of ways: during the construction phase; on-going noise; disturbance and lighting associated with the operation of the site; electromagnetic energy (EME) that may have the potential to impact significantly on surrounding threatened species; as well as the potential for a cumulative impact on the environment, which may have broader implications on fauna. It was advised that there was limited information to adequately assess such impacts on threatened species.

A report recommending refusal of the development application was submitted to the Council meeting on 21 June 2011. At that meeting, Council determined to refuse the development application for the following reasons:

1. The proposed development is not considered to meet the requirements of s79C of the Environmental Planning and Assessment Act 1979 as it is likely to result in unacceptable environmental impact and the site is deemed unsuitable.

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

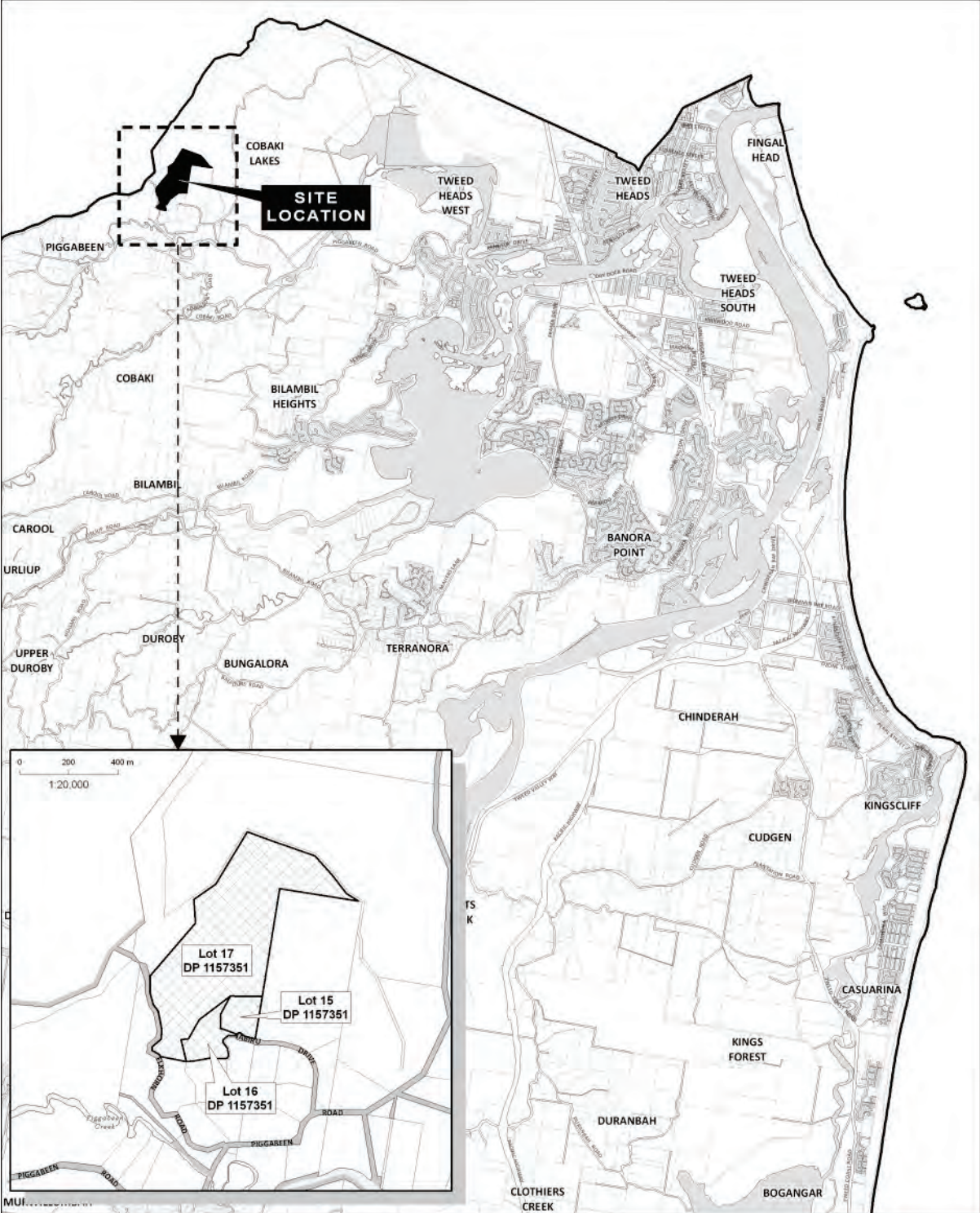
On 7 June 2012 Council received a request for a Section 82A Review of Determination for the refusal of the development application. Within this Review of Determination the proponent provided additional information in relation to the substantive ecological issues that led to the recommendation to refuse the development application as well as revised data in relation to EME.

The Review of Determination was advertised for a period of fourteen (14) days from Wednesday 27 June 2012 to Wednesday 11 July 2012. The Review of Determination is being reported to Council prior to the close of the advertising period and, at the time of writing, no submissions have been received. However, four submissions were received under the original development application, all of which were objections. The most common issues raised within these submissions were regarding: health and safety concerns from EME generated from the facility; depreciation of property value; the proposed access route; and improper community consultation. An assessment of the issues raised has been provided in the body of this report. Should additional submissions be received during the advertising period for the Review of Determination, the issues raised will be assessed by Council officers and Council advised of these submissions and assessment prior to determination at the Council meeting.

The Review of Determination has been referred to Council's NRM Unit who have advised that this new information is supported by Biolink Ecological Consultants, the same consultants responsible for the *Tweed Coast Koala Habitat Study* (Biolink, 2011) and the literature review on impacts of EME on fauna (Phillips *et al.*, 2009) used to inform decision making for a similar proposed telecommunications tower at Koala Beach. On the basis of Biolink findings, it is now considered that the uncertainties originally raised in Council's assessment of the development proposal have been clarified, as detailed further within this report.

There are however concerns, in relation to the provision of a 10m inner protection zone for bushfire purposes and likely vegetation removal as well as detail required in relation to construction and environmental management. However Council's NRM Unit has advised that these can be dealt with by way of appropriate conditions should the proposal be granted development consent.

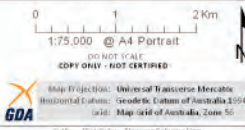
SITE DIAGRAM:



Locality Plan
 Lots 15 - 17 DP 1157351
 No. 57 Elkhorn Road, Cobaki Lakes

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

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 4 - Aims of the Plan

The main objective of Clause 4 is:

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

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

With regard to ecological integrity, the site is located on vacant, rural land that is surrounded by an area of high conservation significance with a high biodiversity value. The site itself consists of mature trees approximately 15m to 20m in height.

Some clearing of vegetation is proposed, particularly with regard to the creation of a 10m inner protection zone for bush fire purposes. Other disturbance factors such as the construction phase, ongoing operation of the site (air conditioning units), a flashing red light and so on also have the potential to impact significantly on fauna species. However, the submitted details have addressed Council's concerns with this regard and it is considered that the proposal would not have such a detrimental impact on the ecological integrity of the Shire so as to warrant refusal.

Clause 5 - Ecologically Sustainable Development

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

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

The subject site and surrounding locality is recognised for its high conservation and biodiversity value. Council's NRM Unit has advised that the new information adequately clarifies previous concerns in relation to ecological disturbance.

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

Clause 8 – Consent Considerations

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

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

In general it is considered that the proposal is consistent with the primary and secondary objectives of the zone as it would aid the technological advancement of this rural area while not compromising the rural character and amenity of the area to such an extent to warrant refusal of the proposal.

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

Clause 11 – Zone Objectives

Primary objectives

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

Secondary objectives

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

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

Clause 15 - Essential Services

As detailed within the previous report to Council, Telstra was initially proposing to connect the proposed facility to the nearest fibre pit and existing Country Energy power pole located approximately 18m away from the proposed facility. However, the proponent has advised that a fibre route pit is no longer required to be connected and this element has been removed from the plans.

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

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

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

Clause 16 - Height of Building

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

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

Clause 17 - Social Impact Assessment

Section A13 of the Tweed Shire Development Control Plan (DCP) identifies the types of developments that require a social impact assessment. The proposed telecommunication tower is not identified as an item requiring social impact assessment.

However the original development application received a number of submissions from the community objecting to the proposal, particularly with regard to the proposed location. The issues raised in the submissions are addressed later in this report.

Clause 35 - Acid Sulfate Soils (ASS)

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

Other Specific Clauses

Clause 33 Obstacles to Aircraft

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

The original development application was referred to the relevant aviation agencies:

- Planning Consultant for the Gold Coast Airport Pty Ltd (GCAPL)
- Gold Coast Airport Pty Ltd
- Civil Aviation Safety Authority (CASA)
- AirServices Australia (AirServices)
- Aviation and Airports Division, Department of Infrastructure and Transport.

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

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

The Review of Determination has been referred to Gold Coast Airport Pty Ltd (GCAPL) who has advised that, since the application was originally determined, there have been no changes in the Civil Aviation Authority's requirements. However, GCAPL have advised that the original Department of Infrastructure and Transport approval expires on 19 January 2013. Should works have not commenced by this date, a new application to the Department of Infrastructure and Transport would be required.

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

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

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

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

Clause 34 – Flooding

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

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

Clause 39A Bushfire Protection

The subject site is identified as being prone to bushfire.

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

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

The NRM Unit have recommended a condition to be applied to any consent to ensure that vegetation clearance to establish and maintain a 10m protection zone around the facility or to provide access to the site must be carried out to the minimum extent necessary.

Clause 40 – Heritage provisions objectives

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

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

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

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

Clause 54 Tree Preservation Order

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

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

As previously detailed within the original assessment, the subject site is also affected by the Tree Preservation Order 2011 (Koala Habitat Study Area). The Ecological Assessment Report submitted with the original application advised that the vegetation communities present on the subject site are tall open/closed Sclerophyll forest (*E. pilularis* / *E. microcorys* / *E. siderophloia*) and low closed grassland with scattered regrowth, containing numerous koala feed trees.

The Fauna Assessment undertaken by Biolink Ecological Consultants advises that the development as proposed will not remove habitat or fracture the existing vegetation corridor that passes through the site. The report identifies that there is a presence of varying species on the site and that the proposal does not involve the removal of significant vegetation. It is proposed that some minor trimming may be required to bring larger vehicles into the site and that a qualified spotter and arborist can undertake this work to further minimise any impact to flora or fauna.

Provided adequate conditions are applied to the consent in relation to vegetation clearance and the submission of a Construction and Environmental Management Plan, it is considered that the proposal would be unlikely to result in the loss of significant native trees so as to warrant refusal of the proposal.

State Environmental Planning Policies (SEPP)

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

The clause advises that Council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

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

SEPP No. 44 - Koala Habitat Protection

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

The previous ecological assessment stated that koala food tree species listed under Schedule 2 of SEPP 14 – Koala Habitat Protection (i.e. Tallowwood and Forest Red Gum) occur sporadically throughout the surrounding forested areas and one (1) species of threatened fauna, the koala, was recorded on the site. It was considered that, on this basis, the site was very likely to be regarded as Potential Koala Habitat and that, given the recent and historical records of koalas in the immediate vicinity, the site must be considered as containing core koala habitat and thus requiring the preparation of a Koala Plan of Management. This has not been undertaken.

The proponent has provided a Fauna Assessment, undertaken by Biolink Ecological Consultants, that advises that whilst potential koala habitat occurs on the site, the actual activity levels were well below that normally used to indicate a resident koala population. The Assessment advises that the site does not constitute core koala habitat and therefore, preparation of an individual koala plan of management is not required for the purposes of SEPP 44.

Further, the Assessment advises that the development is unlikely to *'result in an increase in any of the threatening processes currently acting upon koala populations on the Tweed Coast'* and *'the proposed development will not reduce the utility of the site for use by koala populations'*.

Council's NRM Unit has advised that the proposal would be unlikely to significantly impact on the koala. It is therefore considered that the proposal is now consistent with the aims of the SEPP.

SEPP No 71 – Coastal Protection

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

As detailed within this report, the revised Fauna Assessment provides further information to assess the likely ecological impacts of the development. Council's NRM Unit consider that the proposal is now unlikely to impact significantly on ecological matters to warrant refusal of the proposal.

SEPP (Infrastructure) 2007

As detailed within the previous report for the proposed development, one of the aims of this Policy is to provide greater flexibility in the location of infrastructure and service facilities. The proposed development is classified under Division 21 as development that requires consent from Council. The SEPP stipulates:

115 Development permitted with consent

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

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

The proposal is inconsistent with item 2(g) of Clause 116A of the SEPP as the 30m structure will penetrate the Obstacle Limitation Surface Plan of the Gold Coast Airport and is located within 30m of the airport. As previously detailed the development application was referred to Gold Coast Airport Pty Ltd (GCAPL) and the then Department of Infrastructure and Transport approved the proposal subject to a number of conditions.

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

NSW Telecommunications Facilities Guideline Including Broadband

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

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

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

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

Principle 1 (Visual Impact)

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

The location, design and height of the proposed tower is identical to that previously assessed by Council. Within the previous assessment of Principle 1 of the Guidelines, it was considered that, in general, the facility has been located and designed as far as practically possible to respond appropriately to rural landscape setting.

Such development will undoubtedly impact on the visual amenity of the locality however, given the nature of surrounding vegetation and topography, it is considered that the facility will not impact on the visual amenity to such an extent so as to warrant refusal of the proposal.

Principle 2 (Co-location)

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

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

The Telecommunications Act and Code of Practice encourage co-location of facilities, thus it is very likely that should a tower be approved in the location proposed in the application, at least two other telecommunications providers would co-locate. The application states that whilst three antenna will be initially installed, there is room for an additional nine antenna and at least three carriers could be expected to occupy the site. Each additional provider would require their own small building and additions to the tower, such that there would be regular disturbance over an extended period as well as ongoing disturbance for maintenance purposes. The co-location of facilities generally does not require development consent.

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

As the submitted Fauna Assessment advises that the proposal would unlikely impact significantly on ecological matters, nor result in the clearance of significant vegetation, it would be unreasonable for Council to refuse the application on the basis of potential future impact of co-location.

Principle 3 (Health Standards)

- (a) *A telecommunications facility must be designed, installed and operated so that the maximum human exposure levels to radiofrequency emissions comply with Radiation Protection Standard.*

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

As noted within this report, an EME report has been submitted detailing the estimated maximum cumulative EME levels produced by the proposal. Council's Environmental Health Unit was satisfied that the original proposal was well within emissions standards. Revised EME data has been submitted with the Review of Determination documentation. Council's Environmental Health Unit has advised that there are no concerns with this regard. Therefore, the proposed development is considered to be consistent with Principle 3 of the Guidelines.

Principle 4 (Minimise disturbance)

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

As previously detailed within this report, the submitted Fauna Assessment carried out by Biolink Ecological Consultants advises that the proposal does not involve any removal of significant vegetation and that the development would be unlikely to 'result in an increase in any of the threatening processes currently acting upon koala populations on the Tweed Coast'. It is further advised that the proponent is 'willing to increase the environmental controls during construction to ensure that minimal impacts are imposed on the local fauna'.

Further, in relation to micro-chiropteran bats, the Fauna Assessment analysed the temporal pattern of use finding that although all of the species observed potentially roost in tree hollows (as found near the subject site), their use of the site was not consistent with roosting which would typically see a peak in activity immediately following sunset (when they would be leaving tree hollows). Instead, the pattern of usage suggested that a small number of animals were arriving at the site much later in the night, probably as a result of more general foraging activity. Council's NRM Unit have advised that while Biolink Ecological Consultants acknowledge that EME has the potential to impact on micro-chiropteran bats, they conclude that any impacts that do occur will not be significant, as the bats that use the site are not resident there.

The proponent is willing to compile a detailed construction management plan that could be developed with the input of council to ensure satisfactory standards are met.

Council's NRM Unit is satisfied that such measures are adequate and that, on the basis of the revised information, the proposal is unlikely to significantly impact on ecological matters to warrant refusal of the proposal.

SEPP (Rural Lands) 2008

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

Telecommunications Act 1997

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

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

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

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

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

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

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

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

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

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

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

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

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

Tweed Development Control Plan

A2-Site Access and Parking Code

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

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

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

The Review of Determination does not propose any modifications to the access arrangements.

A3-Development of Flood Liable Land

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

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

Not applicable to the proposed Review of Determination.

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

The subject site lies just outside of the coastal zone and is located approximately 5.5km from the coast. Therefore considerations of the Tweed Shire Coastline Management Plan are not required. As detailed within this report, the submitted Fauna Assessment advises that the development would be unlikely to impact on matters of ecological importance.

It is therefore considered unlikely that the proposal would result in a cumulative impact on the environment or the values that make the Tweed coastline important in a local, regional or national sense to such an extent to warrant refusal of the proposal.

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

Given the elevated position of the development and minimal excavation work or vegetation clearance, it is considered that the proposed telecommunication tower is considered unlikely to impact on the ecological biodiversity of the Cobaki Broadwater.

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

Visual amenity

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

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

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

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



Figure 1: Site of proposed facility (shown in red) to the northwest at approximately 90m – 100m AHD and low-lying nature of surrounding topography. Proposed monopole will be particularly prominent from adjacent ridgeline to the south-east (approximately 60m – 80m AHD).

The proposed monopole will extend approximately 4-5m above the existing tree canopy and so will be visible within the immediate locality. However, views of the top part of the site will, in general, be limited to distant views, as the topography of the area will limit visibility from nearby residential properties. The hilltop location rises steeply from Jabiru Drive, as illustrated in Figure 1, and therefore may limit the top of the tower being directly visible from the closest residential properties.

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

Access, Transport and Traffic

Access is proposed from the existing Jabiru Drive and from an access track to be constructed measuring approximately 29m in length. The original development application was referred to Council's Development Engineer who advised that proposed access arrangements were satisfactory. No alterations to the access arrangements have been proposed.

It is considered that, once the construction phase is complete, the development would be unlikely to generate any significant volumes of traffic within the locality.

Flora and Fauna

The majority of the site is mapped under the Tweed Vegetation Management Strategy 2004 as being 'Sclerophyll Open Forests on Substrate Bedrock' with sections being 'substantially cleared of native vegetation' and 'not assessed'. The Cobaki Lakes area contains a diverse range of habitats from lowland wetlands and floodplains to elevated ridges above 100m AHD, with a corresponding high diversity of vegetation communities.

The National Parks and Wildlife Service Wildlife Atlas database contains 583 records of forty-one threatened flora species and 1178 records of fifty-four threatened fauna species, as well as one Endangered Population within a ten kilometre radius of the subject site.

The locality includes numerous mapped wildlife corridors, which have particular importance in linking lowland with elevated areas. Significant habitat removal has occurred under previous development consents over the Cobaki Lakes major development site, which lies immediately to the north of the subject site and has impacted part of the McPherson range corridor and links.

Remaining habitat areas are considered critical to sustaining wildlife populations as illustrated in Figure 2 below:

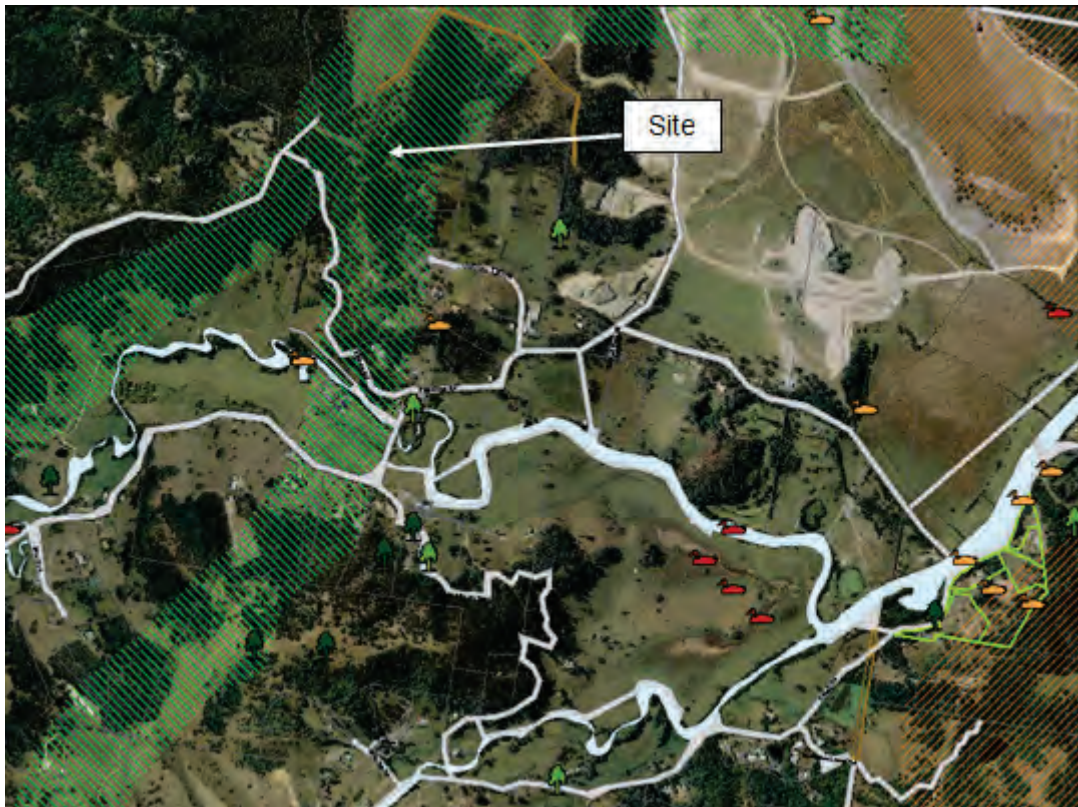


Figure 2: The proposed site is centrally located within a mapped sub-regional wildlife corridor and surrounded by numerous records of threatened species represented as tree and duck symbols here (red and dark green being Endangered and orange and light green being Vulnerable).

The previous ecological assessment undertaken for the proposed development recorded one threatened fauna species and considered 15 additional threatened fauna species, whilst recognising that the survey was limited by both time (one day and 3.5 hours night) and by season (Autumn, when little flowering or fruiting was occurring). The assessment detailed a female koala within 60m to the south-west of the site and koala scats on the edge of the subject site. A number of protected arboreal mammals dependent on hollows (possums) were also recorded, along with four species of amphibians (one exotic); four species of reptile; four species of mammals (one exotic) and twenty-five species of birds.

It was on this basis that Council's Ecologist advised that it was likely that a more detailed on-ground targeted fauna survey would result in numerous additional species, including threatened species. A particular concern with the previous assessment was in the lack of echo-location signal analysis to reveal the presence of microchiropteran bat species likely to use the site and potentially most directly affected by EME due to its potential for reduction in prey (insect) populations and their smaller body size.

Although it was recognised that the proposal would not involve much land clearing, concerns were raised that such species may be vulnerable to EME. This view was informed by a literature review undertaken for another proposed tower on the Tweed Coast (Phillips *et al.*, 2009).

Another substantive concern related to possible impacts on the koala. At the time the development application was originally assessed, Council had just been made aware of the dramatic decline in the Tweed Coast koala population through *Tweed Coast Koala Habitat Study* (Biolink, 2011) which stated that:

"Population Viability Analysis carried out by Phillips et al. 2007 has determined that as little as a 2 – 3% increase in the naturally occurring mortality rate (as a function of total population size) due to incidental factors such as road mortality, dog attack or the stressors associated with disturbance generally, is sufficient to precipitate decline."

This information suggested that in the absence of further information great caution should be applied to the management of this iconic species.

Other contributing issues of ecological concern included:

- The location of the proposal in an area of high biodiversity value;
- Uncertainties regarding the need for further minor clearing to reduce bushfire risks on the basis of advice provided by the Rural Fire Services;
- Possible future escalation of the development due to co-location of telecommunication facilities for other providers;
- Impacts from flashing air safety lights;
- Possible construction impacts; and
- Ongoing minor impacts from air conditioner noise and maintenance works.

As previously detailed, in its request for a RoD, the proponent provides further information to address the substantive ecological issues that led to the recommendation to refuse the development application. This new information is supported by Biolink Ecological Consultants, the same consultants responsible for the *Tweed Coast Koala Habitat Study* (Biolink, 2011) and the literature review on impacts on EME on fauna (Philips *et al.*, 2009) used to inform decision making for a similar proposed telecommunication tower at Koala Beach.

The Fauna Assessment concludes that:

"Cumulative survey effort suggests that although a range of fauna species utilise the site, it received limited or marginal use by the threatened fauna targeted by this work. Whilst some impact on lower-order prey communities such as insects and / or avoidance behaviour by micro-chiropterans may result from increases in EME in the area surrounding the proposed facility, we consider any such impact to be insignificant for purposes of Sec. 5A of the Environmental Planning and Assessment Act 1979."

Council's NRM Unit consider that this new information adequately clarifies the uncertainties originally raised in Council's assessment of the development proposal, providing conditions are applied to any development consent in relation to vegetation clearance and the submission of a Construction and Environmental Management Plan.

Noise

Some level of noise will be generated during the construction phase for the proposed monopole. During the operation phase of the monopole noise associated with use of air conditioning plants servicing the equipment shelter will be generated, which may impact on fauna within the vicinity of the subject site.

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

Lighting

The application does not make mention of any security lighting to be used at the facility. A condition shall be applied to any development approval in relation to security lighting.

Contamination

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

Radiofrequency (RF) and Electromagnetic Energy (EME)

The original development application raised concerns from surrounding residents in relation to exposure to RF and EME. The proponent was requested to address such concerns and advised as follows:

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

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

The original development application was referred to Council's Environmental Health Unit with this regard who advised the following:

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

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

In order to fill this regulatory responsibility, ACMA adopted the ARPANSA limits into the Radiocommunications (Electromagnetic Radiation – Human Exposure) Standard 2003 and the licence conditions for radiocommunications transmitters. All licensees of transmitter installations (like mobile phone base stations) are required to comply with the public exposure limits in the ARPANSA Standard. ACMA has adopted a precautionary approach to the regulation of EME emissions, ensuring that emission limits on communication transmitters are stringent and lower than those levels that have been found to cause adverse health effects.

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

On this basis Council's Environmental Health Unit advised that no further considerations were required with regard to RF and EME and its impact on human populations. Revised data in relation to EME has been provided with the Review of Determination which indicates that the maximum EME level at 1.5m above ground level is estimated to be 0.58% of the ARPANSA public exposure limits. Council's Environmental Health Unit have advised that the proposal remains consistent with the ACMA requirements.

Within the original assessment of the proposal, there were concerns in relation to the impact of EME on fauna populations based primarily on a literature review undertaken for a proposed tower on the Tweed Coast (Phillips *et al.*, 2009). As previously detailed within this report however, the proponent has provided further information to address the substantive ecological issues that led to the recommendation to refuse the development application, particularly in relation to the impact of EME on fauna populations.

Acid Sulfate Soils (ASS)

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

Aircraft Impacts

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

(c) Suitability of the site for the development

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

The site of the proposed facility is heavily vegetated (predominantly mature trees measuring 10m – 15m in height) and it is considered that the existing vegetation, to a certain extent, will provide a visual screen to the subject proposal, particularly coupled with the elevated nature of the hill top that will limit views to the monopole from the immediate vicinity.

The elevated nature of the subject site affords the desired level of coverage to the proposed telecommunication tower and will therefore improve telecommunications service for the locality. For these reasons the site is, in general, considered to be suitable for the proposal.

Tweed Shire Scenic Landscape Evaluation

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

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

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

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

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

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

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

Flora and Fauna

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

As previously detailed, whilst some level of disturbance impact is likely to be generated during the construction phase, during ongoing maintenance provisions and from impacts of EME, the Fauna Assessment undertaken by Biolink Ecological Consultants advises that the impact on surrounding land is expected to be minimal and insignificant to local populations and that the development, as proposed, will not remove habitat or fracture the existing vegetation corridor that passes through the site.

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

As previously detailed the submission period for the current Review of Determination is from Wednesday 27 June 2012 to Wednesday 11 July 2012. At the time of writing no submissions have been received although one local resident has verbally supported the proposal on the basis of improved mobile reception in the area.

However, a total of four submissions were received as a result of the original notification period, all of which were objections. The major issues with the proposed development were as follows:

Objection	Response
<p>Health and Safety:</p> <ul style="list-style-type: none"> • Such towers are seen as health risks, especially to young children; • Evidence to the contrary of the WHO (documented causes of cancer clusters near mobile phone towers; longevity studies yet to be completed; other countries have exclusion zones); • Lack of knowledge of long-term effects of EME on people (links to brain tumours and cancer). 	<p>Radiofrequency Electro Magnetic Energy (RF-EME) from the operation of the Base Station have been assessed and a report provided dated 19 December 2010 and updated version dated 29 September 2011. The report indicates that the maximum EME level at 1.5m above ground level is estimated to be 0.58% of the Australian Radiation and Nuclear Safety Agency (ARPANSA) public exposure limits. The report demonstrates that the predicted emissions produced by the proposal are within these standards. Council's Environmental Health Unit has advised that no further consideration with regard to RF-EME is required.</p>
<p>Depreciation of Property Value:</p> <ul style="list-style-type: none"> • Will decrease property values in the area greatly due to perceived health issues and visual impact. 	<p>The proponent has advised that there is <i>no evidence to show that mobile phone installations have negative impacts on property values [...]. Land that is close to local amenities [and subsequently] has good mobile coverage is likely to be more desirable than an area with poor coverage.</i></p> <p>A perceived devaluation of property prices is not a material planning consideration under section 79C of the Environmental Planning and Assessment Act 1979.</p>
<p>Access Track:</p> <ul style="list-style-type: none"> • Impact on the private road that is currently used and maintained by 4 residents only; • Heavy machinery to be used would damage private track; • With exception of land owner, all other landowners are refusing permission for the private driveway to be used; • Access track very steep and designed for residential vehicles only; 	<p>The proponent has advised that the road leading from Jabiru Drive to the subject site is a registered easement for right of carriageway and included a copy of this easement for reference with the original application details. This easement allows 'full and free right for every person who is at any time entitled to an estate or interest in possession of the land in question'.</p> <p>The easement states that owners of the lot shall maintain the carriageway and keep it in good repair and condition. It has been advised that Telstra agree to repair any damage that may occur during construction and that in relation to safety, the easement is</p>

Objection	Response
<ul style="list-style-type: none"> • Residents not prepared to be financially disadvantaged as a result of commercial vehicles degrading the track; • Health and safety of other track users due to heavy commercial vehicles. 	<p>a carriageway for vehicle access and road and safety rules will still apply.</p>
<p>Community consultation:</p> <ul style="list-style-type: none"> • The applicants have failed to carry out effective community consultation; • Such an objection is unethical; • No evidence of surrounding land owners (Lots 9 and 10 Jabiru Drive) being consulted; • Consultation that was carried out was selective, exclusive and incomplete; • Applicants stated that alternative sites not suitable as they would be likely to face opposition from the community however effective and comprehensive consultation would have revealed this. 	<p>In response to the submissions the proponent has stated: <i>we note that inconsistency between Council's Policy on Pre-DA consultation and the intent of the recently gazetted NSW SEPP Infrastructure Amendment (Telecommunication Facilities) 2010 and NSW Telecommunication Facilities Guideline including Broadband. [...] Provisions for mandated Pre-application consultation are not included [within the SEPP Infrastructure]. Council's resolution to mandate pre-application consultation and its decision to refuse to accept a [DA] is inconsistent with the [EP and AA 1979]. Council's policy is discriminatory [and...] given the location of the proposed facility and character of the area it is considered that Telstra have gone beyond what is required in terms of pre-DA consultation.</i></p> <p>Telstra have completed the following pre-DA consultation:</p> <ul style="list-style-type: none"> • Newspaper advertisements in the Tweed Link, Tweed Sun and the Tweed Daily News on 8/13 July and 15/20 July 2010; • Letter box drops & door knocks (7 July 2010) to surrounding homes/businesses (vacant rural lots, vacant houses, wholesale nursery, golf club, residential properties) that could be affected; • Community meeting was not held as it was <i>considered excessive given the rural context of the area and the location of the facility</i>'. <p>Whilst a community meeting is not a statutory requirement as set out in the EP & A Act 1979, the <i>NSW Telecommunication Facilities Guideline including Broadband</i> requires that a carrier should <i>have regard to Council's views on consultation</i>. Whilst it is unfortunate that a community meeting was not carried out the proponent has undergone letter drops and advertised the proposal in two (2)</p>

Objection	Response
	<p>concurrent publications which is considered to be acceptable in this instance.</p> <p>The Review of Determination has been notified to surrounding properties and advertised in the Tweed Link.</p>
<p>Air Safety:</p> <ul style="list-style-type: none"> • Proposal penetrates the Obstacle Limitation Surface (OLS) by 52.78m; • Disregard for safety of air operators and passengers as well as surrounding communities. 	<p>The original development application was referred to the relevant authorities for comment in regards to the potential conflict with flight activities. As previously detailed within this report the relevant bodies have approved the application subject to a number of conditions of consent.</p>
<p>Lack of time to dispute:</p> <ul style="list-style-type: none"> • Timeframe allocated to comment was not sufficient to allow the wider community the ability to gain a knowledge and understanding. 	<p>The timeframe for the notification period for the development was conducted in accordance with the Environmental Planning and Assessment Act 1979.</p>

(e) Public interest

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

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

Further, the additional information that has been provided with the RoD has clarified Council's original concerns in relation to perceived ecological issues and it is considered that the proposed development will not impact on the ecological integrity of the subject site nor surrounding locality to such an extent to warrant refusal.

It is therefore considered that the development will not impact on matters relating to the public interest in relation to ensuring that the environmental quality and biological diversity is maintained for future generations.

OPTIONS:

1. Adopt the recommendations made and approve the development application subject to a number of conditions of consent and request that the applicant withdraw the Class 1 Appeal; or
2. Refuse the development application and actively defend the appeal.

CONCLUSION:

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

Further, as set out within this report, Council's concerns in relation to the impact of the proposal on the ecological integrity of the subject site and surrounding locality have been alleviated. For this reason the proposal is now recommended for approval.

REFERENCES

Biolink Pty Ltd Ecological Consultants (2011) *Tweed Coast Koala Habitat Study – Report to Tweed Shire Council*, January 2011.

Phillips, S., Leopold_Woodridge, K., and Hopkins, M. (2009) *Impacts of electromagnetic energy (EME) on non-human biological organisms: a review*. Report to Optus – Daly International Pty. Ltd. Biolink Ecological Consultants, Murwillumbah NSW.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

A Class 1 Appeal has been lodged with the NSW Land and Environment Court. Costs will be incurred as a result of the Appeal.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

UNDER SEPARATE COVER/FURTHER INFORMATION

1. Council report of 21 June 2011 (ECM 52872649)
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- 15 **[PR-CM] Development Application DA10/0642 for a Three Storey Mixed Use Tourist and Residential Development Comprising 24 Accommodation Units Including 3 x 3 Bedroom Tourist/Residential Units, 3 x 3 Bedroom Residential Units, 12 x 2 Bedroom Tourist/Residential units and 6 x 2 bedroom residential units at Lots 1-3 Section 1 DP 29748, Lot 4 Section 1 DP 31209 Nos. 2-6 Tweed Coast Road and No. 10 Cypress Crescent, Cabarita Beach**

SUBMITTED BY: Development Assessment

FILE NUMBER: DA10/0642 Pt2



Civic Leadership

SUMMARY OF REPORT:

The Department of Planning and Infrastructure (DP&I) received a major project application under Part 3A of the Environmental Planning and Assessment Act in 2009 for a mixed use tourist and residential accommodation at Cabarita Beach. Various development options were considered by the applicant for redevelopment of the site including the renovation of the existing caravan park use, construction of detached dwellings on the existing freehold lots within the site, a residential flat building development and a three storey tourist accommodation development. The proposed mixed use development was considered to be the 'highest and best use of the site' by the applicant.

A report considered at the Council meeting of 19 October 2010 discussed matters with regard to the officers' overall assessment of the proposal (Environmental Assessment). It was acknowledged that the mixed residential/tourist development was generally consistent with the current 2(e) Residential Tourist zoning applying to the site, and with Council's broader strategic plans. The officers identified a number of significant issues to be considered by DP&I in their assessment and subsequent determination of the proposal. A submission to that effect was forwarded to DP&I on 22 October 2010.

Council now has an opportunity to review its submission following receipt of the Preferred Project Report from DP&I on 31 May 2012.

The concept of the proposal is generally supported subject to the issues being addressed as identified in this report.

RECOMMENDATION:

That Council endorses this report and submits it to the NSW Department of Planning and Infrastructure as the formal response to the Preferred Project Report (PPR) for a three storey mixed use tourist and residential development comprising 24 accommodation units including 3 x 3 bedroom tourist/residential units, 3 x 3 bedroom residential units, 12 x 2 bedroom tourist/residential units and 6 x 2 bedroom residential units at Lots 1-3 Section 1 DP 29748, Lot 4 Section 1 DP 31209 Nos. 2-6 Tweed Coast Road and No. 10 Cypress Crescent, Cabarita Beach.

REPORT:

Applicant: Darryl Anderson Consulting Pty Ltd
Owner: Mr Kenneth C Hansen & Mrs Marie J Hansen
Location: Lots 1-3 Section 1 DP 29748, Lot 4 Section 1 DP 31209, Nos. 2-6 Tweed Coast Road and No. 10 Cypress Crescent, Cabarita Beach
Zoning: 2(e) Residential Tourist
Cost: Not Applicable

BACKGROUND:

Council received a request for provision of details of key issues and assessment requirements for MP09_0016 on 8 May 2009 for the original three storey proposal for the site comprising 23 units for mixed residential and tourist accommodation. The application took into account comment provided to the applicant by Council at the Development Assessment Panel meeting of 12 December 2008.

The proposal was referred internally at that stage and Council's comments (issues and assessment requirements) on the project application were provided to DP&I in correspondence dated 21 May 2009.

Council received the Environmental Assessment (EA) for the mixed use tourist and residential accommodation proposal for comment on 27 August 2010. Unit numbers were increased by one to a total of 24. The proposal was referred internally and Council's comments were forwarded to DP&I on 22 October 2010 (refer Attachment 1) following consideration of the review at the Council meeting of 18 October 2010.

THE PROPOSAL

Council received a request to review the Preferred Project Report (PPR) for the mixed use tourist and residential accommodation on 31 May 2012. The PPR seeks to address matters raised during public exhibition of the EA inclusive of those matters raised by Council.

The PPR was referred internally in order for the document to be reviewed against Council's previous submission (refer Attachment 1).

As such, the relevant Council officers have assessed the PPR and provided comment. Council now has an urban designer who has been able to provide additional comment with regard to the proposal.

The most significant concerns have been highlighted by the development assessment engineers. Several important matters with regard to basement design and parking should be addressed by the applicant with the supply of amended, complying plans prior to determination of the application.

Comment has been assembled into the following table:

ISSUE	COMMENT
General Planning:	
Residential/Tourist Use	<p>The development provides for a total of 24 units, 15 of which can now be utilised as either residential or tourist accommodation. This is an increase of 11 units (from six as proposed in the Environmental Assessment) that have a dual residential/tourist use. The tourist accommodation component is in association with residential development but does not meet the primary objective of the zone unless it is utilised <u>exclusively</u> for tourist accommodation purposes in perpetuity of the proposed land use.</p> <p>As such, Council does not support proposed Units 4, 5, 6, 7, 8, 12, 13, 14, 15, 16, 20, 21, 22, 23 and 24 for dual residential/tourist use and requests that a Section 88b restriction be placed upon the title to denote exclusive use for tourist accommodation.</p>
Environmental Health:	
Local Government Act	<p>The following condition was recommended in Council's previous comments dated 22 October 2010:</p> <p><i>Prior to commencement of the closure of the park an approved plan of management shall be implemented addressing the diminishment of the caravan park over the period of closure to ensure all occupants have access to reasonable and adequate community facilities and services as required under the Local Government Act and its relevant Regulation. A copy of the plan shall be provided to Tweed Shire Council prior to its implementation.</i></p> <p>The applicant's response within the PPR is insufficient. The Statement of Commitments does not include the above matters or consideration for any assistance to long term residents needing to relocate nor the obstacles they will face in relocating within the local area due to low availability of alternative long term sites with the Tweed Shire.</p>
Dewatering	<p>Dewatering is not foreseen however potential does exist therefore a condition is recommended.</p>
Road Traffic Noise Impact	<p>An acoustic assessment has been undertaken. Conditions are recommended.</p>
Building:	
Building Code of Australia / BASIX	<p>No change to previous comments and conditions.</p>

ISSUE	COMMENT
Ecology:	
Site Vegetation (subject site)	<p>A site visit was undertaken which has determined that few native species occur on the site and the larger <i>Banksia integrifolia</i> are on residential allotments to the east that should remain unaffected by the development. The proposal does not include removal of any vegetation outside the property boundaries.</p>
Landscaping	<p>Species proposed for landscaping do not comprise 90% local native species as stated by the applicant (cultivated varieties are not local species) and include known environmental weed species (Agave, Raphiolepis, Gazania sp). Given the site location adjacent to a significant coastal nature reserve, landscape species should all be selected from Council's recently released Native Species Plant List and Planting Guide suited to the site. The applicant should commit to removal of environmental weed species present, including Cocos palms.</p>
Koala Habitat	<p>A site visit has confirmed that no Primary Koala habitat is present within the site or the adjacent Asset Protection Zone (APZ) to Cudgen Nature Reserve (CNR). Koala Habitat mapping has been revised since the original proposal was submitted, with a new coastal habitat assessment and mapping which confirms this view.</p>
Asset Protection Zone	<p>The applicant and the Office of Environmental Heritage (OEH) have confirmed that maintenance of a 20m APZ at the southern edge of and within CNR is the responsibility of the State government department under their Fire Management Plan and thus 20m is available for use off site as a maintained APZ. This could be construed as an exceptional circumstance that reduces the width of APZ required within the site.</p> <p>Clumps of vegetation exist within this APZ. Should any thinning be required, mature <i>Banksia integrifolia</i> trees should be retained and species not local to that environment (such as Umbrella tree or Silky Oak) with lesser conservation value should be chosen for removal. Such work would need to be undertaken by OEH rather than the applicant and therefore this matter does not require consent conditioning.</p> <p>Subsequently, it appears that a 28m APZ to residential development and a 45m APZ to tourist development (special fire protection purpose) is available without the need for vegetation removal within CNR and that 10m of the existing mown area is available for restoration in accordance with the intent of the current revision of the Fire Management Plan for CNR.</p>
Engineering:	
Water Supply & Effluent Disposal	<p>The position of the existing sewer and sewer junction is not suitable for the proposed building. Accordingly an application to Council is required for the disconnection and termination of the existing sewer and installation of a sewer junction in a suitable location.</p> <p>The driveway appears to be located over the top of a Council sewer manhole. Depending upon the type of the existing manhole top and lid, the top will need to be replaced with a suitable Class D lid as it is in a traffic area.</p>

ISSUE	COMMENT
<p>Stormwater Management</p>	<p>As stated in previous comment, the development is required to maximise use of collected roof waters for uses such as toilet flushing, cold water taps to washing machines and external uses.</p> <p>Please be advised that Council has since adopted its Rainwater Tanks in Urban Areas Policy (September 2011) which encourages the provision of substantial rainwater tanks connected to a significant portion of roof. In the case of unit and commercial developments, 80 to 90 percent of the roof area is required to be connected. This water should be used for gardens, car washing, toilet flushing and laundry cold water.</p> <p>The PPR makes no specific comment in this regard but does include a BASIX certificate showing a rainwater tank of 22500L capacity connected to a 300m² roof area. However, this water is to be used for the purposed of garden irrigation and car washing only.</p> <p>Whilst this satisfies the BASIX criterion, it falls short of Council's adopted policy. Council would like to encourage the proponent to consider further measures to improve this facet of the project.</p> <p>The applicant has lodged an addendum to the Stormwater Management Plan in the PPR. In this plan it is now proposed to mitigate discharge from the site via on site detention (OSD). A storage tank of 11.4m³ is proposed, to limit post development site discharge to pre-development rates, considering a range of storm intensities. No supporting calculations have been proposed.</p> <p>Imposition of the 200 l/s/ha maximum discharge rate (as required by Council's Development Design Specification D5 – Stormwater Drainage Design) will significantly increase the size of the OSD storage required for the Q100 storm, to over 100m³. This is consistent with conditions imposed on a separate Major Project application (MP06_0179) for a mixed use supermarket development in Cabarita.</p> <p>Given the sandy nature of the soil and opportunities for infiltration and water sensitive urban design within this site, there appear to be ample opportunities to reduce the storage requirements and manage site runoff effectively. This can be addressed in more detail with the construction certificate process.</p>
<p>Bus Stops</p>	<p>The two required bus stops can be accommodated via payment of an appropriate contribution. Council's recommended condition has been amended accordingly.</p>
<p>Parking</p>	<p>The PPR proposes a total of nine residential units (Units 1, 2, 3, 9, 10, 11, 17, 18 and 19) with the remaining 15 units for dual residential/tourist accommodation. The basement layout in the PPR includes six visitor bays, 41 car parks (inclusive of eight sets of tandem car parks) and one car wash bay.</p> <p>As the dual residential/tourist units can be utilised for either purpose, the most demanding parking requirement at either Item A4 or Item B6 of Council's Development Control Plan (DCP) Section A2 should be</p>

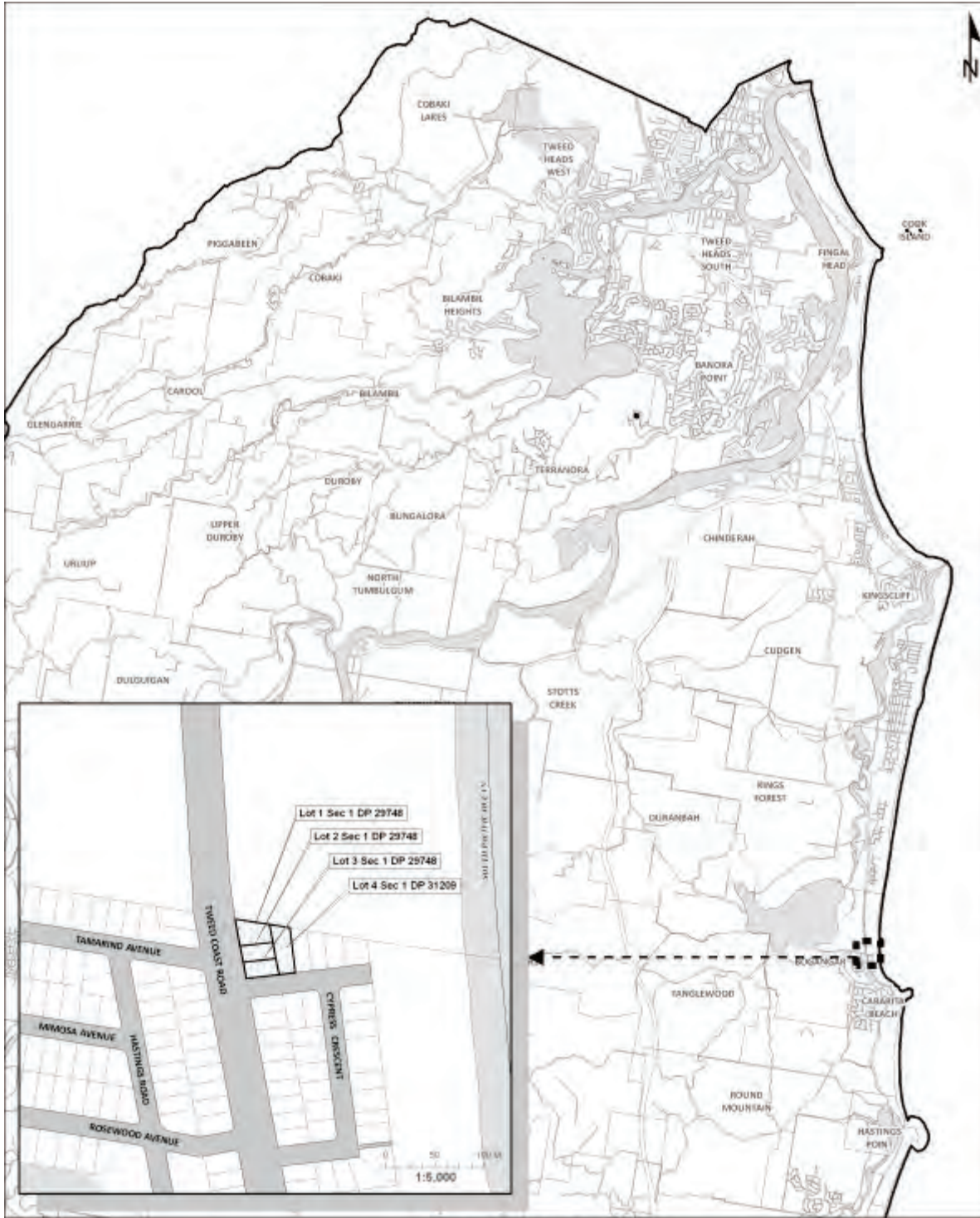
ISSUE	COMMENT																																											
	<p>adopted. As such, the following car parks are required:</p> <table border="1" data-bbox="472 293 1401 1149"> <thead> <tr> <th data-bbox="472 293 759 331">Proposal</th> <th data-bbox="759 293 1114 331">Parking rate</th> <th data-bbox="1114 293 1401 331">Required Spaces</th> </tr> </thead> <tbody> <tr> <td colspan="3" data-bbox="472 331 1401 369" style="text-align: center;">Residential Component</td> </tr> <tr> <td data-bbox="472 369 759 479">2 bedroom Units (2, 3, 10, 11, 18 & 19)</td> <td data-bbox="759 369 1114 479">1.5 parks per 2 bedroom unit</td> <td data-bbox="1114 369 1401 479">9</td> </tr> <tr> <td data-bbox="472 479 759 546">3 bedroom Units (1, 9 & 17)</td> <td data-bbox="759 479 1114 546">2 parks per 3 bedroom unit</td> <td data-bbox="1114 479 1401 546">6</td> </tr> <tr> <td data-bbox="472 546 759 584">Visitors</td> <td data-bbox="759 546 1114 584">1 park per 4 units</td> <td data-bbox="1114 546 1401 584">2.25</td> </tr> <tr> <td data-bbox="472 584 759 622">Bicycle</td> <td data-bbox="759 584 1114 622">2 spaces per unit</td> <td data-bbox="1114 584 1401 622">18</td> </tr> <tr> <td data-bbox="472 622 759 689">Public Transport, Bus Stop Seating</td> <td data-bbox="759 622 1114 689">1 facility per 15 units</td> <td data-bbox="1114 622 1401 689">1</td> </tr> <tr> <td colspan="3" data-bbox="472 689 1401 728" style="text-align: center;">Dual Use Residential/Tourist Units</td> </tr> <tr> <td data-bbox="472 728 759 869">2 bedroom Units (4, 5, 6, 7, 12, 13, 14, 15, 20, 21, 22 & 23)</td> <td data-bbox="759 728 1114 869">1.5 parks per 2 bedroom unit</td> <td data-bbox="1114 728 1401 869">18</td> </tr> <tr> <td data-bbox="472 869 759 936">3 bedroom Units (8, 16 & 24)</td> <td data-bbox="759 869 1114 936">2 parks per 3 bedroom unit</td> <td data-bbox="1114 869 1401 936">6</td> </tr> <tr> <td data-bbox="472 936 759 974">Visitors</td> <td data-bbox="759 936 1114 974">1 park per 4 units</td> <td data-bbox="1114 936 1401 974">3.75</td> </tr> <tr> <td data-bbox="472 974 759 1012">Bicycle</td> <td data-bbox="759 974 1114 1012">2 spaces per unit</td> <td data-bbox="1114 974 1401 1012">30</td> </tr> <tr> <td data-bbox="472 1012 759 1079">Public Transport, Bus Stop Seating</td> <td data-bbox="759 1012 1114 1079">1 facility per 15 units</td> <td data-bbox="1114 1012 1401 1079">1</td> </tr> <tr> <td data-bbox="472 1079 759 1117">Deliveries</td> <td data-bbox="759 1079 1114 1117" rowspan="2">Refer comments below</td> <td data-bbox="1114 1079 1401 1117" rowspan="2">Refer comments below</td> </tr> <tr> <td data-bbox="472 1117 759 1149">Staff</td> </tr> </tbody> </table> <p data-bbox="472 1227 1407 1323">The development has a tourist accommodation component. As such, staff and delivery car spaces (as per DCP A2 requirements for Tourist facilities) are required and should be enforced.</p> <p data-bbox="472 1361 1407 1563">The provision for a Heavy Rigid Vehicle (HRV) space (as per DCP A2) is unwarranted. The complex will most likely be managed off site with minor deliveries such as linen and mini-bar goods. With 15 dual use units proposed, at least one delivery space of a size to service a Small Rigid Vehicle (SRV) is warranted. This has not been provided for in the revised car parking layout.</p> <p data-bbox="472 1601 1407 1697">On occasion, staff associated with the management of the tourist component of the development will be required to visit the site. As such, at least one nominated staff parking space should be provided.</p> <p data-bbox="472 1736 1407 1870">Each of the proposed eight sets of tandem car parks (car parks 20-35) must be allocated to individual units. Ideally, tandem car parks should be allocated to three bedroom units, as two car parks are required per unit.</p> <p data-bbox="472 1908 1407 2072">Accordingly, the following six units (1, 8, 9, 16, 17 & 24) must each be allocated a set of tandem car parks. Two sets of tandem car parks must therefore be allocated to two of the two bedroom units despite the requirement for 1.5 car parks per unit. As there are 18 two bedroom units, the residue of 16 two bedroom units requires a total of 24 single</p>	Proposal	Parking rate	Required Spaces	Residential Component			2 bedroom Units (2, 3, 10, 11, 18 & 19)	1.5 parks per 2 bedroom unit	9	3 bedroom Units (1, 9 & 17)	2 parks per 3 bedroom unit	6	Visitors	1 park per 4 units	2.25	Bicycle	2 spaces per unit	18	Public Transport, Bus Stop Seating	1 facility per 15 units	1	Dual Use Residential/Tourist Units			2 bedroom Units (4, 5, 6, 7, 12, 13, 14, 15, 20, 21, 22 & 23)	1.5 parks per 2 bedroom unit	18	3 bedroom Units (8, 16 & 24)	2 parks per 3 bedroom unit	6	Visitors	1 park per 4 units	3.75	Bicycle	2 spaces per unit	30	Public Transport, Bus Stop Seating	1 facility per 15 units	1	Deliveries	Refer comments below	Refer comments below	Staff
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Staff																																												

ISSUE	COMMENT
<p>Outstanding Parking Matters</p>	<p>basement car parks.</p> <p>A total of 41 basement car parks are proposed. Assuming that outstanding issues regarding design of a compliant basement arrangement can be resolved, one car park remains (following unit allocation) that may be utilised as a staff space.</p> <p>The basement arrangement needs to address the SRV shortfall space and the nominated dimensions. There may be opportunity for the proposed car wash bay to be used as a dual use in conjunction with the delivery space, although appropriate dimensions will be required.</p> <p>The proposed six visitor bays located in the basement before the security gate are considered acceptable.</p> <p>It is unclear as to whether vehicles utilising the proposed car wash bay will be able to enter and exit safely due to the fact that the bay is located on the declining (1:12) driveway entrance. This will need to be addressed satisfactorily and appropriate conditions imposed.</p> <p>The car wash bay should be constructed of pervious material and drain to landscape areas. If this is not achievable in the current plan, significant changes may need to be made to the proposal in order for it to be accommodated. For example:</p> <ul style="list-style-type: none"> • a roof may be required over the car wash bay to prevent rain water entering into Council's sewer system and such a roof may not be permissible in its current location • the applicant would also be required to enter into a "Trade Waste Agreement" with Council with standard conditions imposed. <p>With regard to engineering matters, it is recommended that the development not be endorsed until the following matters are satisfactorily addressed:</p> <ol style="list-style-type: none"> 1. The PPR submitted Basement Plan (Dwg No: 7'11 / Dwg: DA4 dated 24 April 2012) does not comply with minimum dimensions specified in AS/NZS 2890.1:2004. Accordingly: <ol style="list-style-type: none"> a. Visitor Park (VP1) needs to provide a minimum width of 3400mm if the partition separating the visitor parking space and the store space is a physical barrier (i.e. solid wall or wire mesh). As such the intended partition material needs to also be confirmed. b. Car Park (No 1) needs to provide a minimum depth of 5200mm. This car park currently scales off around 5100mm. c. Car Parks (Nos 7 and 8) need to provide a minimum depth of 5200mm at their shallowest point. Both car parks currently scale off at 5000mm and 5100mm respectively. d. Car Park (No 13 - disabled) - the applicant needs to confirm that minimum, clear dimensions are provided for this car parking space in accordance with disabled car parking

ISSUE	COMMENT
	<p>requirements of AS/NZS 2890.1:2004. A depth of 3810mm to the proposed exit path is insufficient.</p> <p>e. Tandem Car Parks (Nos 20 to 35) - each pair of tandem car parks needs to provide a combined minimum depth of 10400mm in order to provide an individual depth of 5200mm.</p> <p>2. The development needs to provide a minimum of one staff and one delivery car space (capable of servicing an SRV vehicle). Council's DCP A2 states that the minimum dimension of an SRV space is 6385mm wide, with a minimum height clearance of 2500mm. There may be opportunity for the proposed car wash bay to be utilised for dual purposes in association with the delivery space. In this case, appropriate dimensions will be required.</p> <p>3. Turning templates are required confirming that all vehicles utilising the car wash bay/delivery space can exit the site in a forward direction.</p>
Planning Reform:	
<p>Urban Design</p> <p>Context</p> <p>Site Planning and Orientation</p> <p>Building Form, Mass and Scale</p>	<p>Key design comments following review of the PPR are as follows:</p> <p>The desired future character of the locality is to retain the essence of a small coastal village. As such, new buildings should reflect the scale of a smaller coastal settlement rather than a larger urban settlement. This development site is of particular importance in establishing the built form character of the Cabarita Village centre as it is the first property encountered when travelling south. In many ways this gateway site is what will establish a lasting impression of the village.</p> <p>The application of 'desired future character' criteria to a new, larger scale residential development would call for greater consideration of breaking down bulk and form as well as carefully detailing the building to give it a greater residential scale appropriate to a small coastal village.</p> <p>The building in its current form, despite its pattern of balconies and recessed sections of the floor plate, still presents as a large continuous building form. The continuous roof form and limited material palette does not achieve the coastal village design objectives.</p> <p>Although each of the units is oriented north to north east, there is limited opportunity for cross ventilation with the majority of the units having a single aspect. The long and narrow configuration of many of the units results in limited natural sunlight access across the floor plate, particularly around wet area locations which rely solely on artificial lighting and mechanical ventilation.</p> <p>The proposal presents as a considerable scale, mass and bulk. This is largely due to the repetition of the same stacked floor plan and the uninterrupted building elevation extending from Tweed Coast Road into Cypress Crescent. This results in a continuous, long and unbroken elevation of almost 80m in length. The design includes a series of steps and recesses in the building footprint with decorative external</p>

ISSUE	COMMENT
<p>Building Materials</p>	<p>screens around circulation and core areas which serve to articulate the long elevation to some extent but it does not appropriately reduce the overall visual bulk and scale.</p> <p>Similarly, there is little variation within the roof line in terms of change in height, pitch and form. This may have served to reduce visual bulk and assist in breaking down the continuous building form.</p> <p>Physically separating the building into separate pavilions would assist in breaking down overall bulk and increasing compatibility with a small coastal village context. This introduces further opportunity for landscaped courtyards and/or links between buildings and provision of alternate access from private outdoor areas to the street rather than around the perimeter of the site.</p> <p>The building presents as large expanses of concrete in the form of projecting and expressed floor slabs, spandrels and blade walls, offset by glass sliding doors to verandahs, windows and balustrades. The aluminum screen with landscape motif appears as an unintegrated element of the overall design. The concrete-heavy material palette is more appropriate in a dense urban context rather than a small coastal village on the edge of a coastal heath bushland reserve and an ocean beach.</p> <p>Deeper balconies and solar shutters to the western elevation would serve to improve internal comfort of west facing units as well as the overall building articulation.</p> <p>The proposed colours of the building (purple and blue tones) do not complement a coastal village context.</p>

SITE DIAGRAM:



Locality Plan

Lots 1-3 Section 1 DP 29748 and Lot 4 Section 1 DP 31209
 No's. 2-6 Tweed Coast Road and No. 10 Cypress Crescent, Cabarita Beach

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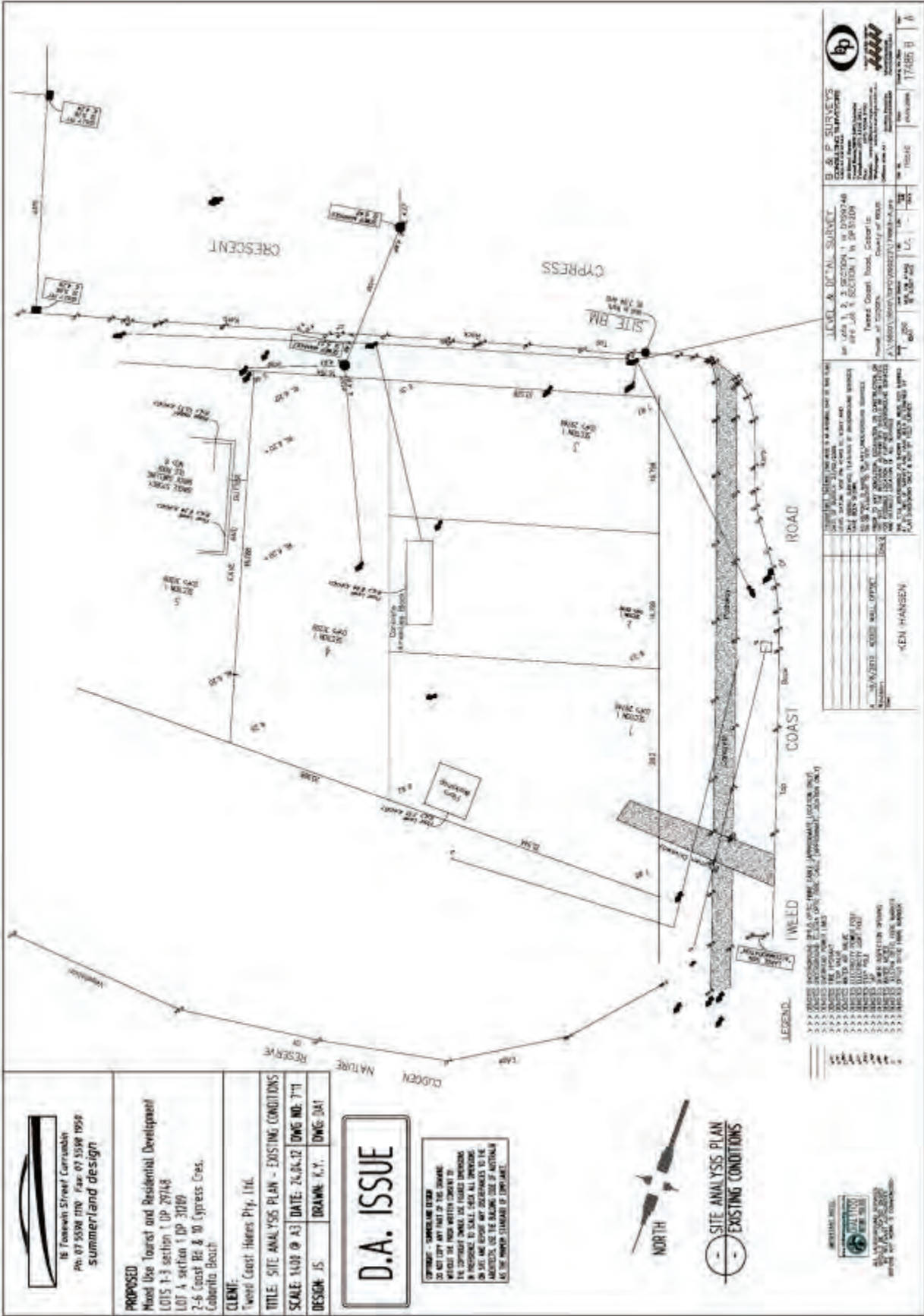
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 Dept of Lands & Tweed Shire Council
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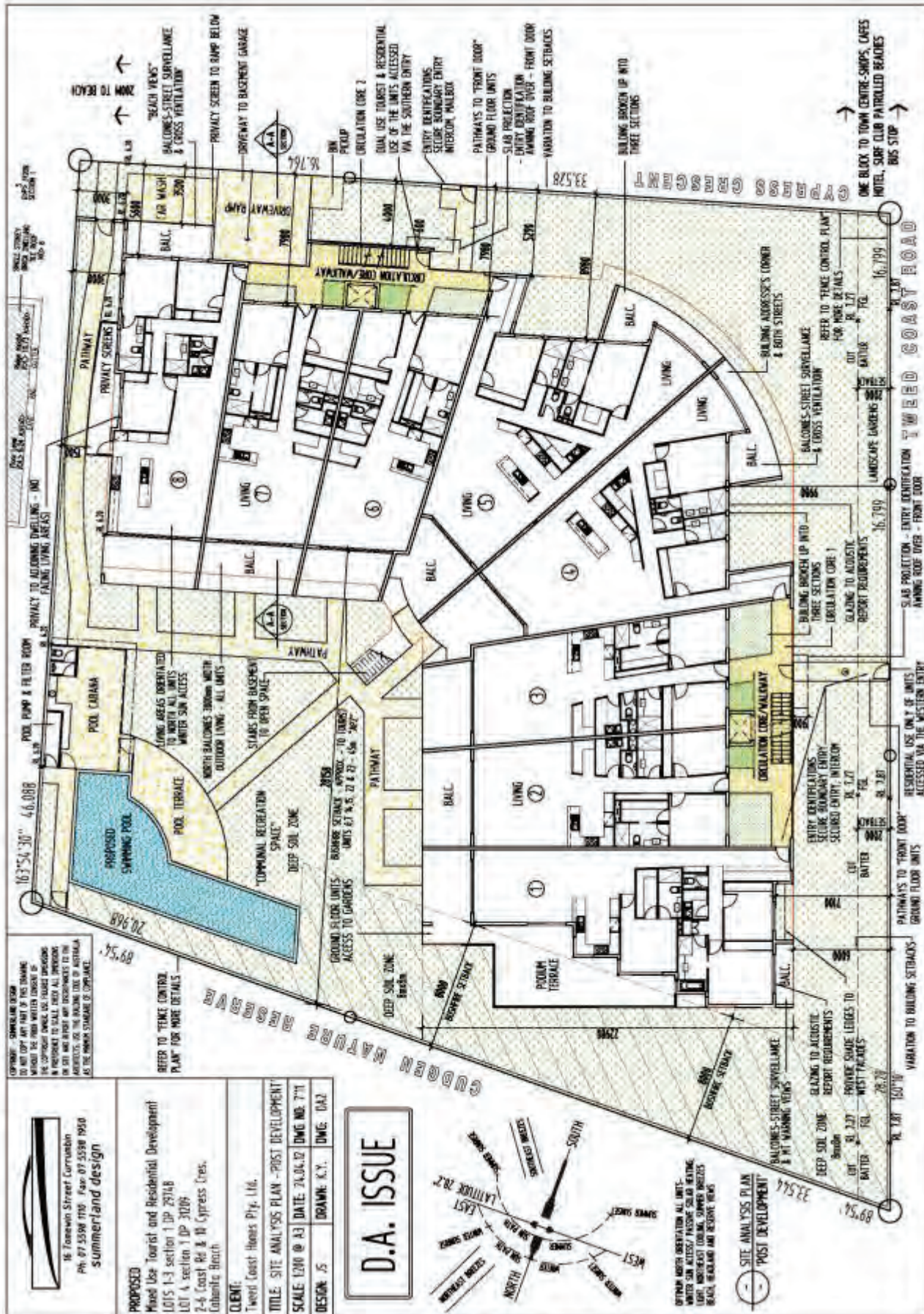
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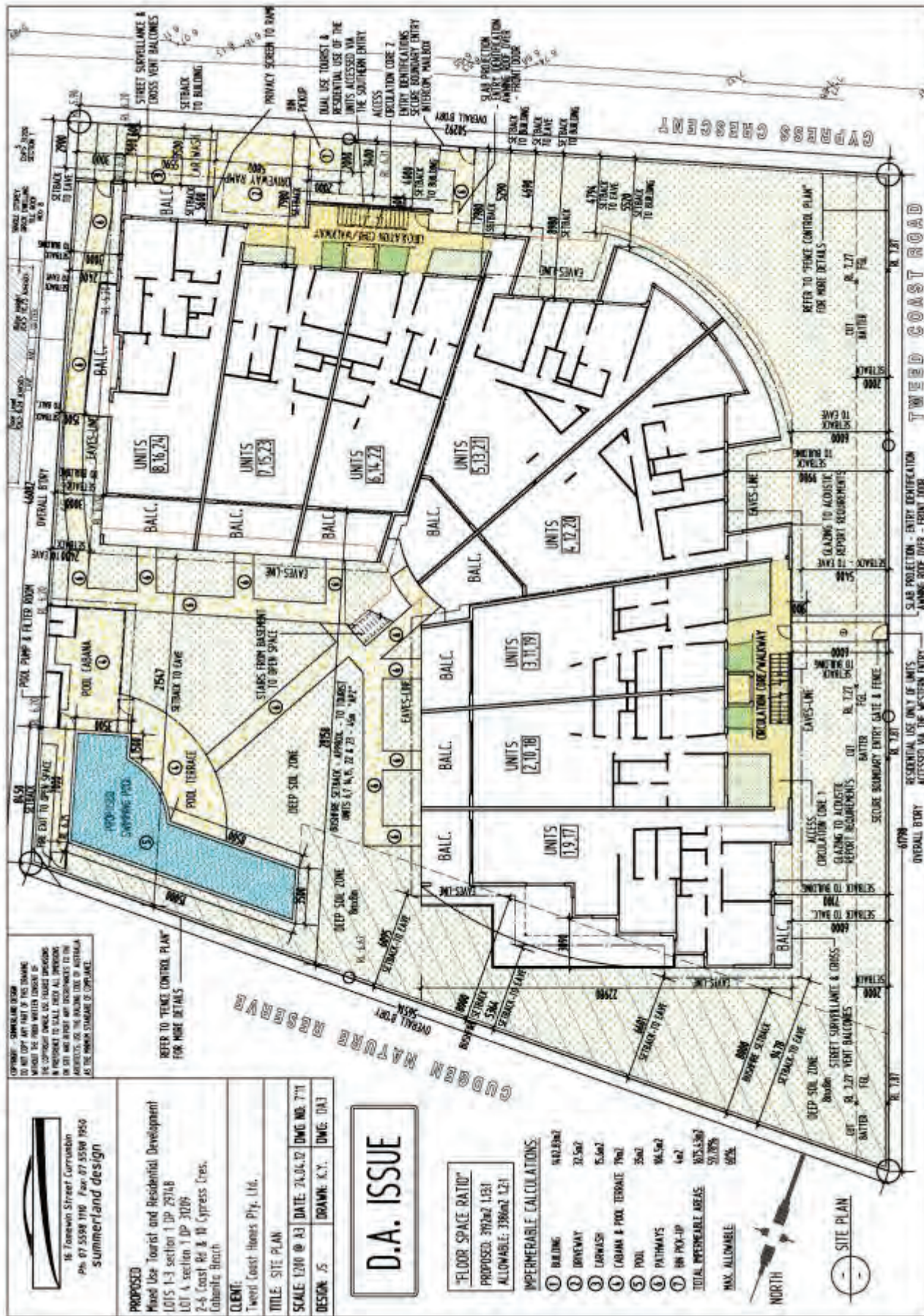
City and Cultural Centre
 3 Tunstun Road
 Murwillumbah NSW 2484
 PO Box 818
 Murwillumbah NSW 2484
 T (02) 6678 2480 / 1300 200 872
 F (02) 6678 2429
 W www.tweed.shire.nsw.gov.au
 E info@tweed.shire.nsw.gov.au



DEVELOPMENT/ELEVATION PLANS :







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PROPOSED
 Mixed Use Tourist and Residential Development
 LOTS 1-3 section 1 DP 29148
 LOT 4 section 1 DP 31209
 2-6 Coast Rd & 10 Cypress Cres,
 Gahalee Beach

CLIENT:
 Tweed Coast Homes Pty. Ltd.

TITLE: SITE PLAN

SCALE: 1:200 @ A3 **DATE:** 24.04.12 **DWG NO.:** 711

DESIGN: JS **DRAWN:** K.Y. **DWG.:** DAJ

16 Townswon Street Corrobarrat
 Ph: 07 5598 1110 Fax: 07 5598 1950
summerland design

D.A. ISSUE

"FLOOR SPACE RATIO"
 PROPOSED: 376m² L2H1
 ALLOWABLE: 376m² L2H1

IMPERMEABLE CALCULATIONS:

1	BUILDING	141.0m ²
2	DRIVEWAY	27.5m ²
3	CARWASH	15.6m ²
4	CARWASH & POOL TERRACE	79.0m ²
5	POOL	55.0m ²
6	PATHWAYS	14.5m ²
7	BM PICK-UP	4.2m ²
TOTAL IMPERMEABLE AREAS:		376.8m²
MAX. ALLOWABLE:		376m²



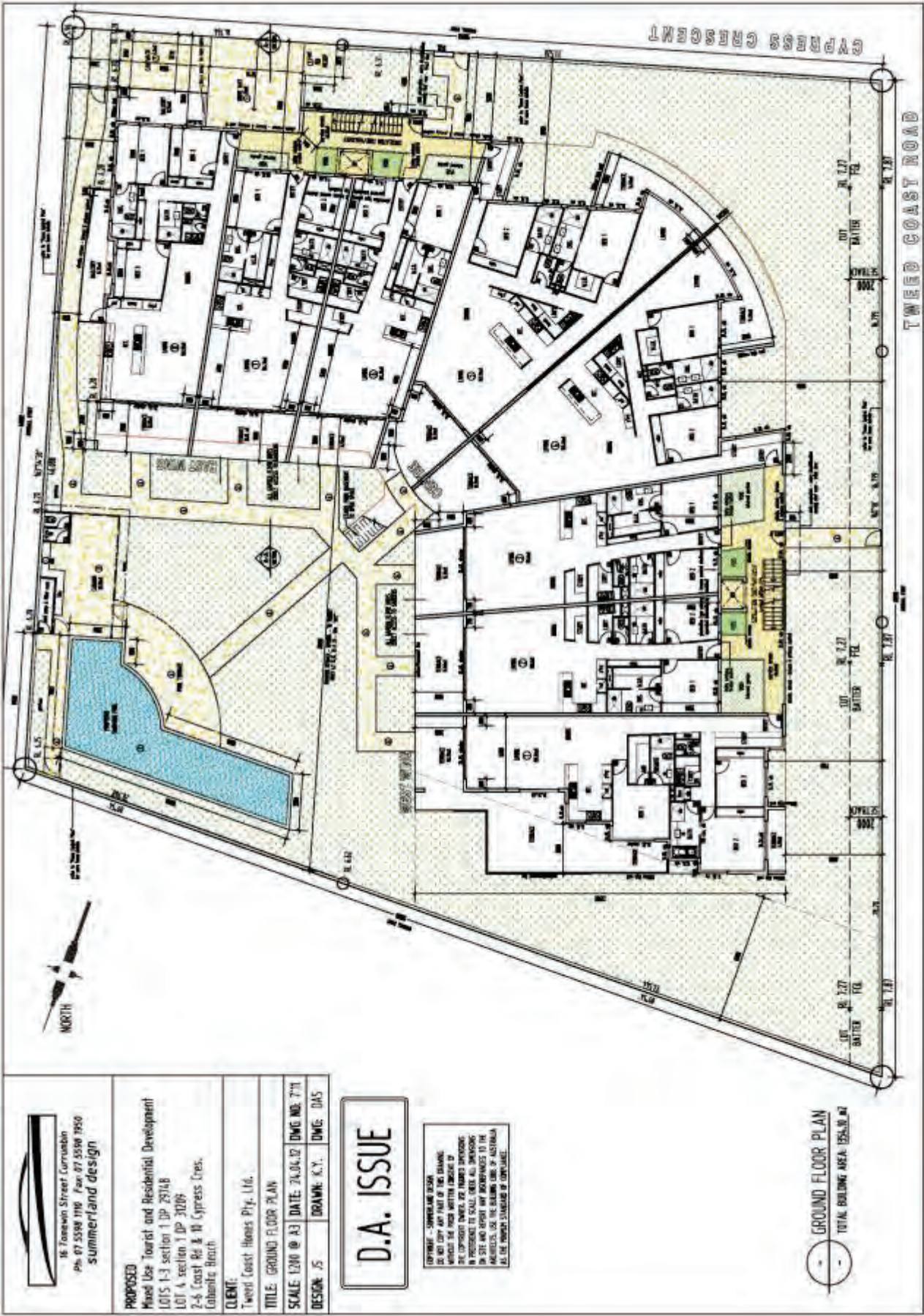


 <p>16 Townsw Street Currumbin Ph 07 5598 1110 Fax 07 5598 9550 Summerland design</p>	<p>PROPOSED Mixed Use Tourist and Residential Development LOTS 1-3 section 1 DP 293148 LOT 4 section 1 DP 31209 2-6 Coast Rd & 10 Cypress Cres. Currumbin Beach</p>
	<p>CLIENT: Tweed Coast Homes Pty. Ltd.</p>
<p>TITLE: BASEMENT PLAN</p>	<p>SCALE: 1:200 @ A3 DATE: 24.04.12 DWG NO.: 711</p>
<p>DESIGN: JS DRAWN: K.Y. DWG. DIA.:</p>	<p>D.A. ISSUE</p>

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BASEMENT PLAN
TOTAL BASMENT AREA: 3422.42
PARKING PROVIDED: 41 + 6 VP
PARKING REQUIRED: 38 + 6 VP





 16 Tanswell Street Gurrubon
 Ph: 07 5588 1110 Fax: 07 5588 1950
 summerland design

PROPOSED
 Mixed Use Tourist and Residential Development
 LOTS 1-3 section 1 DP 29148
 LOT A section 1 DP 31209
 2-6 Coast Rd & 18 Cypress Cres,
 Gurrubon Beach

CLIENT:
 Tweed Coast Homes Pty. Ltd.

TITLE: GROUND FLOOR PLAN
SCALE: 1:200 @ A3 | **DATE:** 24.04.12 | **DWG NO:** 7/11
DESIGN: JS | **DRAWN:** K.Y. | **DWG. DTS**

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GROUND FLOOR PLAN
 TOTAL BUILDING AREA 1854.00 SQM



 <p>16 Townswen Street Currumbin Ph: 07 5598 1110 Fax: 07 5598 1849 summerland design</p>	
<p>PROPOSED Mixed Use Tourist and Residential Development LOTS 1-3 section 1 DP 25748 LOT 4 section 1 DP 21029 2-4 Coast Rd & 10 Cypress Cres. Currumbin Beach</p>	
<p>CLIENT: Tweed Coast Homes Pty. Ltd.</p>	
<p>TITLE: FIRST FLOOR PLAN</p>	
<p>SCALE: A210 @ A3 DATE: 14.04.12 DWG NO.: 7/11</p>	
<p>DESIGN: JS DRAWN: K.Y. DWG: DMG</p>	

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FIRST FLOOR PLAN



16 Tawawa Street Corvallis
 Ph: 07 5598 1119 Fax: 07 5598 1950
summerland design

PROPOSED
 Mixed Use Tourist and Residential Development
 LOT 5 1-3 section 1 DP 29148
 LOT 4 section 1 DP 31209
 2-6 Coast Rd & 10 Cypress Cres.
 Corvallis Beach

CLIENT:
 Twoed Coast Homes Pty. Ltd.

TITLE: SECOND FLOOR PLAN

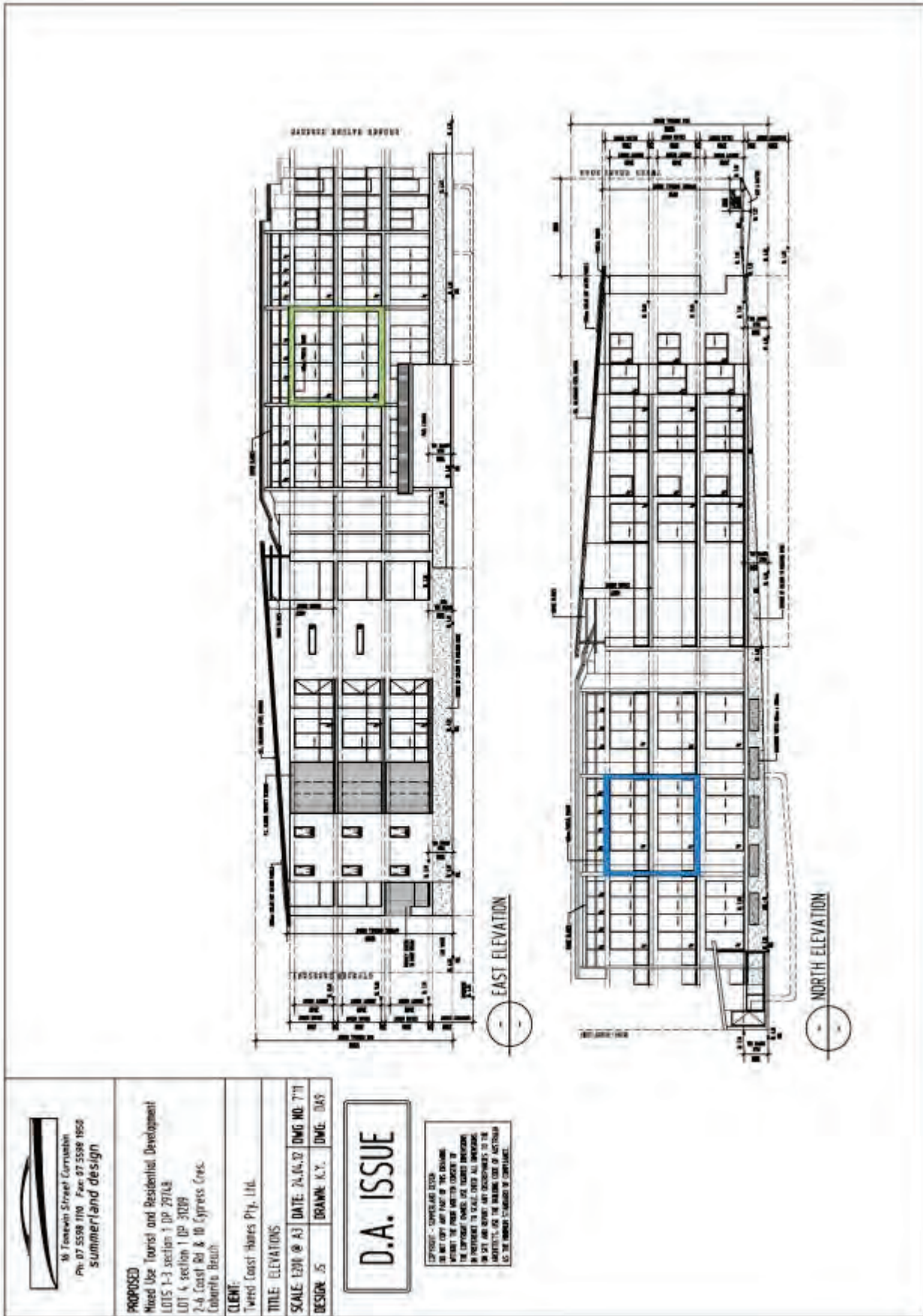
SCALE: 1:200 @ A3 | **DATE:** 24.04.12 | **DWG NO.:** 7/11
DESIGN: JS | **DRAWN:** K.Y. | **DWG. DATE:**

D.A. ISSUE

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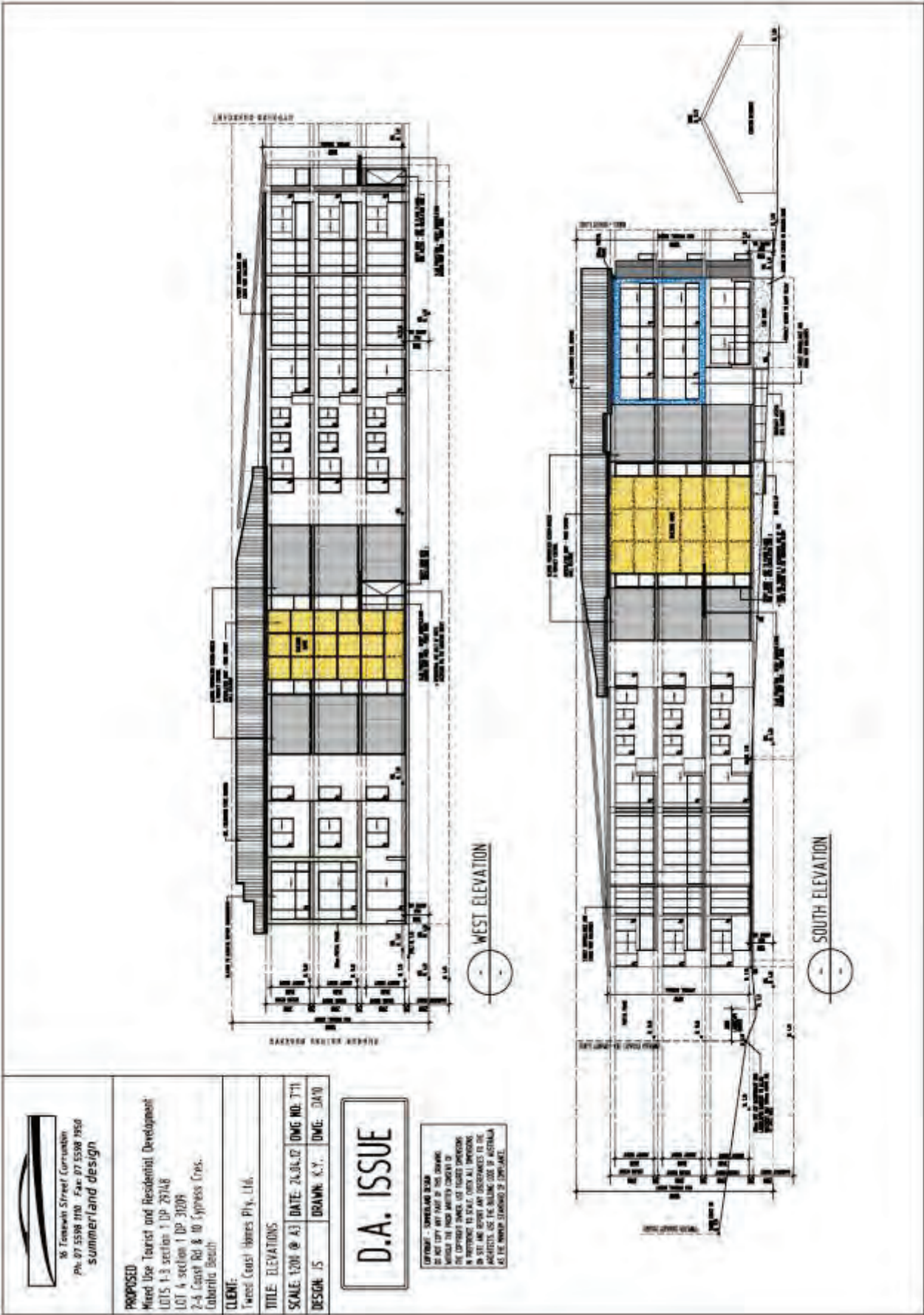
SECOND FLOOR PLAN



 <p>16 Tuxedo Street Curlewah Ph: 07 5598 1100 Fax: 07 5598 1852 summerland design</p>	<p>PROPOSED Mixed Use Tourist and Residential Development LOTS 1-3 section 1 DP 29743 LOT 4 section 1 DP 30289 2-A Coast Rd & 10 Cypress Cres. Columba Beach</p>
	<p>CLIENT: Tweed Coast Homes Pty. Ltd.</p>
<p>TITLE: ELEVATIONS</p>	
<p>SCALE: E200 @ A3</p>	<p>DATE: 24.04.12 DMG NO: 711</p>
<p>DESIGN: JS</p>	<p>DRAWN: K.Y. DMG: DAS</p>

D.A. ISSUE

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86 Temewah Street Carrumbulla
 Ph: 07 5598 1100 Fax: 07 5598 1950
 summerland design

PROPOSED
 Mixed Use Tourist and Residential Development
 LOTS 1-3 section 1 DP 29148
 LOT 4 section 1 DP 31009
 2-4 Coast Rd & 10 Cypress Cris.
 Tabarilla Beach

CLIENT:
 Tweed Coast Homes Pty. Ltd.

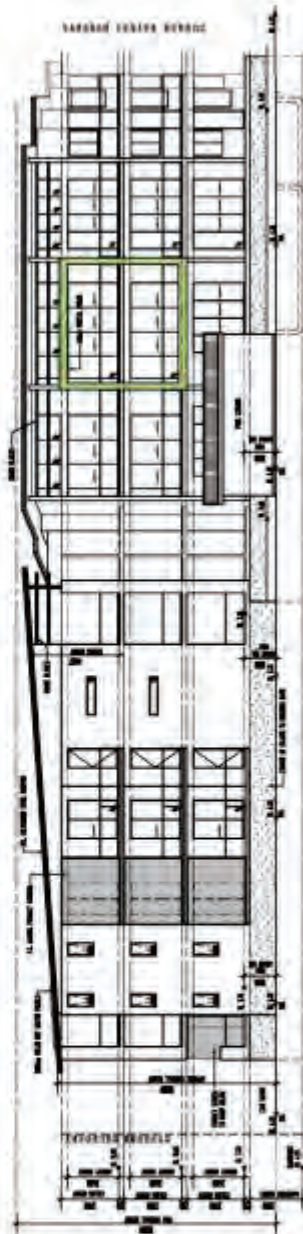
TITLE: ELEVATIONS
SCALE: 1/20 @ A3 **DATE: 24.04.07** **DMG NO: 771**
DESIGN: JS **DRAWN: K.V.** **DMG: DA/0**

D.A. ISSUE

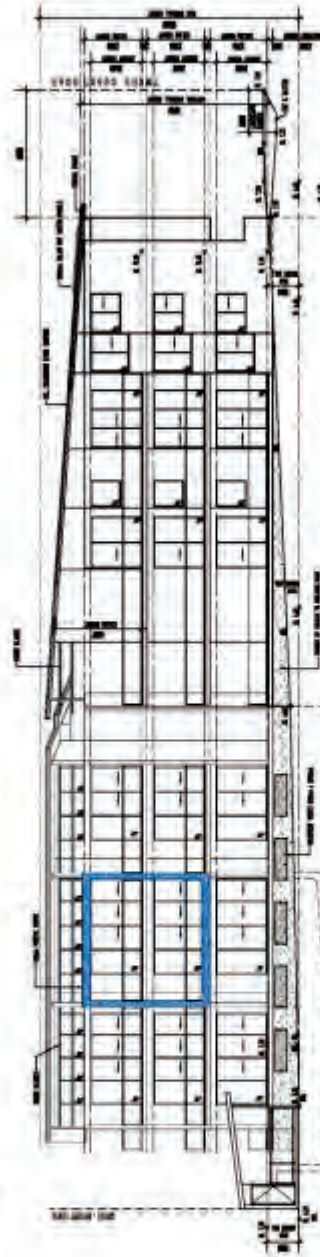
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SCHEDULE OF FINISH, MATERIALS & COLOURS

MAIN WALLS	ROUNDER FINISHED MASONRY	COLOUR DELUX - LUCENT WHITE 314
EAST WING	COLOUR FEATURE - FC ARTICULATED CLADDING ON MASONRY	TAUBMANS MARNER K23 - FASCIA & BUTTER COLOURBOND DEEP OCEAN
WEST WING	COLOUR FEATURE - FC ARTICULATED CLADDING ON MASONRY	TAUBMANS SAIG 216 - FASCIA & BUTTER COLOURBOND COTTAGE GREEN
ROOF	P.C. ALUMINIUM - COLOURBOND ROOF SHEETING	COLOURBOND SURFMIST
ALUMINIUM PRIVACY SCREENS	P.C. ALUMINIUM PRIVACY SCREENS	DELUX LUCENT WHITE 314
THE BASE (BASEMENT OUT OF GROUND)	EAST WING & NORTH SECTION FACING GARDENS BELOW THE FEATURE NORTH PORTAL MARNER & THE WEST WING & THE EAST SECTION FACING THE GARDENS BELOW THE GREEN PORTALS	TAUBMANS SAIG 216



EAST ELEVATION



NORTH ELEVATION



16 Townswan Street Corvallis
Ph: 07 5588 1110 Fax: 07 5588 1958
summerland design

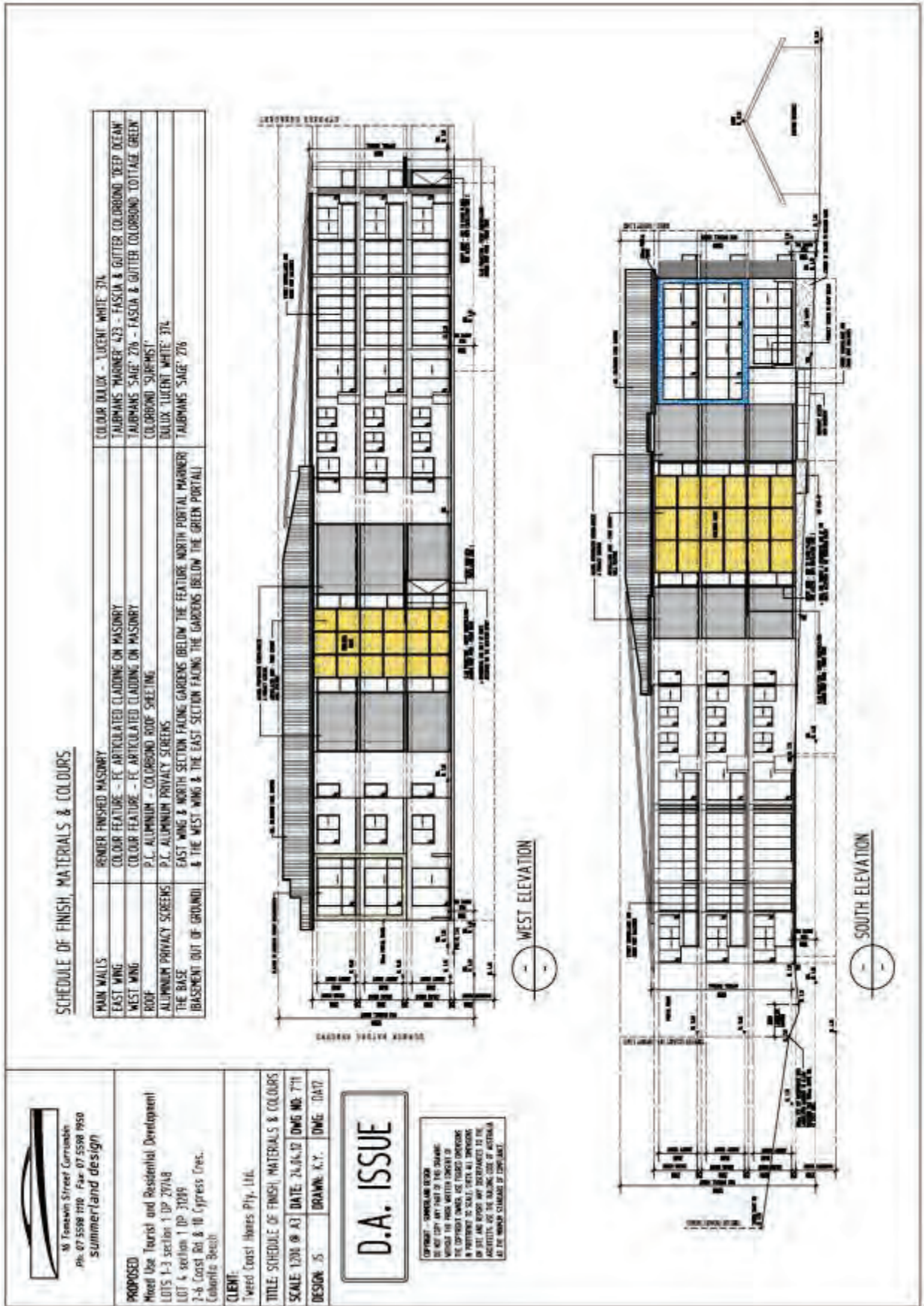
PROPOSED
Mixed Use Tourist and Residential Development
LOTS 1-3 section 1 DP 29748
LOT 4 section 1 DP 30189
2-8 Coast Rd & 10 Cypress Cres.
Corvallis Beach

CLIENT:
Twisted Coast Homes Pty. Ltd.

TITLE: SCHEDULE OF FINISH, MATERIALS & COLOURS
SCALE: 1:200 @ A3 **DATE:** 24.06.12 **DWG NO:** 711
DESIGN: JS **DRAWN:** K.V. **ENG:** DAIT

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11 Temawin Street Coromandel
 Ph: 07 5598 1910 Fax: 07 5598 1950
 summerland design

PROPOSED
 Mixed Use Tourist and Residential Development
 LOTS 1-3 section 1 DP 29748
 LOT 4 section 1 DP 31039
 2-8 Coast Rd & 10 Cypress Cres.
 Coromandel Beach

CLIENT:
 Tweed Coast Homes Pty. Ltd.

TITLE: SCHEDULE OF FINISH, MATERIALS & COLOURS
SCALE: 1:200 @ A3 **DATE:** 24.06.12 **DWG NO:** 711
DESIGN: JS **DRAWN:** K.Y. **DATE:** 01/07

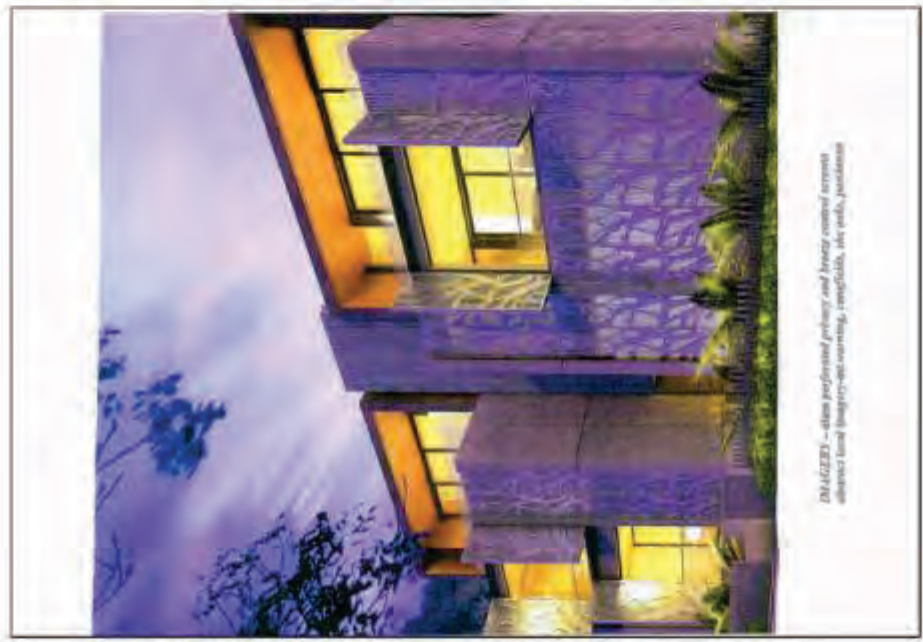
D.A. ISSUE

CONTRACTOR TO VERIFY ALL DIMENSIONS AND FINISHES ON SITE. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND FINISHES ON SITE AND REPORT ANY DEFICIENCIES TO THE ARCHITECTS AS THE BUILDING COMMENCES. ALL DIMENSIONS ARE TO THE UNLESS OTHERWISE SPECIFIED.

 <p>16 Townsley Street Cornwall Ph: 07 5598 1190 Fax: 07 5598 1952 summerland design</p>	
<p>PROPOSED Mixed Use Transit and Residential Development LOTS 1-3 section 1 DP 25748 LOT 4 section 1 DP 30289 2-8 Coast Rd & 10 Cypress Cres. Gabarrila Beach</p>	
<p>CLIENT: Tweed Coast Homes Pty. Ltd.</p>	
<p>TITLE: SCHEDULE OF FINISH, MATERIALS & COLOURS</p>	
<p>SCALE: E300 @ A3</p>	<p>DATE: 24.06.12</p>
<p>DESIGN: JS</p>	<p>DRAWN: K.Y. DWG. NO.: 711</p>
	<p>DWG. DATE:</p>

D.A. ISSUE

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AT THE RELEVANT STANDARDS OF COMPLIANCE.



*DELICATES - often performed privacy and linear external screens
abstract form (longer) - evening, twilight, day, night, transition*

— ALUMINIUM PRIVACY SCREENS
— P.C. ALUMINIUM PRIVACY SCREENS
— DULUX LUCENT WHITE 31A

LANDSCAPE PLANS:

landscape intent notes

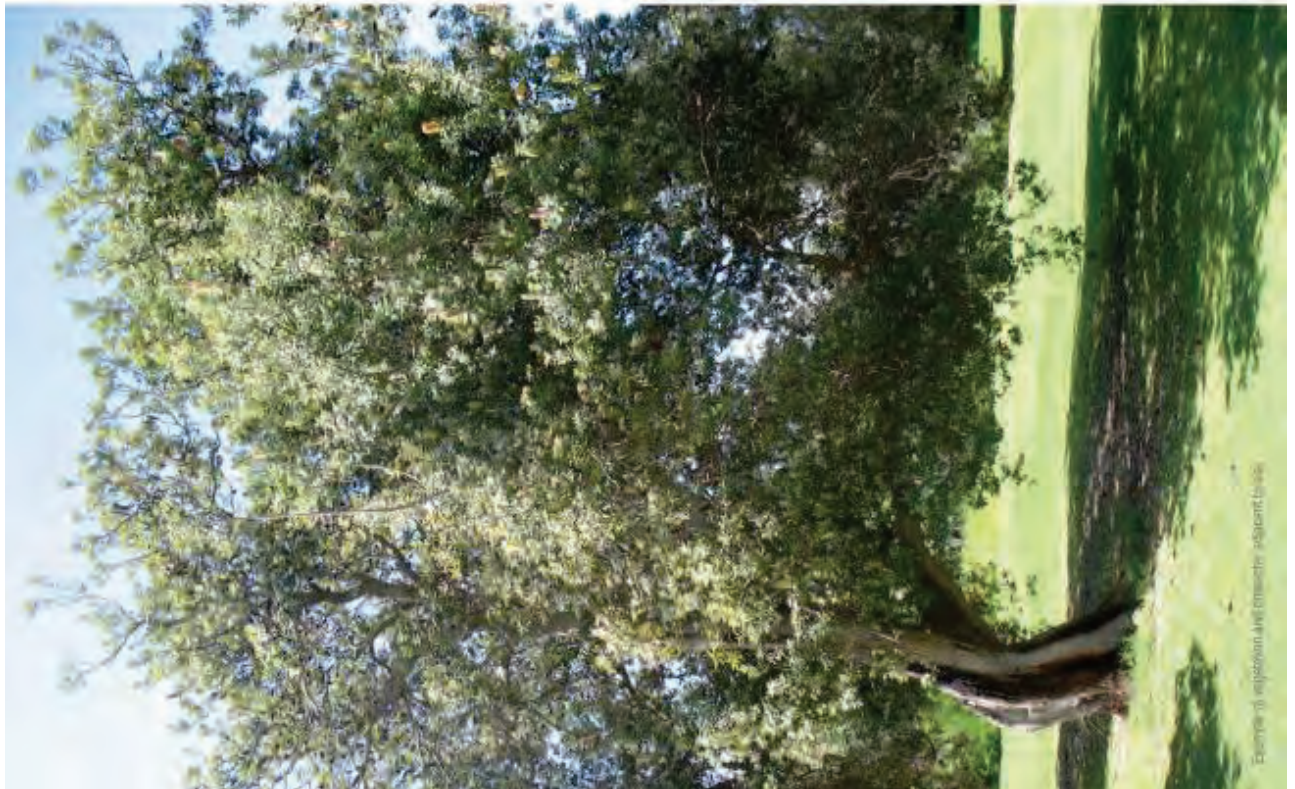
This Landscape Concept package outlines landscape proposals for the proposed mixed use tourist and residential development at Cypress Crescent, Cabarita Beach.

- Lots 1-3 section 1 DP 29748
- Lot 4 section 1 DP 31209
- 2-6 Toward Coast Road & 10 Cypress Crescent
- Cabarita Beach, NSW

The proposal will include new landscape finishes and elements associated with building works. Landscape opportunities include:

- create new landscape areas that build on the existing coastal character of the area;
- creating common areas that are linked to private unit areas and allow for a variety of passive recreation experiences;
- creating landscape areas that capitalise on existing outlooks and views;
- creating areas of high amenity for residents and visitors;
- create landscaped areas that improve general amenity and provide privacy to private balcony areas.

Refer to the following pages for additional detail on the landscape areas



cypress crescent, cabarita mixed use tourist and residential development landscape concept

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cabarita- mixed use tourist and residential development landscape concept DWG 3165-L002 0101 27.04.12 09:48 1:250 (5) A3

cypress crescent, cabarita-

mixed use tourist and residential development

landscape concept

DWG 3165-L002

0101 27.04.12

09:48 1:250 (5) A3

verge

URBAN LANDSCAPE ARCHITECTURE

Existing vegetation in road reserve to be retained - some make good work and pruning may be required (to be assessed during detailed design phase)

Existing turf verge to be retained

Existing footpath to be retained

1800 high rendered blockwork wall - refer to Architects plans

Entry path

Turf areas provide for informal access around the building

Boundary fence to be 2 metre high masonry wall with paint finish

Existing tree to be removed:
1- Callistemon sp
2- Syngnathus noronhaiensis
3- Archboldophoenix sp

Trees in turf complement existing coastal character

Views through to existing vegetation retained from balcony areas

Amenity planting to compliment coastal character and provide privacy to balcony areas

Trees provides amenity to common areas whilst allowing for visual links across common areas

Pool fence

Pool terrace - tiles on slab

Amenity planting to pool edge - including climbing plants to fence

Hedge to screen fence and define planting area

Cabana for outdoor dining/entertaining etc - refer to Architects plans

Access path

Boundary fence to eastern boundary to be 2 metre high masonry with paint finish

Pool

Cabana

Turf

Turf

Turf

PROPOSED BUILDING

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unit

unit

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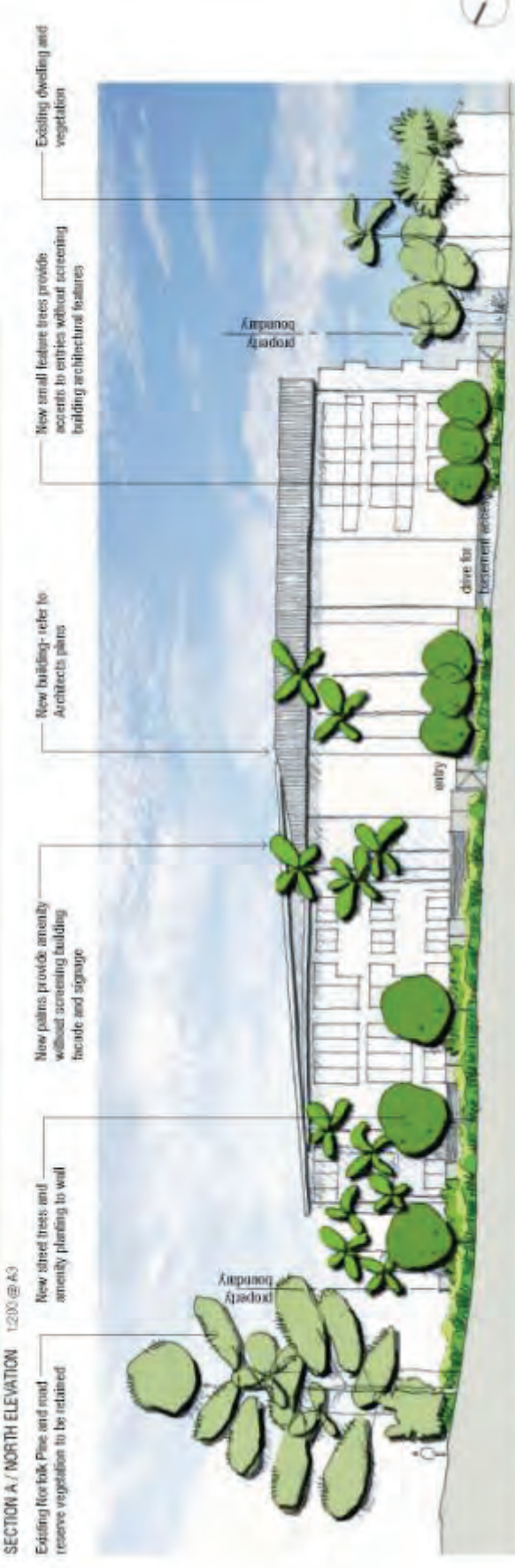
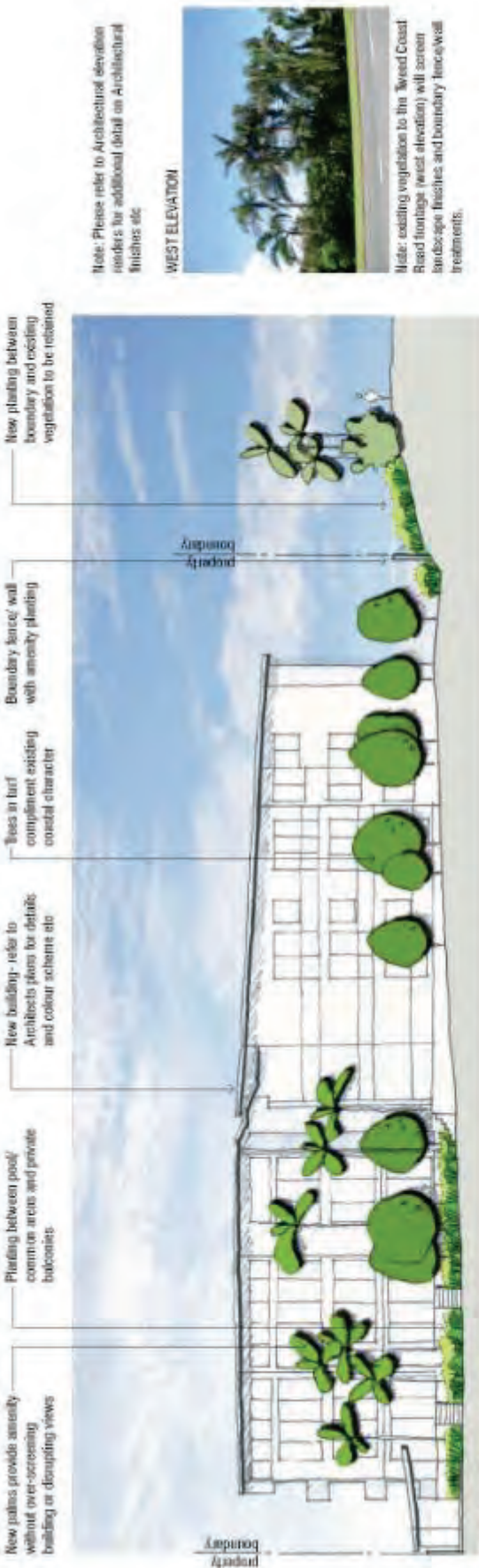
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cypress crescent, cabarita- mixed use tourist and residential development
 landscape concept
 verc-21-FC34-003 date 27.04.12

plant palette

BOTANICAL NAME	COMMON NAME	HEIGHT	SPREAD	USE	NOTES
TREES					
<i>ACHYROPSOLIS AUCUBA cuneata</i>	Bergamot Palm	10-4	5	GENERAL	Native, excellent for a number of uses to provide a shady, white limbing screening
<i>BAKESIA laurifolia</i>	Garik Daniels	5-8	6+	FEATLIFE	Native, small spreading tree - attractive foliage and flower spikes
<i>BAKESIA laurifolia</i>	Coastal Banksia	10	5	GENERAL	Native, common to area
<i>COLEAUCOCCUS areolatus</i>	Yucca	10	5	GENERAL	Native, attractive, bark and stem green foliage
<i>ELAEOCARPUS coveata</i>	Hardwooding	10-4	5+	GENERAL	Native, tall, upright flowers, tree attracting fauna
<i>MEALOCOMA guineensis</i>	Pigeontail	10-4	5+	GENERAL	Native, palm-like
<i>MELICOTE ciliolata</i>	Link Dougherood	10-4	5+	FEATLIFE	Native, flowering tree
<i>PHALLOSPORA laurifolia</i>	Pandanus	10-4	5+	GENERAL	Native, large and thick leafed grass-like
<i>PLUMERIA obtusa</i>	White Frangipani	5 to 10	5	FEATLIFE	Flowering feature tree for pool common areas
<i>SPERMATOPHYTES</i>					
<i>SPERMATOPHYTES</i>	Fraser's Fir	10-4	5+	FEATLIFE	Native, spreading tree
SHRUBS & FEATURE PLANTS					
<i>AGAVE attenuata</i>	Agave	1	1	FEATLIFE	Contrasting foliage amongst groundcovers
<i>ALPHEA australis</i>	Native Ginger	2	1.5	FEATLIFE/TREE GREEN	Native, clumping upright plant with feature qualities
<i>ALSTONIA lutea</i>	Milky Berry	1	2	GENERAL	Native, good looking shrub
<i>BAKESIA sp</i>	Banksia	5 to 10	5+	GENERAL	Native, possible use as a flowering feature
<i>CHOROPANDRA rugosa</i>	Palm Lily	2+	2+	FEATLIFE	Native, feature plant
<i>DORONICIS caerulea</i>	Stem Lily	2+	2+	FEATLIFE	Native, strong feature plant with large red flower spikes
<i>FRAXIAEA myrsinifolia</i>	Red Bay	4	2	FEATLIFE	Shrub and root to be used feature, somewhat water
<i>MEALOCOMA laurifolia</i>	Fraser Juniper Myrtle	2	2	GENERAL	Native, small flowering shrub
<i>MEALOCOMA laurifolia</i>	Melaleucoides	2	2	GREEN	Screen and hedging plant
<i>PHLODENDRON ZIMMERMANNI</i>	Zimmi	1	1	GENERAL	Evergreen shrub with strong foliage tropical areas, cross planting
<i>PHYLLOCLADUS TORRESIANA</i>	Native Hawthorn	3.5	2	FEATLIFE	Flowering shrub for feature, moss, (dark green) and light green
<i>SCYTHOCLADIA</i>	Lily Lily	1	1	SUNSHADE SHADE	Native, moss plant, hedging
<i>WESTRINGIA sp</i>	Coastal Rosemary	2	2	GENERAL	Native, in-woods foliage and colour contrast
<i>XANTHOXANTHA japonica</i>	Grass tree	2	2	FEATLIFE	Native, upright plant, foliage feature
<i>XANTHOXANTHA macrocarpa</i>	Grass tree	1	1	FEATLIFE	Native, accent plant, foliage feature
GROUNDCOVERS					
<i>BAKESIA laurifolia</i>	Banksia			FEATLIFE	Native, small groundcover shrub with attractive flowers
<i>CHOROPANDRA rugosa</i>	Chloropandras			GENERAL	Native, flowering feature for colour contrast
<i>CHOROPANDRA rugosa</i>	Scage			GENERAL	Native, general purpose and aesthetic areas
<i>CHOROPANDRA rugosa</i>	Pink Face			FEATLIFE	Native, tall feature
<i>CHOROPANDRA rugosa</i>	Swamp Lily			FEATLIFE	Native, elegant, upright, good form with broad leaves to 1 metre, large white flowers; feature amongst groundcover
<i>DANIELLA sp</i>	Flax Lily			GENERAL	Native, fern-like, rarely groundcover with striking leaves and blue flowers
<i>DORONICIS caerulea</i>	Palm Lily			GENERAL/SHADE	Native, fern-like, rarely groundcover with striking leaves and blue flowers
<i>FRAXIAEA myrsinifolia</i>	Red Bay			GENERAL	Native, general purpose and aesthetic areas
<i>GALAXIA rigida</i>	Brassica Club Rush			FEATLIFE/GENERAL	Flowering low groundcover, upright though for contrast
<i>GALAXIA rigida</i>	Gazania			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>HARPOPHOROS aethiops</i>	Native Sunspangle			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>LEUCOPHYLLON laurifolia</i>	Garik Daniels			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>LOMOCARPUS sp</i>	Stem Lily			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>POA laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>SOAECYLA laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>WOLLA laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>WOLLA laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>ZEPHYRUS laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers
VINES & CLIMBERS					
<i>DIODORA laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>DIODORA laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers
<i>DIODORA laurifolia</i>	Yucca			GENERAL	Native, upright and groundcover, includes like leaves and flowers

Note plant species have been selected for their environmental compatibility qualities and to ensure compliance with Tweed Shire Council's requirement that 90% of the plants be species native to the Tweed. Tweed Shire Councils recently released Native Species Plant List and Planting Guide were used in establishing the above palette and will be further reviewed during detailed design phase

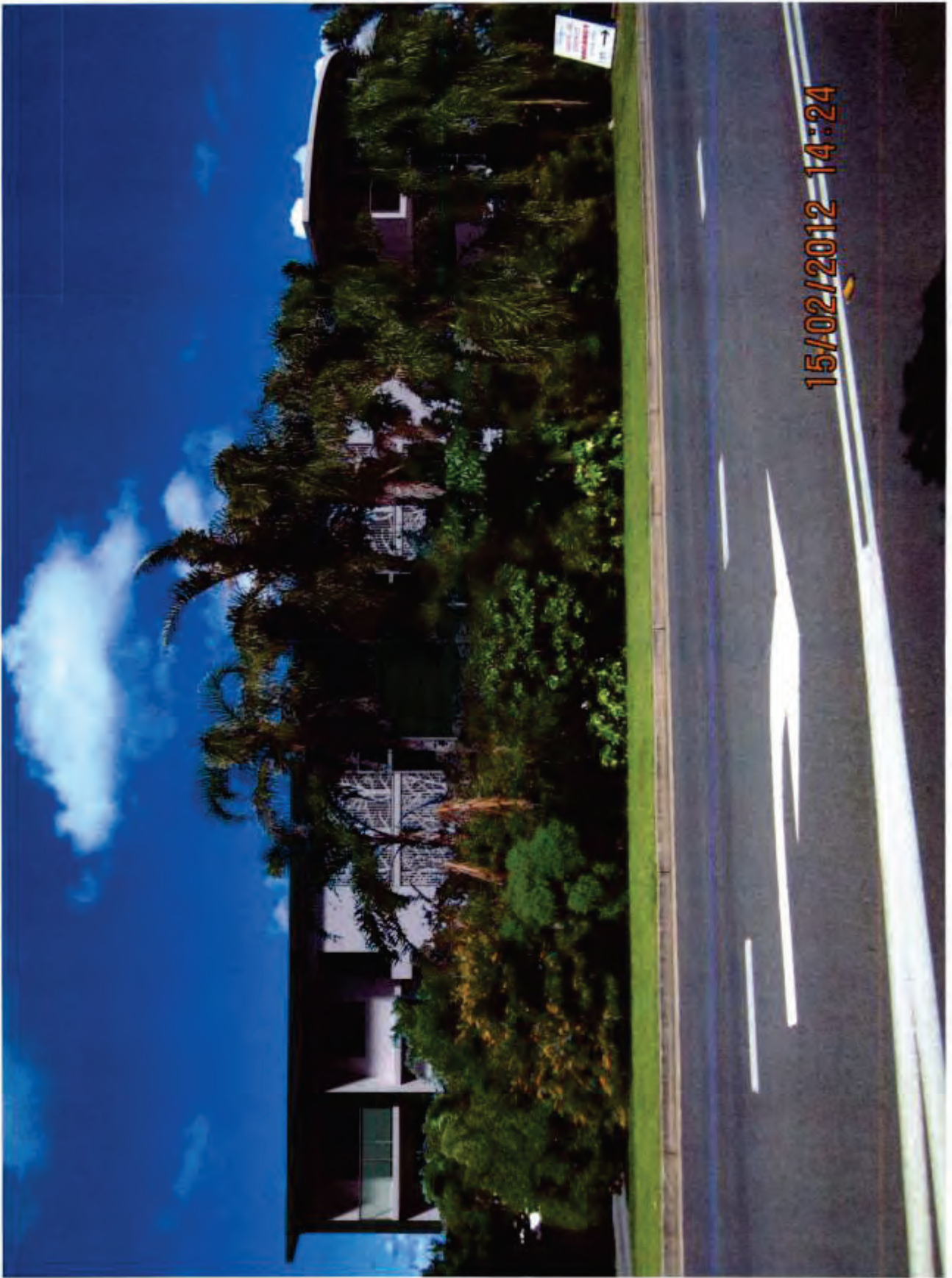
cypress crescent, cabarita- mixed use tourist and residential development landscape concept

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MONTAGE PHOTOS:









OPTIONS:

1. Endorse this report and forward it to the NSW Department of Planning and Infrastructure as Council's formal submission on the Preferred Project Report; or
2. Modify this report and forward it to the NSW Department of Planning and Infrastructure as Council's formal submission on the Preferred Project Report.

CONCLUSION:

Council has an opportunity to review its original submission to the NSW Department of Planning and Infrastructure on the proposed Major Project for a mixed residential and tourist development at Cabarita Beach.

Relevant Council officers have reviewed the PPR prepared by the applicant and forwarded to Council by the DP&I. These comments have been assembled into the report as a revised submission.

The purpose of this report is to seek Council endorsement of the issues raised in the review of the PPR so that they may be forwarded to DP&I.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|---------|---|
| 1 | Civic Leadership |
| 1.1 | Ensure actions taken and decisions reached are based on the principles of sustainability |
| 1.1.1 | Establish sustainability as a basis of shire planning and Council's own business operations |
| 1.1.1.3 | Assessment of new developments (Development Assessment unit) |

UNDER SEPARATE COVER/FURTHER INFORMATION

1. Council submission to the Department of Planning and Infrastructure: MP09_0016 Environmental Assessment (ECM 52818318)
 2. Recommended amended conditions of consent (ECM 52828724)
-

16 [PR-CM] Development Application DA11/0628 for Alterations and Additions to Detached Dual Occupancy at Lot 3 Section 6 DP 17606 No. 14 Marine Parade, Kingscliff

SUBMITTED BY: Development Assessment

FILE NUMBER: DA11/0628 Pt1



Civic Leadership

SUMMARY OF REPORT:

This development application is being reported to Council due to the Department of Planning's Circular PS08-014 issued on 14 November 2008 requiring all State Environmental Planning Policy No. 1 (SEPP No. 1) variations greater than 10% to be determined by full Council. In accordance with this advice by the Department of Planning, officers have resolved to report this application to full Council.

The SEPP No. 1 variation relates to Clause 16 of the Tweed Local Environmental Plan 2000 (TLEP 2000) which prescribes a two-storey height limit for the site. Although the design of the proposal has regard for the steep topography and 'steps up' the site, a portion of the proposal represents a three-storey building height. The degree of horizontal variation is 18.42%. The degree of total floor area variation is minor at 7.61%.

The existing dual occupancy was approved by Council on 4 April 2003 following assessment of DA02/2052 which involved the construction of a second dwelling with frontage to Hungerford Lane. The existing dwelling facing Marine Parade (subject of this proposal) has been located on the site for approximately 70 years.

The applicant seeks consent to undertake alterations and additions to an existing dwelling within a detached dual occupancy. Some demolition works are required to facilitate additions. The alterations and additions improve the functionality of the dwelling. The development includes retention of three bedrooms and modification to the existing lower and upper floor plans with the creation of an additional level for the purposes of master bedroom, ensuite and deck. Due to the steep slope of the land, a minor portion of the additional level constitutes three storeys.

The application requires concurrence pursuant to SEPP No. 1. However, Council has an instrument of assumed concurrence for this purpose and it was therefore not necessary to refer the application to the Department of Planning and Infrastructure (DP&I) for concurrence purposes.

The proposal was required to be placed on public exhibition. Four objections were received during the exhibition period. Matters raised within the submissions have been addressed by the applicant and considered in the assessment of the proposal.

It is considered that the application is suitable for approval, subject to conditions.

RECOMMENDATION:

That:

- 1. State Environmental Planning Policy No. 1 objection to Clause 16 of the Tweed Local Environmental Plan 2000 regarding building height be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed.**
- 2. Development Application DA11/0628 for alterations and additions to detached dual occupancy at Lot 3 Section 6 DP 17606 No. 14 Marine Parade, Kingscliff be approved subject to the following conditions:**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and:**
 - Plan No. WD01 Issue H (Site Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD02 Issue J (Ground Floor Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD03 Issue J (Level 1 Floor Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD04 Issue I (Upper Level Floor Plan) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD05 Issue J (Elevations: North West & South East) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD06 Issue J (Elevations: North East & South West) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD07 Issue J (Section A & B) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD11 Issue B (Coloured Elevations: North West & South East) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**
 - Plan No. WD12 Issue B (Coloured Elevations: North East & South West) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012**

- **Plan No. WD13 Issue C (Ground Floor Demolition Plan) as amended in red, Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 16 August 2010**
- **Plan No. WD14 Issue C (Level 1 Demolition Plan) as amended in red, Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 16 August 2010**
- **Plan No. WD16 Issue A (Sections C & D) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 30 March 2012.**

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

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

[GEN0300]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0285]

6. **A detailed plan of landscaping in accordance with the amended statement of landscaping intent (provided to Council 4 April 2012) is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.**

[PCC0585]

7. **Prior to issue of a Construction Certificate, the applicant is required to submit a Demolition Work Plan that encompasses all demolition activities, to the satisfaction of Council's General Manager or his delegate.**

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

9. The erection of a building in accordance with a development consent must not be commenced until:

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

[PCW0215]

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

[PCW0225]

11. Residential building work:

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

[PCW0235]

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

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

[PCW0245]

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

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

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

[PCW0255]

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

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

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

[PCW0985]

15. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

16. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

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

[PCW1170]

DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

20. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
- $L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.
- $L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
21. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of buildings with direct line of sight to the proposed building.
- [DUR0245]
22. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).
- [DUR0375]
23. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
- [DUR0395]
24. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.
- [DUR0405]
25. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
- [DUR0415]
26. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan Part A1 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

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

[DUR0905]

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

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

29. Landscaping of the site shall be carried out in accordance with the approved landscaping plans.

[DUR1045]

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

[DUR1875]

31. No portion of the structure may be erected over any existing sillage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

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

[DUR2185]

33. All stormwater from roofed and paved areas are to be connected directly into road drainage pits where available, kerb and gutter drainage canal or inter allotment drainage line where provided.

All drainage systems shall comply with AS 3500.

[DUR2305]

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

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

[DUR2485]

35. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.**
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.**

[DUR2495]

- 36. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.**

[DUR2535]

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

[DUR2545]

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

- 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- 50°C in all other classes of buildings.**

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

[DUR2555]

- 39. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required**

[DUR2565]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

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

[POC0435]

- 42. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.**

[POC0475]

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

[POC1045]

USE

44. **The nominated rear deep soil zones (as shown on Plan No. WD10 Issue F (Impervious calculation) Project No. P504 prepared by Glen Petersen Architect Pty Ltd and dated 28 March 2012 accompanying the application) are to be retained in perpetuity exclusively for the purposes of the growth of vegetation and mature trees.**

[USENS01]

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

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

REPORT:

Applicant: Ms S Eady
Owner: Ms Sandra J Eady
Location: Lot 3 Section 6 DP 17606 No. 14 Marine Parade, Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$250,000

BACKGROUND:

Council is in receipt of a development application for additions and alterations to a detached dual occupancy on a parcel of land zoned 2(b) Medium Density Residential. The proposed additions and alterations reconfigure the floor area of one of the dwellings and create an additional level, a portion of which is identified as a three-storey building height.

History

The existing dwelling with frontage to Marine Parade has been located upon the subject site since 1939. The second dwelling with frontage to Hungerford Lane was constructed in 2003 in accordance with development consent DA02/2052. A 65m² timber deck (and stairs) to the rear of the existing dwelling facing Marine Parade was constructed sometime after 1997 in accordance with building application 1511/97B.

The Subject Site

The subject site at 670.3m² is regular and rectangular in shape with an approximate 13.4m frontage to both Hungerford Lane and Marine Parade. The site is steep, falling from south west to north east over a distance of approximately 50m. The steepest portion of the site is the eastern half with a gradient of approximately 35 degrees. A 3m wide sewer easement and 0.75m high rock wall cut across the middle of the site. Landscaping consists of native and exotic species primarily located between the dwellings.

Vehicular access to the site is obtained via Hungerford Lane for the second dwelling and via Marine Parade for the primary dwelling. Council's records do not indicate the site is affected by any title restrictions.

The site is situated within an established medium density residential area characterised by tiered single and multi-dwelling houses on steep sites that take advantage of ocean views. Two-storey dwellings adjoin the site at 12 and 16 Marine Parade with vehicular access from Hungerford Lane. A beachfront reserve (zoned 6a) is located to the north east along Marine Parade which provides a substantial area for public recreation and associated car parking.

The built character of the area is typical of an area under transition with a mix of old and new architectural styles and building construction. Development north west of the subject site from 20 Marine Parade onward is permitted to be three-storey in height.

The Proposed Development

The alterations and additions are proposed to only one of the two detached dwellings located on the site. The proposal includes:

- The addition of an upper level

- The extension of the existing residence to the rear
- Two new deck areas (privacy screen to south east deck)
- Internal refurbishment of the existing residence
- Demolition works in order to facilitate the proposed extensions (removal of walls and roof areas)
- Retention of existing garage with provision of new driveway and crossover
- Retention of existing fencing, side stairs and timber decking to rear of dwelling
- Additional landscaping.

Three-Storey Component of Proposal

The meaning of 'storey' is defined in Schedule 1 of the TLEP 2000 as follows:

<i>storey</i>	means:
	(a) the space between two floors, or
	(b) the space between a floor and any ceiling or roof immediately above it, or
	(c) foundation areas, garages, workshops, storerooms and the like, excluding access paths to basement areas, where the height between the finished ground level and the top of the floor immediately above them exceeds 1.5 metres in height.
	A storey which exceeds 4.5 metres for residential buildings is counted as two storeys.
	A storey which exceeds 5 metres for commercial buildings is counted as two storeys.
	For the purpose of counting the number of storeys in a building, the number is to be the maximum number of storeys of the building which may be intersected by the same vertical line, not being a line which passes through any wall of the building.

Accordingly, the starting point of the three-storey component of this proposal is clarified by determining the floor area extending to the rear of the ground level that exceeds 1.5m in height. In this case, the retaining wall (highlighted below in yellow), a distance of 6.8m from the front boundary alignment, provides that reference. A vertical line is then drawn up through level 1 and the upper level on the section elevation (red line).

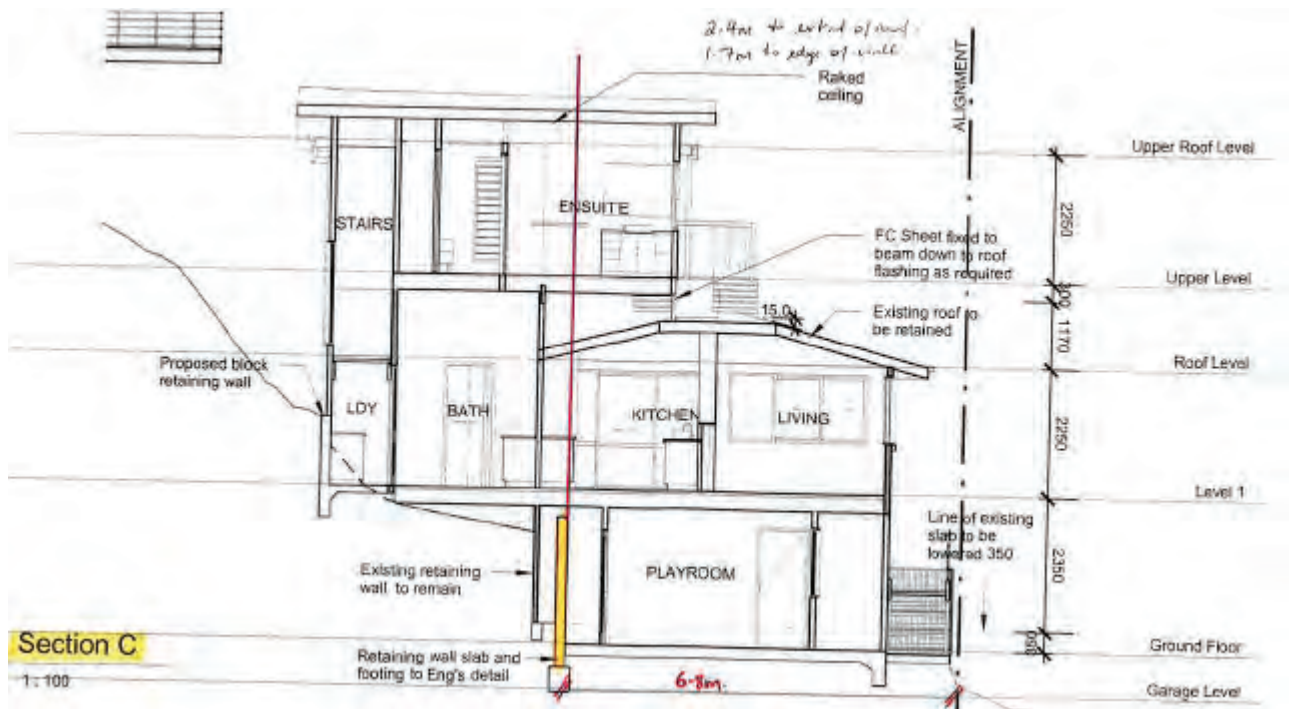


Figure 1: Section C (south east elevation)

It is possible to calculate that the roof on the upper level extends approximately 2.4m from that reference point and that the edge of the wall extends approximately 1.7m. The definition for storey includes the space between the floor of a deck and the roof immediately above it.

Applying the same method to the north west elevation, it is possible to calculate that the roof on the upper level extends approximately 1.7m from that reference point and that the edge of the wall extends approximately 1.1m.

The visual impact of the three-storey component of the development is demonstrated in Figure 3 below. The area between the blue lines (2.1m wide) appears as three-storey and represents an 18.42% section of the 11.4m wide building.



Figure 3

By translating this method to the upper level floor plan, it is possible to calculate the percentage of overall floor area that is defined as three-storey. A horizontal line is drawn through the floor plan parallel to, and a distance of 6.8m from the front boundary alignment representing the vertical line in Figure 1. Enclosed floor areas and roofed decking are included (highlighted in yellow) as shown in Figure 4 below.

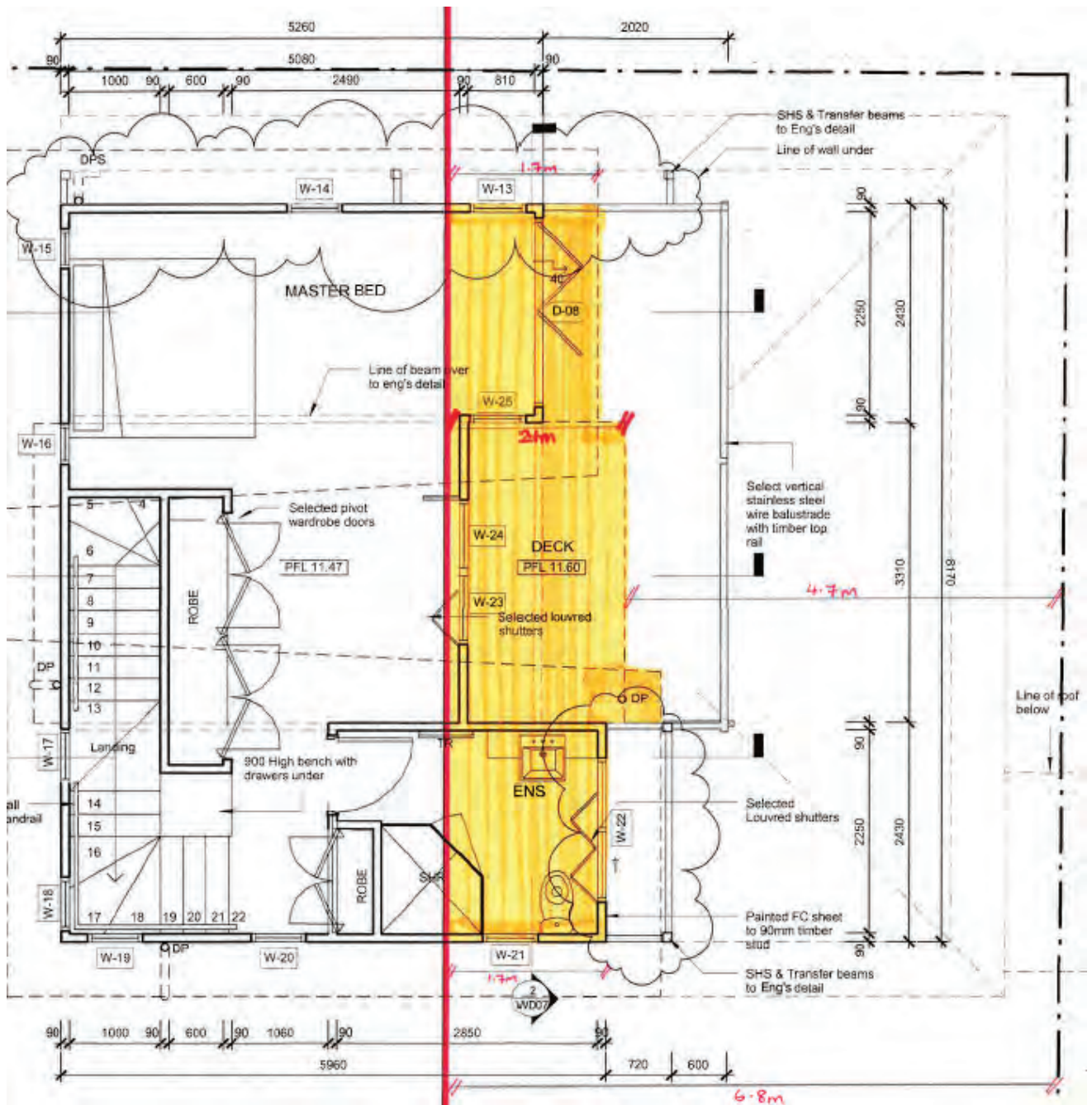


Figure 4

The total floor area representing a three-storey component on the upper level is 15.45m². The area includes 4.13m² each of ensuite and master bedroom/roofed decking and 7.19m² of roofed decking. It represents 7.61% of the total floor area of the dwelling (203m²) and 27.58% of the upper floor area of 56m² including decking.

The Gross Floor Area (GFA) of the upper level three-storey component is 11.44m² which represents 7.42% of the overall GFA of the dwelling (154m²).

Summary

The proposal does not represent an increase in density on the site. The alterations and additions to the older dwelling on the site facilitate a timely, contemporary upgrade to that structure and improve the functionality of the residential space. The inclusion of an

additional storey creates a portion that is identified as three-storey. However, at no point does the building exceed the 9m building height limit for the site.

Visual impact of the proposal has been minimised through sensitive design and the continuing residential use does not conflict with adjoining land uses. With few options available on the topographically constrained site to increase the floor area of the existing dwelling, the minor variation to the two-storey building height control is considered reasonable. As such, the proposal is recommended for approval, subject to conditions.

SITE DIAGRAM:



Locality Plan
 Lot 3 Section 6 DP 17606
 No.14 Marine Parade, Kingscliff

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 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geocentric Datum of Australia 1984
 GDA Map 1484 of Australia, Zone 55

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

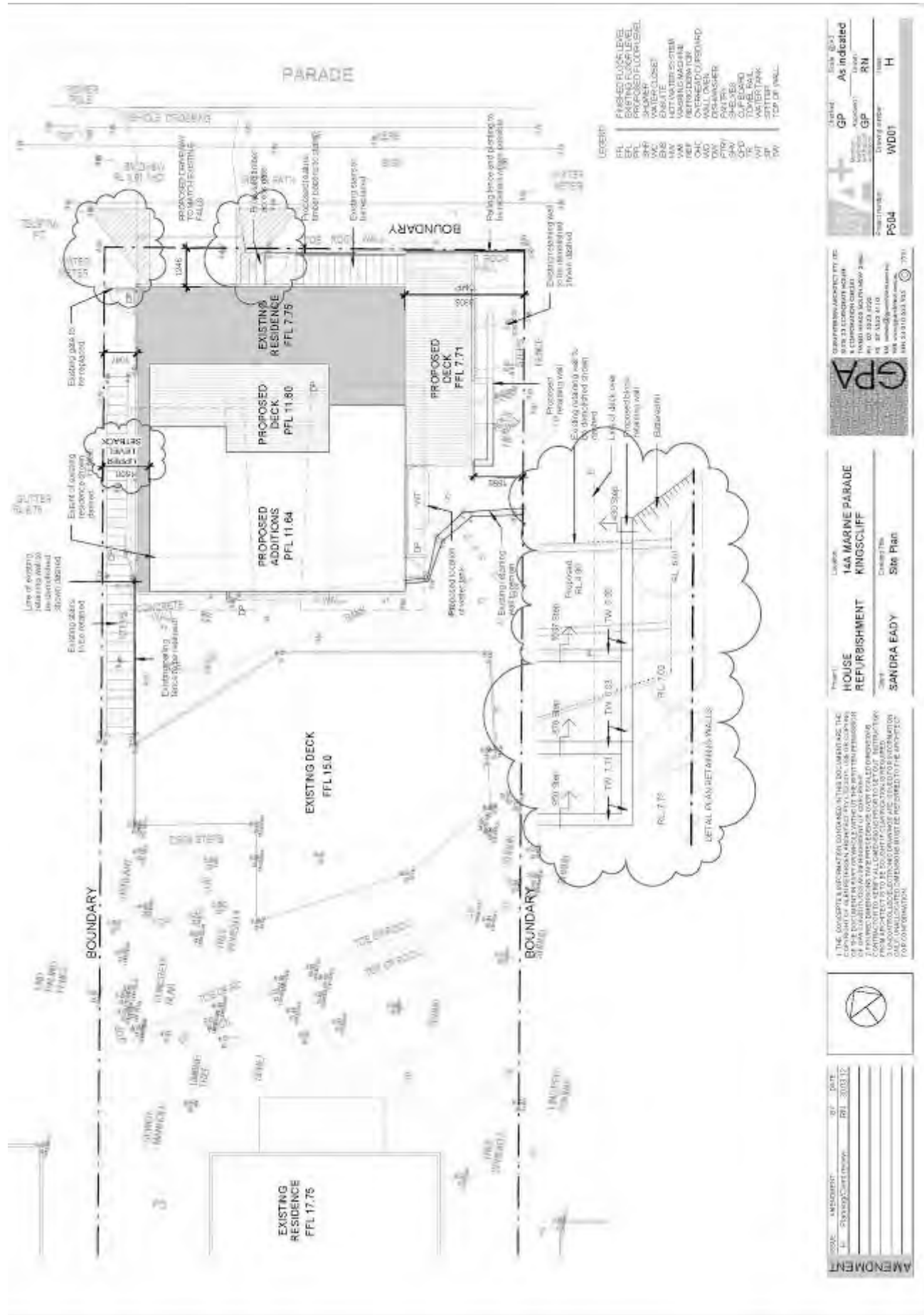


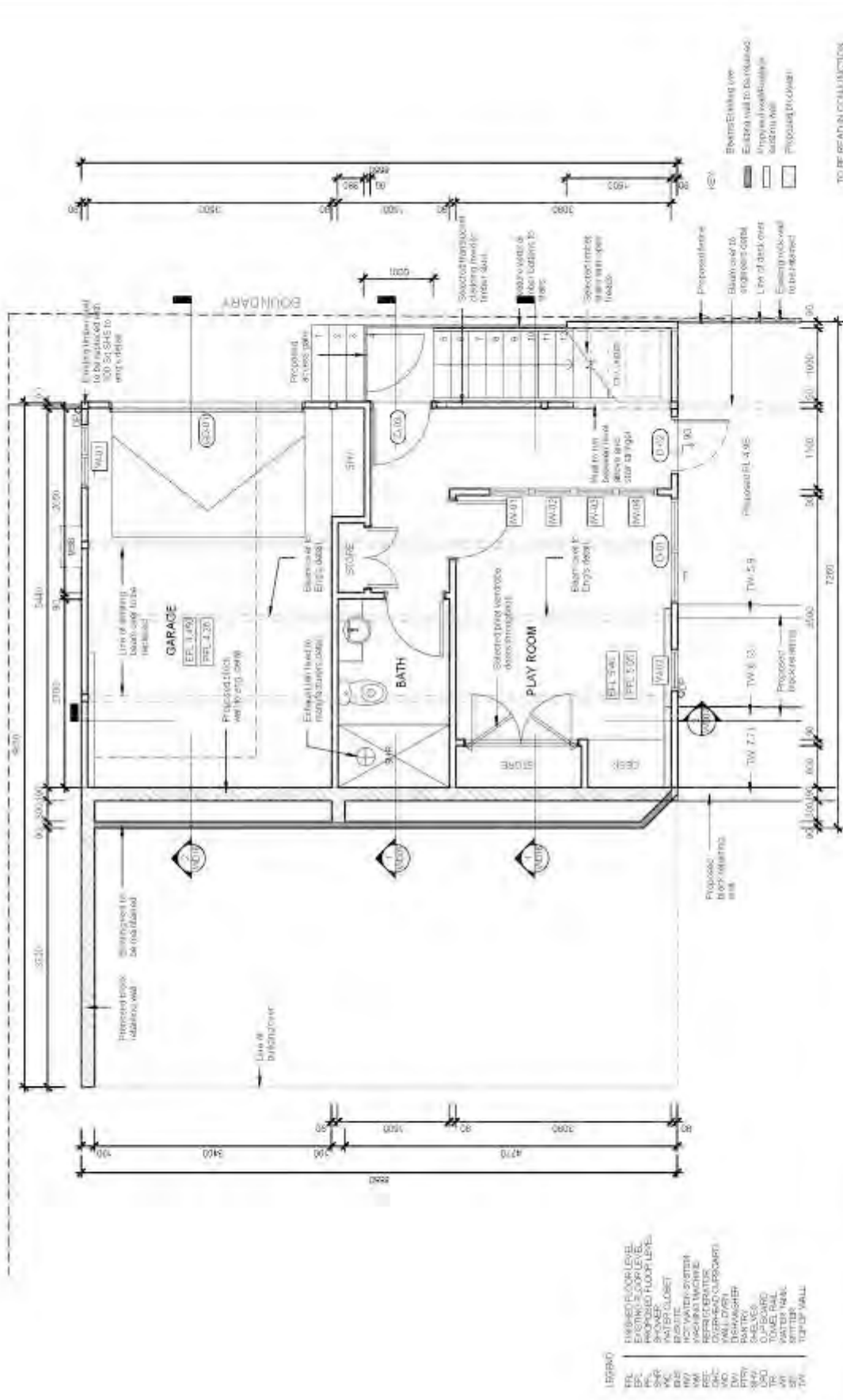
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Approved: 26/06/12 - Planning & Environment

Valid From: 04/07/12 To: 03/08/12

DEVELOPMENT/ELEVATION PLANS:





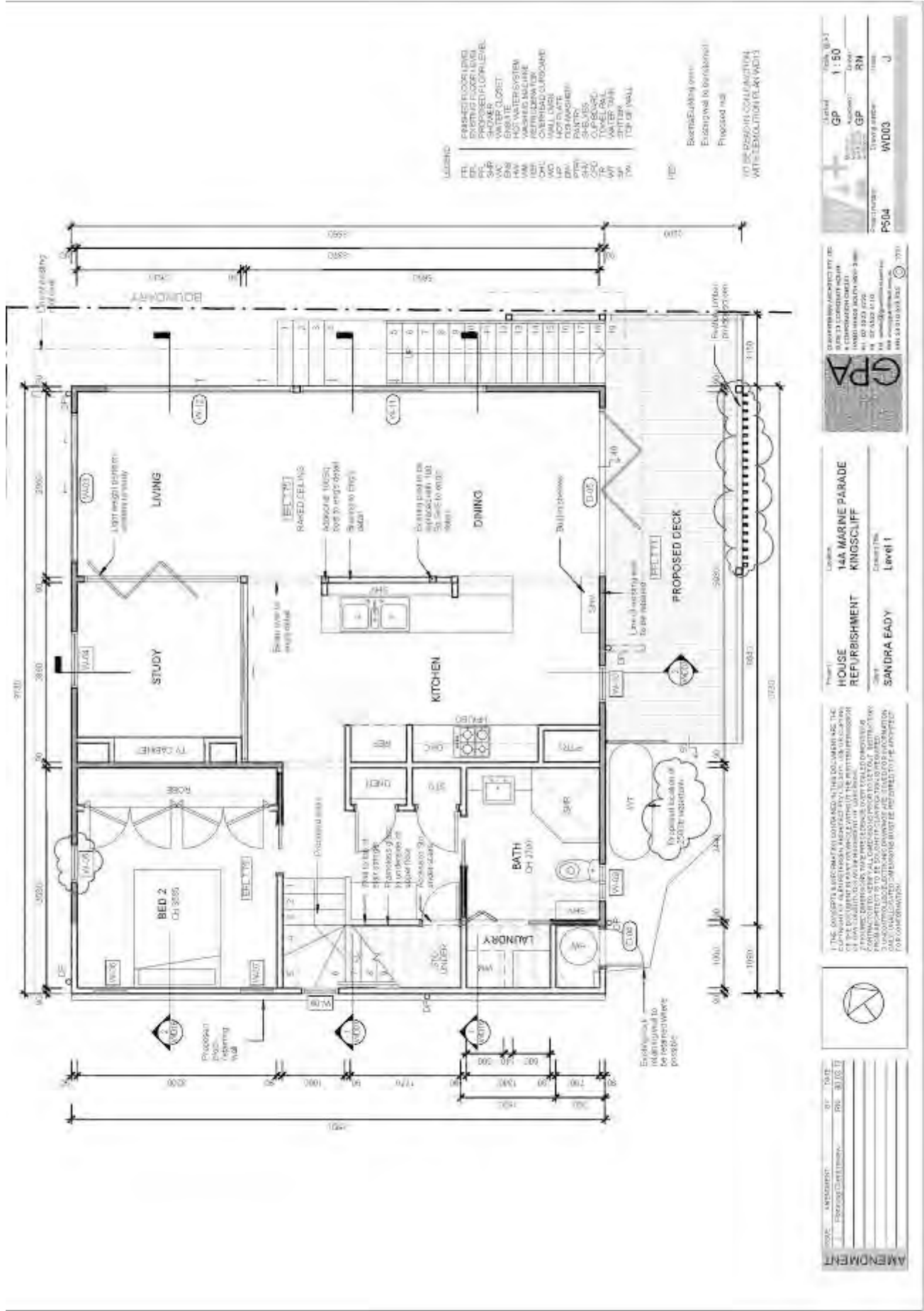
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- LEGEND**
- TEL FINISHED FLOORING
 - KEK FINISHED FLOOR LEVEL
 - WPK FINISHED FLOOR LEVEL
 - WAT WATER CLOSET
 - ENS ENSUITE
 - HW HOT WATER SYSTEM
 - HOV HEATING SYSTEM
 - WHC WATER HEATING CUPBOARD
 - CHC CHERISHED CLOUARD
 - WLL WALL LINES
 - WDO WALL DOOR
 - EBA EXTERIOR BRICK ANGLE
 - PBR PAINT
 - SB BUS
 - CP CLIP
 - WTR WATER
 - SH SHOWER
 - WC WATER CLOSET
 - TP TOP OF WALL
 - BER BRICK
- Berndside (M) (over)
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- TO BE DEMOLISHED COLLECTION
 WITH DEMOLITION (E.A.W.D.1)

AMENDMENT

NO: _____ DATE: _____

PROJECT: HOUSE REFURBISHMENT PROJ: 101-031057

Checked By:	Checked By:	Scale:	Scale:	Sheet No:
GP	GP	1:50	GP	01
Author:	Author:		Revision:	
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P504	P504	WDD3	WDD3	WDD3

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GROUP PROJECT ARCHITECTS PTY LTD

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 SYDNEY NSW 2000
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 FAX: 02 9225 4001
 www.gpa.com.au

Project: **HOUSE REFURBISHMENT**

Location: **14A MARINE PARADE KINGSCLIFF**

Client: **SANDRA EADY**

Level: **Level 1**

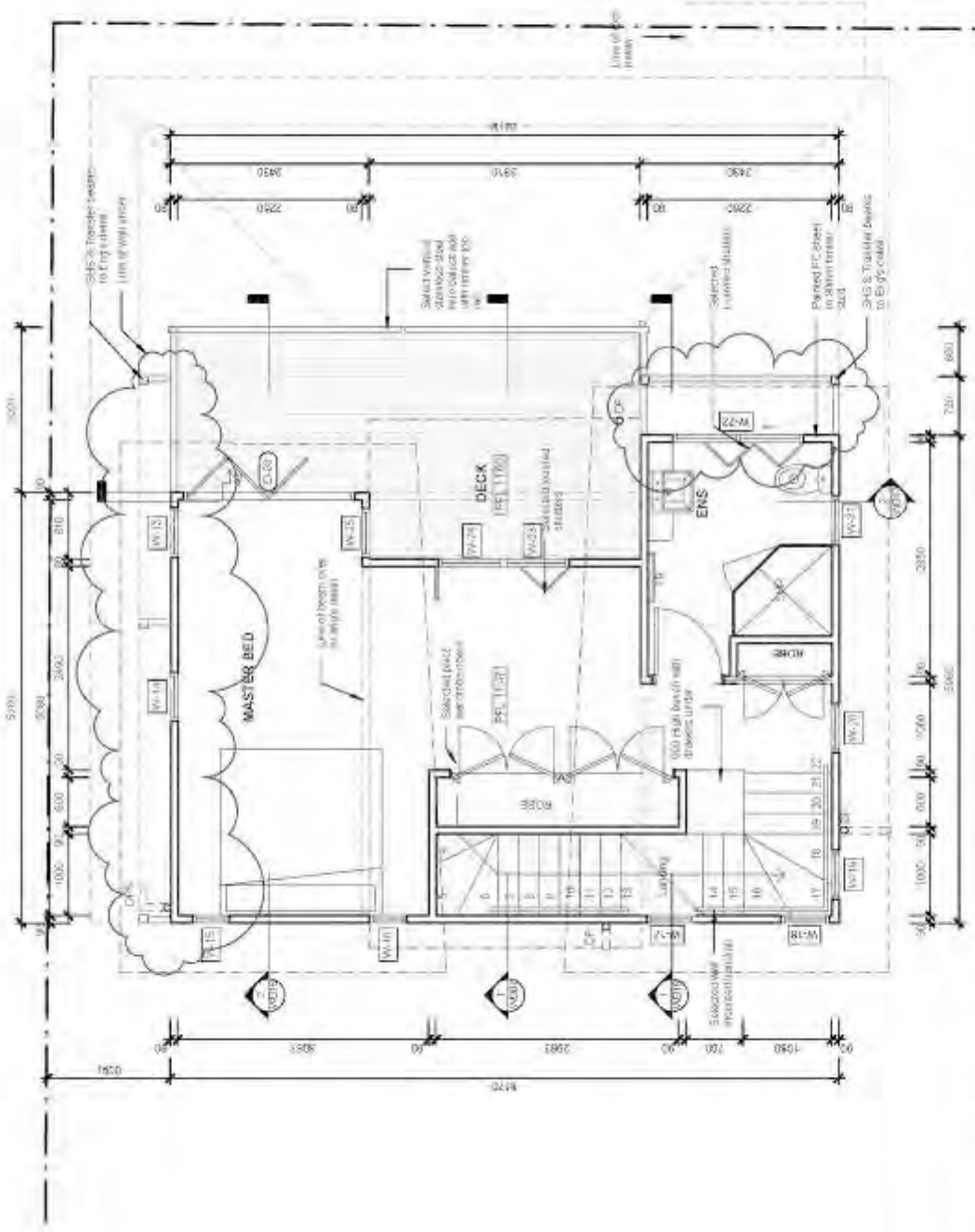
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PROJECT: HOUSE REFURBISHMENT PROJ: 101-031057



- LEGBD
- 1/1 IMPERD. COAR LEVEL
 - 1/2 RCL RIBBING FLOOR/SLEVE
 - 1/3 SNOWS
 - 1/4 WATER CLIMB
 - 1/5 METAL SYSTEM
 - 1/6 WINDING MACHINE
 - 1/7 REF. REFUGERATOR
 - 1/8 METAL COUPBOARD
 - 1/9 DOWNDRESSER
 - 1/10 PANTRY
 - 1/11 SHELVES
 - 1/12 TUNEL
 - 1/13 TUNEL
 - 1/14 PAINT
 - 1/15 SCITTEP
 - 1/16 TOP OF WALL

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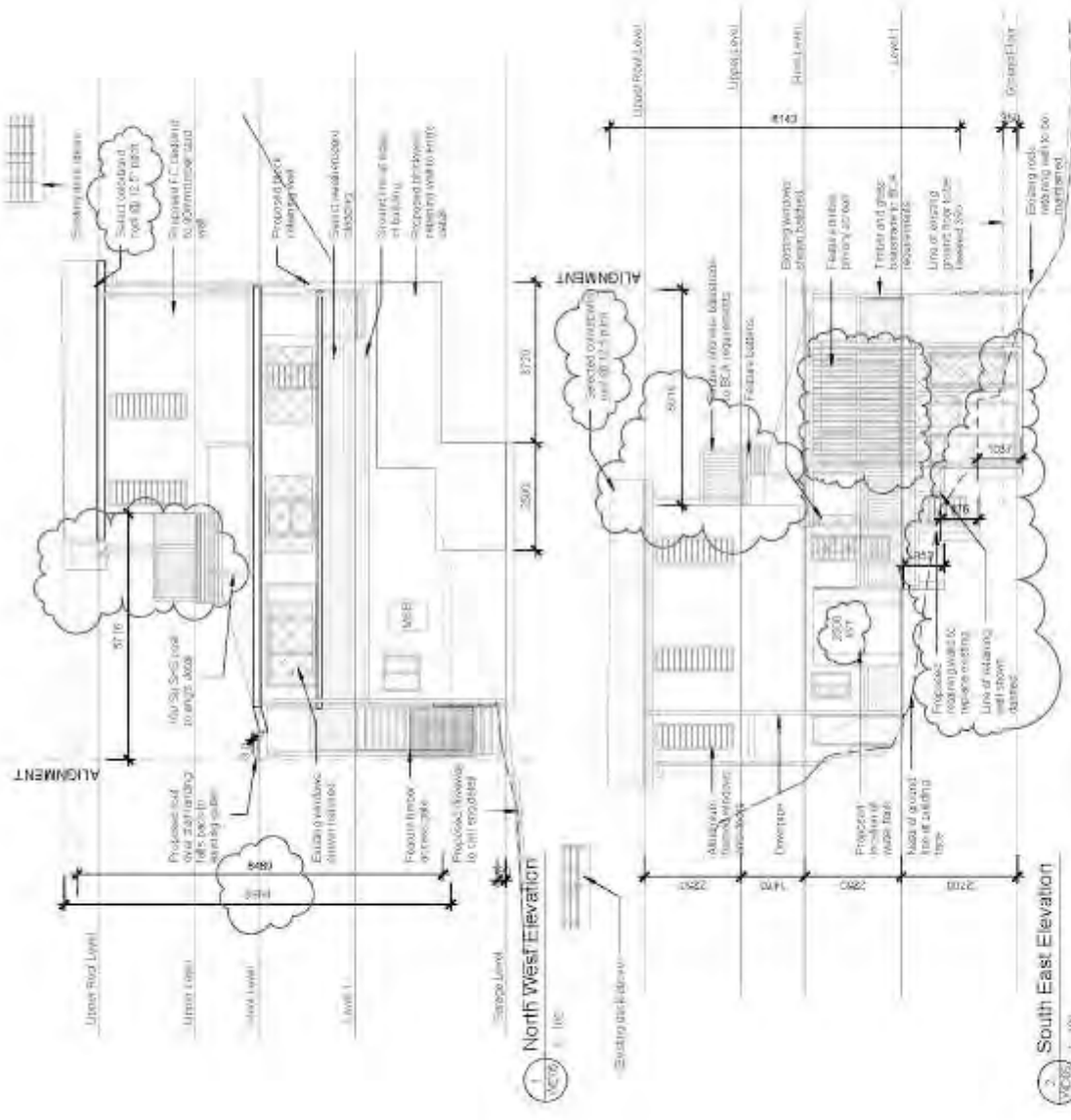
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HOUSE REFURBISHMENT
 Project 1
 14A MARINE PARADE
 KINGSCLIFF
 Client: **SANDRA EADY**
 Create: 2/11
 Upper Level

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AMENDMENT
 No: **01**
 Date: **21/02/12**

Drawn: **GP**
 Checked: **RM**
 Approved: **GP**
 Date: **03/03/12**



DATE:	AMENDMENT:	BY:	DATE:
		PERMITS/DESIGNER:	REV:
			3/03/12



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Project: **HOUSE REFURBISHMENT**
Client: **SANDRA EADY**
Location: **14A MARINE PARADE KINGSCLIFF**
Drawing Title: **Elevations**



Drawn:	Rev:	Scale:
RG	1:100	
Checked:	GP	Rev:
Approved:	WD06	1/11
Project No:	P504	Client Ref:
		J



2 North East Elevation
W008 1 : 100

1 South West elevation
W009 1 : 100

AMENDMENT

SCALE: AMENDMENT BY DATE
 W008 Planning Clerk: syrah RN 30/03/12

PROJECT: HOUSE REFURBISHMENT
 CLIENT: SANDRA EADY
 PROJECT NO: 144 MARINE PARADE KINGSCLIFF
 DRAWING TITLE: Coloured Elevations

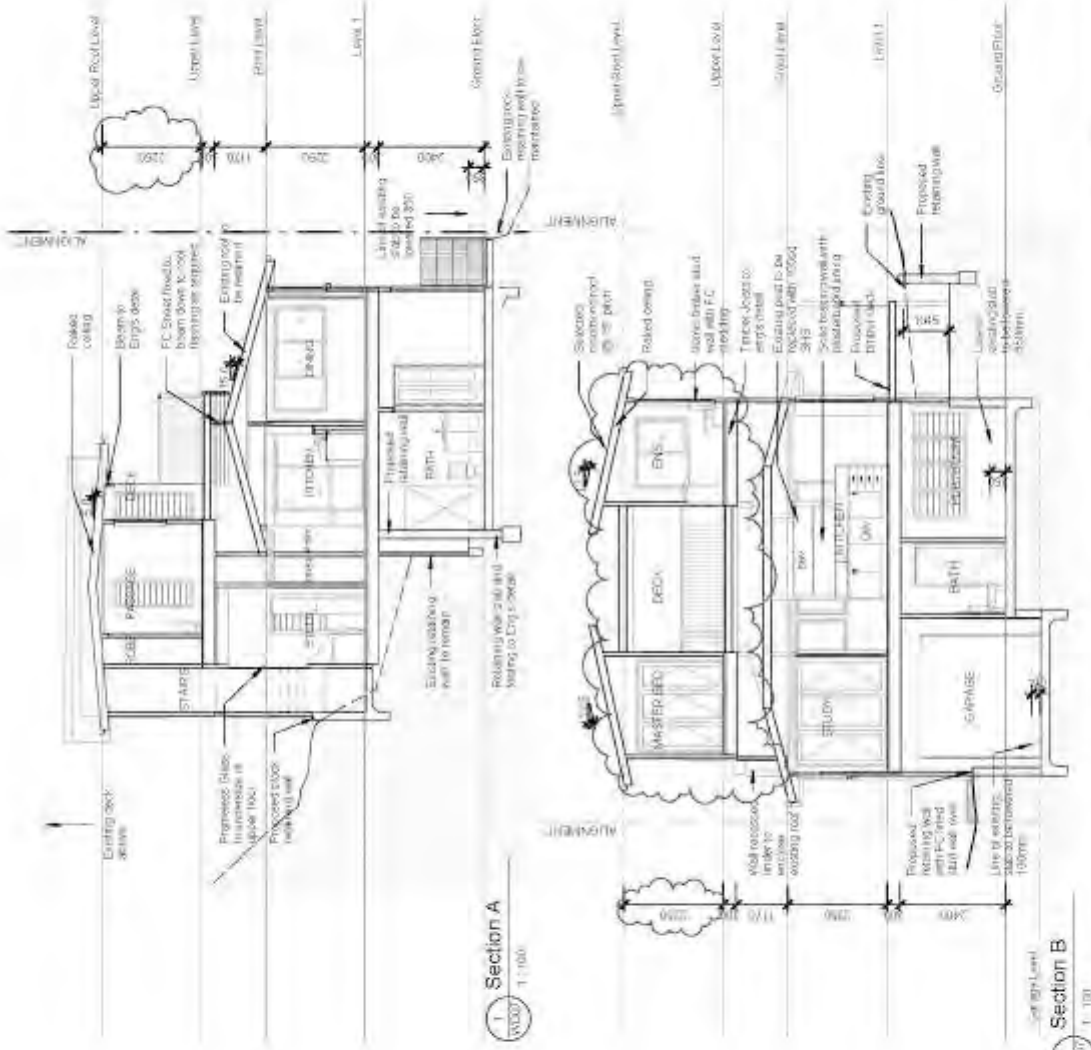
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 DATE CHECKED: 14/03/12
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 DRAWING NO: B

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 SHEET: RN

DATE: 14/03/12



1 Section A
1:100

2 Section B
1:100

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PROJECT/CLIENT:	NO.	REV.	DATE:

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Project: HOUSE REFURBISHMENT
 Location: 14A MARINE PARADE KINGSCLIFF
 Client: SANDRA EADY
 Section: Section A & B

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 100-102 RIVERVIEW DRIVE
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Project No: P504
 Drawing No: W007
 Scale: 1:100
 Date: 17/07/12
 Author: RN
 Check: RN



3D View 1

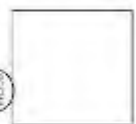


3D View 2



3D View 3

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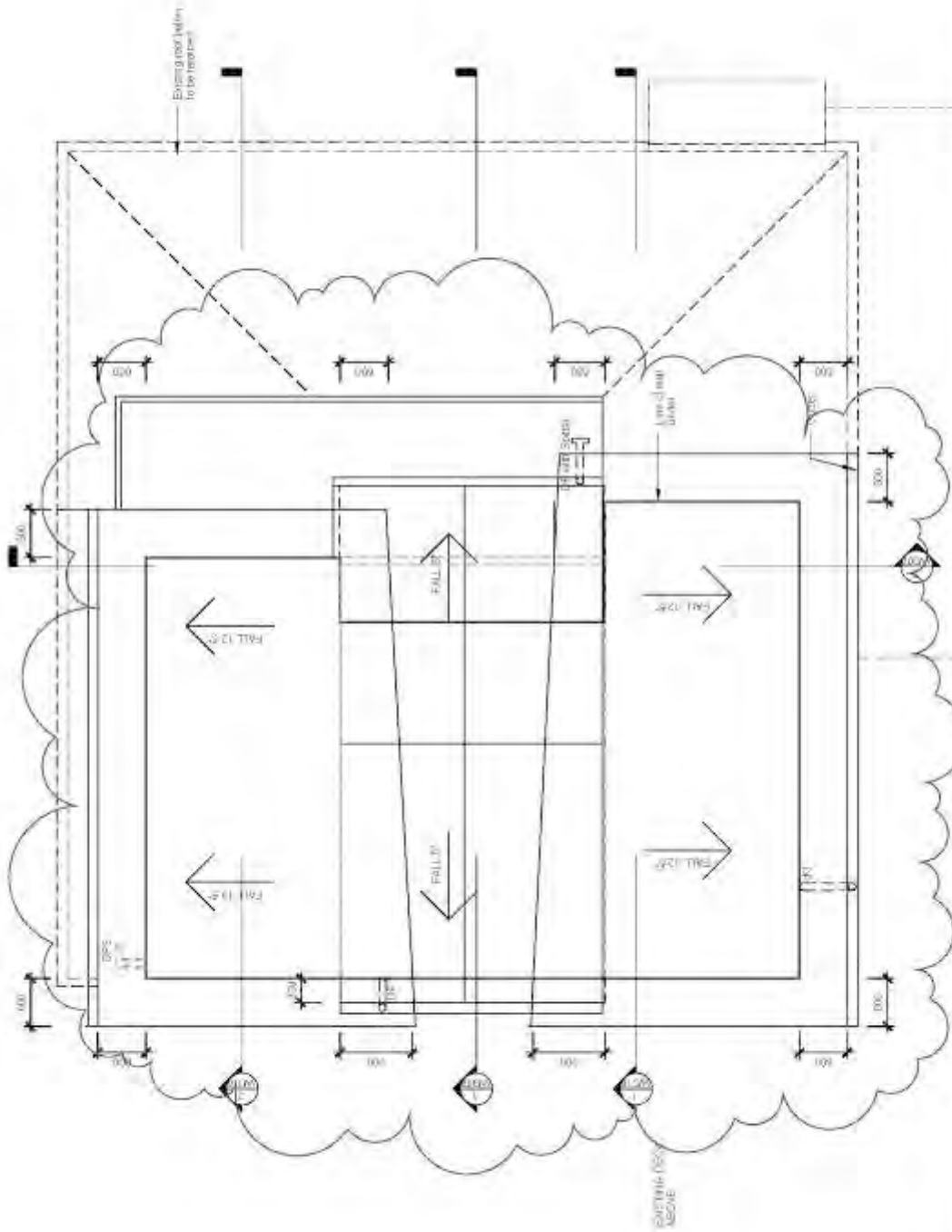
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Location:
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 PROJECT NO: GP
 DRAWING NO: WD06
 DRAWING TITLE: PS04
 DATE: J



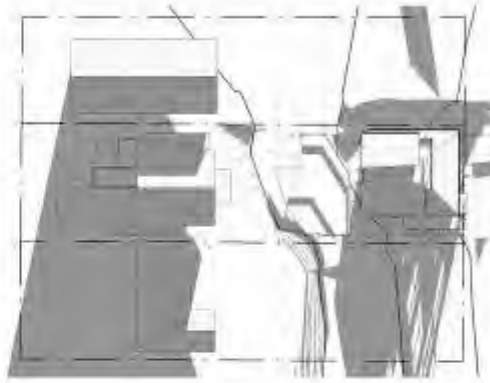
Project No: P504
 Client: WDOB
 Date: 11/06/12
 Scale: 1:50
 Drawing: RN
 Author: H

GPA
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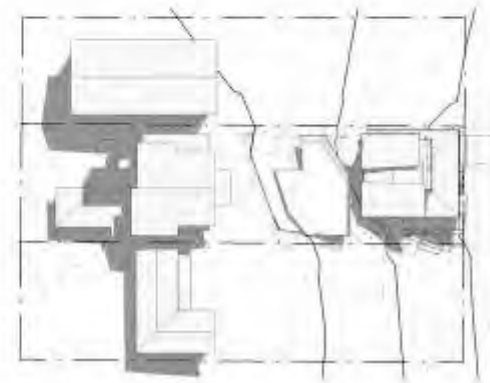
Location: 144 MARINE PARADE
 KINGSCLIFF
 Project: HOUSE REFURBISHMENT
 Drawing Title: Roof Plan
 Designer: SANDRA EADY

I, THE ARCHITECT, HEREBY CERTIFY THAT I AM A REGISTERED ARCHITECT IN THE STATE OF NEW SOUTH WALES AND THAT I AM A MEMBER OF THE ARCHITECTS BOARD OF NEW SOUTH WALES. I AM NOT PROVIDING ANY PROFESSIONAL SERVICES TO YOU UNDER THIS CONTRACT. ANY SERVICES PROVIDED TO YOU UNDER THIS CONTRACT ARE PROVIDED AS A COURTESY SERVICE ONLY. YOU SHOULD CONSULT YOUR INSURANCE PROVIDER FOR MORE INFORMATION. THE ARCHITECT'S LIABILITY IS LIMITED BY THE ARCHITECTS ACT 2000 (NSW).

AMENDMENT
 NO. _____ DATE _____
 BY _____
 FOR _____



4 SUMMER 6.30PM
WD14 1:500



5 SUMMER 3PM
WD14 1:500



2 SUMMER 12PM
WD14 1:500



1 SUMMER 9AM
WD14 1:500

AVIA+
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Project No: P504
 Drawing No: WD14
 Title: 1:500
 Date: 03/07/12

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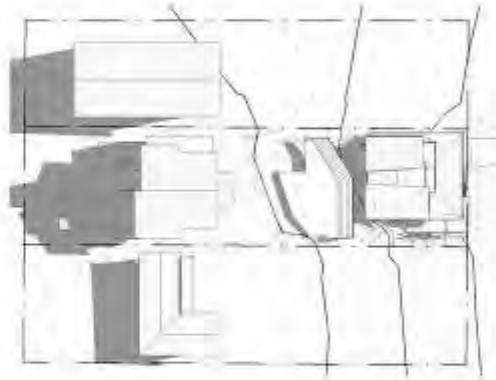
Location: 14A MARINE PARADE
 KINGSCLIFF
 Drawing Title: Shadow Diagrams - Summer

Project: HOUSE REFURBISHMENT
 Client: SANDRA EADY

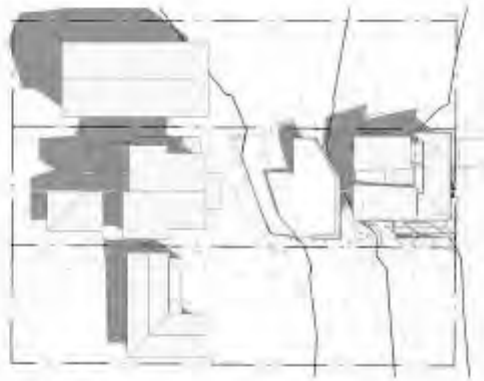
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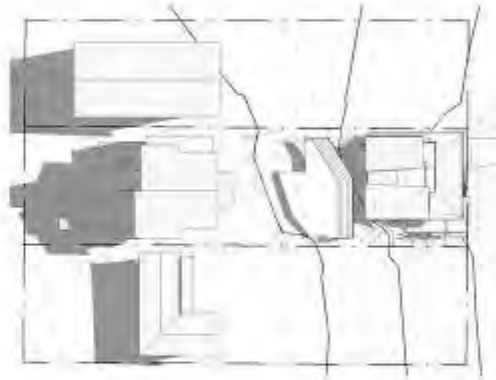
NO.	AMENDMENT	BY	DATE
A.	PRELIMINARY	RS	20/10/10
B.	PROPOSED	RS	30/03/12



1 WINTER 9AM
W015 1:500



2 WINTER 12PM
W015 1:500



3 WINTER 3PM
W015 1:500

6502	AMENDMENT	REV	DATE
A	Submitted	503	21.10.11
B	Proposed/Consent	504	20.03.12

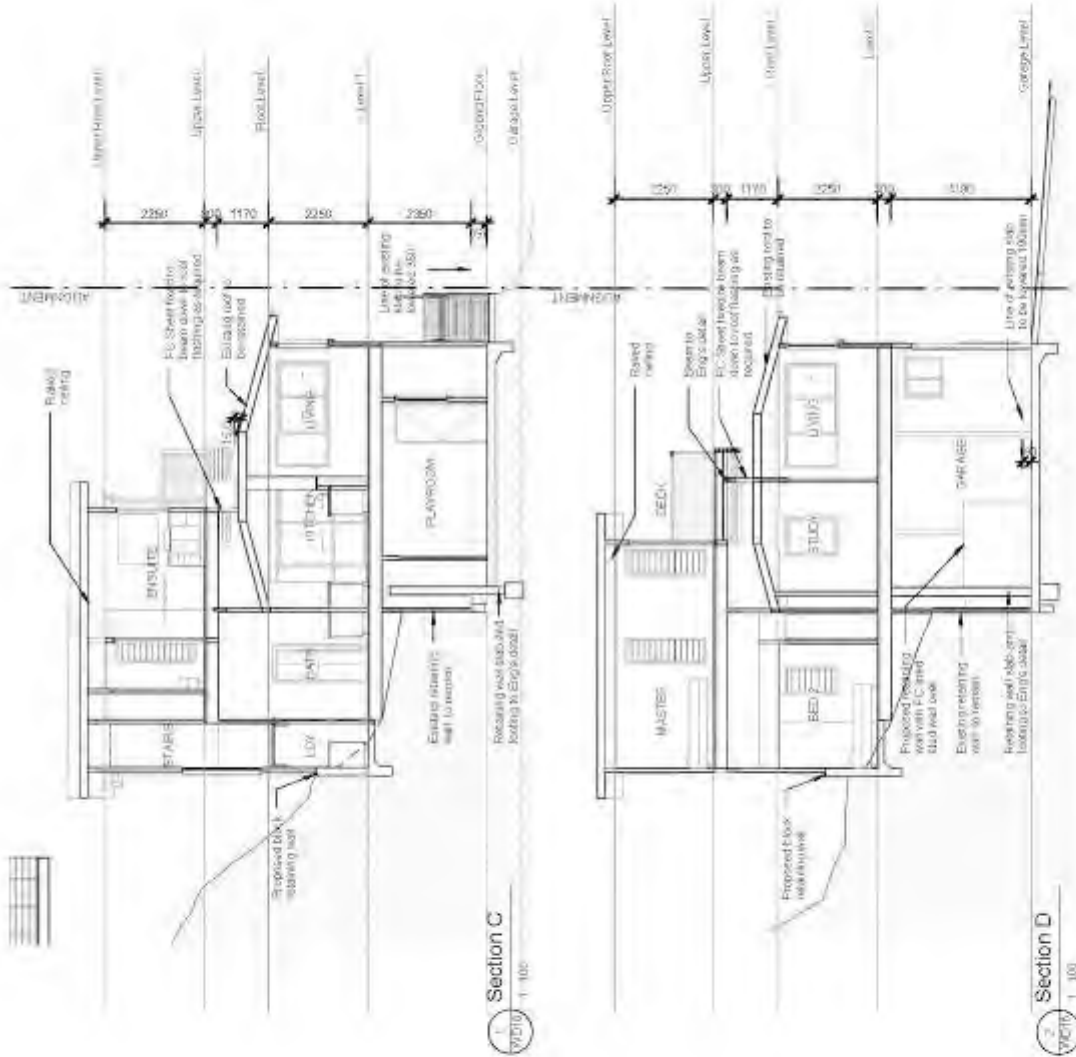


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Project: HOUSE REFURBISHMENT
Location: 14A MARINE PARADE KINGSCLIFF
Client: SANDRA EADY
Drawing Title: Shadow Diagrams - Winter

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AV+
Gp 1:500
Scale: B3
Project: HOUSE REFURBISHMENT
Client: SANDRA EADY
Drawing Title: Shadow Diagrams - Winter



Section C
1:100

Section D
1:100

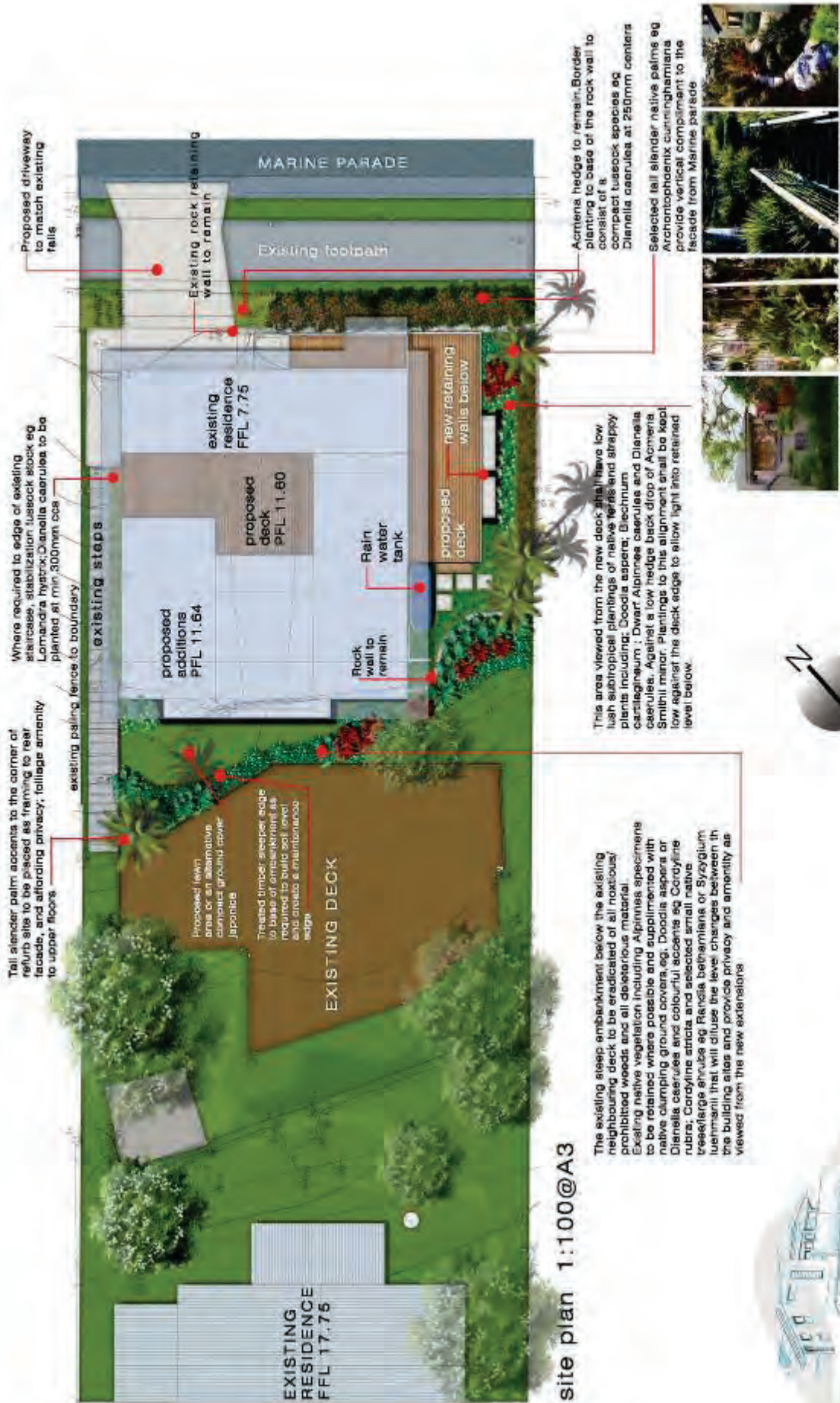
Drafted: 15/06/12
 GP 1:100
 Project: 14A Marine Parade
 Drawing: RM
 Drawing name: WD16
 Sheet: P304
 Drawing scale: 1:100
 Drawing number: A

SUPERVISORY ARCHITECT BY DE
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 LIC: 34 01033 035 (7/1)

Project: 14A MARINE PARADE
 HOUSE REPAIR/REBUILT
 KINGSLIFF
 Client: SANDRA EADY
 Section: Sections C & D

I, THE CONSULTANT, HEREBY DECLARE THAT I AM AN ARCHITECT REGISTERED WITH THE ARCHITECTS BOARD OF AUSTRALIA AND THAT I AM A MEMBER OF THE AUSTRALIAN ARCHITECTS ASSOCIATION. I AM NOT PROVIDING ARCHITECTURAL SERVICES TO ANY OTHER PERSONS IN CONNECTION WITH THIS PROJECT. I AM NOT PROVIDING ARCHITECTURAL SERVICES TO ANY OTHER PERSONS IN CONNECTION WITH THIS PROJECT. I AM NOT PROVIDING ARCHITECTURAL SERVICES TO ANY OTHER PERSONS IN CONNECTION WITH THIS PROJECT.

DATE:	15/06/12
BY:	GP
FOR:	14A MARINE PARADE
PROJECT:	HOUSE REPAIR/REBUILT
DRAWING:	WD16
SHEET:	P304
SCALE:	1:100
DATE:	15/06/12
BY:	GP
FOR:	14A MARINE PARADE
PROJECT:	HOUSE REPAIR/REBUILT
DRAWING:	WD16
SHEET:	P304
SCALE:	1:100



site plan 1:100@A3

statement of landscape intent



The above images are indicative of planting structure and layering intended for the proposed garden refurbishment which will be dominated by native tussock and more rainforest species.



Members of the Planning Commission
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 Email: info@planity.com.au
 Website: www.planity.com.au

PROPOSED HOUSE REURBISHMENT
14 A MARINE PARADE KINGSCLIFF
 For Sandra Eady

Date: February 2011 Scale: as shown Design: SB Drawn: SB

planting palette



Archontophoenix cunninghamiana



Syzgium euhemii



Syzygium aloosum



Pandanus tectorius



Cordyline peltolobis



Albimona caerulea dwt



Cordyline rubra



Asplenium euterpaesum

accent planting



Pandanus tectorius



Acmisna S. minor



Bontecia integrifolia



Lomandra hystrix



Carpobrotus glaucescens



Doodia aspera



Dianella caerulea



Blechnum cartilagineum



Hibiscia scandens



Spinfex seticeus

groundcovers

Generally: Plants selected for this refurbishment shall be predominantly local native species. It is intended that ground cover specimens shall be supplied in 75mm tube and 140mm stock at min density of x2 plants /m2. Shrubs to be supplied in 200mm pots at min x1 plants/m2. All existing healthy native vegetation shall be retained where possible. Palm placement is to occur only where space parameters allow in proximity to building edge.

statement of landscape intent

PROPOSED HOUSE REFURBISHMENT
14 A MARINE PARADE KINGSCLIFF
For Sandra Eady

Date: February 2012 Scale: as shown Design: SB Drawn:



Supervisor: ST 6231 (03) 73444000 (1300) 633 111 (48 hours) www.bodygroup.com.au
Landscape Architecture & Planning
14 The Grove, Maroon QLD 4074
Professional Landscape Architects (Landscape Architects) No. 34794
No. 34794

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

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The proposal is consistent with the aims of the Tweed Local Environmental Plan 2000 (TLEP 2000). The proposal represents sustainable economic development which is consistent with the area's environmental and residential amenity qualities.

Clause 5 - Ecologically Sustainable Development

The proposal is consistent with the principles of ecologically sustainable development. The carrying out of the development will not result in unacceptable cumulative impacts.

Clause 8 – Consent Considerations

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

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

In this instance, the subject site is zoned 2(b) Medium Density Residential, the primary objective of which is to provide for and encourage development for the purpose of medium density housing that achieves good urban design outcomes.

The proposed alterations and additions to the detached dual occupancy are considered consistent with the primary objective of the zone, in that the development provides for the upgrading of one of the dwellings and results in quality development.

Other relevant clauses of the TLEP 2000 have been considered elsewhere in this report and it is considered that the proposed alterations generally comply with the aims and objectives of each.

The proposal is not considered to contribute to an unacceptable cumulative impact in the community due to the minor degree of variation to development standards and the established, medium density, residential nature of the subject site.

Clause 11 – Zone Objectives

The subject site is located within the 2(b) Medium Density Residential zone. The primary objective of that zone and consistency of the proposal with that objective has been outlined above.

Secondary objectives allow for non-residential development that supports the residential use of the locality and tourist accommodation that is compatible with the character of the surrounding locality. The under-utilisation of land for residential purposes is discouraged.

It is submitted that the proposal is a form of residential development within an established residential area that is suitable in scale, form and purpose. The proposal does not increase the density of the site. The density of the site is in line with zoning objectives and the alterations/additions are not considered to have an adverse effect on the character and amenity of the area.

Clause 15 - Essential Services

The site is situated within an established residential area. All essential services are available to the site.

Clause 16 - Height of Building

Clause 16 aims to ensure that the height and scale of development is appropriate with regard to location, surrounding development and environmental characteristics of the land. The subject site is affected by a two-storey building height limitation. In accordance with the definition of 'storey' as per Schedule 1 of the TLEP 2000, the proposal represents a partial three-storey development.

The dwelling is generally two storeys in height. A portion of the upper floor area situated in the centre of the building when viewed on side elevation constitutes a three-storey building height.

The applicant seeks consent to vary the development standard by way of a SEPP No. 1 objection, discussed later in this report.

Clause 17 - Social Impact Assessment

Given the minor nature of the proposal a Social Impact Assessment is not considered necessary.

Clause 35 - Acid Sulfate Soils

The site is located within Class 5 Acid Sulfate Soils (ASS) which is considered to be low risk. Adverse impacts associated with ASS are not anticipated.

Other Specific Clauses

Clause 39 – Remediation of Contaminated Land

Please refer to a detailed discussion of contaminated land uses under the heading SEPP 55 – Remediation of Land.

Clause 39A – Bushfire Protection

The subject site was identified as being located within a bushfire prone area in accordance with updated 2012 bushfire mapping and as such was referred to the New South Wales Rural Fire Service (NSW RFS) for comments and conditions on 23 May 2012.

A response from the service was received 5 June 2012. Relevant conditions have been recommended by the NSW RFS for inclusion in the development consent.

Clause 54 – Tree Preservation Order

Clause 54 of the TLEP 2000 provides for the protection of vegetation for reasons of amenity or ecology by way of a Tree Preservation Order. The subject site is covered by the 2011 Tree Preservation Order (TPO) (Koala Habitat Study Area) which impacts upon the removal of Koala feed tree species. Removal of such vegetation on the site must be approved by way of development consent.

Existing landscaping on site comprises of native and exotic species but does not include Koala feed trees. The proposal does not include the removal of vegetation. Rather, it is intended to supplement existing landscaping with the inclusion of local native plantings in accordance with a statement of landscaping intent supplied as part of the application documentation.

No further issues have been identified and this Clause is deemed to be satisfied.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

This clause applies to the subject site as the NSW Coastal Policy applies. The proposal is consistent with the NSW Coastal Policy, Coastline Management Manual and North Coast Design Guidelines. The development will not result in overshadowing of the beach or waterfront open space.

Clause 33: Coastal Lands

Clause 33 refers to development on coastal lands and requires the consent authority to take into account provisions of the Coastline Management Manual, whilst also requiring that disturbed foreshore areas be rehabilitated and that access points across foredune areas be confined to specific points. The proposal has no direct implications or relevance in this regard.

Clause 43: Residential development

Clause 43 of the North Coast Regional Environmental Plan 1988 (NCREP) provides guidelines for Council when considering residential development. These controls include density, site erosion and environmental constraints on the land.

There is no change to the existing dwelling arrangement on site. Alterations and additions will be undertaken to modify roof and internal floor configurations of one dwelling. Therefore the proposed development is consistent with this clause.

SEPP No. 1 - Development Standards

As discussed, the applicant seeks to vary the two-storey building height development standard as contained within the Tweed LEP 2000 Clause 16.

In the case of the proposed development, a floor area equivalent to 15.45m² has been identified as constituting a three-storey building height. The corresponding area on side elevations represents 18.42% of the overall length of the building.

A SEPP No. 1 submission may be supported where the applicant demonstrates that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case and specifies the grounds of that objection. The applicant must also demonstrate the consistency with the aims of the SEPP.

The applicant has raised the following arguments in support of the variation sought:

- The locality is characterised by a variety of building types, heights and designs, all of which have been influenced by the extreme topography of the area
- Positioning the extension forward as proposed limits the amount of cut and fill and results in only a minor three-storey element consistent with other developments in the locality
- The proposed three-storey element has no impact on view sharing and is compliant with Council's physical height limits under Tweed Development Control Plan (DCP) 2008
- The proposed three-storey area is centrally contained and setback from the front building elevation
- The proposal steps up the slope and adopts urban design principles such as are promoted within Section 1 of the Tweed DCP 2008
- There are a significant number of existing buildings within the locality that incorporate a three-storey form and a physical height exceeding 9m. As such the proposal will not be inconsistent with the current character of the area.

The applicant concludes that strict compliance with the development standard under Clause 16 is considered unreasonable and unnecessary in this instance.

Assessment of the applicant's submission:

The following assessment of the SEPP No. 1 is based on the principles set by Chief Justice Preston (*Wehbe v Pittwater Council [2007] NSW LEC 827*).

1. The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Chief Justice Preston has noted 5 ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. In this instance, the first option, being the objectives of the standard are achieved notwithstanding non-compliance with the standard has been adopted.

The objective of Clause 16 of the TLEP 2000 is achieved despite the variation to the development standard pertaining to building height. The objectives of Clause 16 provide for the control of height and scale of development in relation to its location, surrounding development and environmental characteristics of the land.

The proposal creates the addition of an upper floor level that does not exceed a 9m building height. Part of the upper floor level technically constitutes a third storey due to topographical constraints that restrict options to excavate to the rear of the dwelling.

It is clear that the design of surrounding development incorporates similar measures in order to deal with restrictive topography and maintain a reasonable height and scale.

The proposal maintains a medium density use of the site, retains existing residential elements and does not increase the density of the dual occupancy. The refurbished dwelling has greater compliance with energy efficient controls, mature vegetation is retained and additional local native landscaping is proposed.

The proposal is of a high quality with a better overall design outcome improving the streetscape and amenity of both the site and locality without compromising the intent of the building height development standard contained within Clause 16.

The applicant's submission in relation to being well founded is supported.

2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979*; and

The objects specified within Section 5(a)(i) and (ii) relate to the promotion and co-ordination of the orderly and economic use and development of land, and the protection, provision and co-ordination of communication and utility services.

The proposal allows the existing dwelling, not originally constructed to current energy efficient standards to be replaced by a modern, energy efficient development of the same type. This is consistent with the general character of the medium density locality.

It is not considered that the granting of this application would hinder the attainment of such objectives.

3. It is also important to consider:

- a. whether non-compliance with the development standard raises any matter of significance for State or regional planning; and**
- b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument.**

The proposed non-compliance with Clause 16 of the TLEP 2000 is not considered to raise any matter of significance for State or regional planning.

There would be little public benefit in maintaining the development standard in this case as it would result in the retention of outdated housing stock that could not cater for the size and lifestyle needs of a modern family. The streetscape and amenity of the locality will be enhanced by the modern, energy efficient design which in turn may lead to a resource-related wider public benefit.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with the TLEP 2000 is considered to be justified in this instance and is not likely to result in an adverse planning precedent. As such, the granting of this application is unlikely to impact upon public benefit.

Having regard to the minor extent of the variation sought and in light of the comments raised by the applicant and outlined above, it is considered that a departure from the development standard requiring a building height comprised of two storeys is acceptable in this instance.

It is recommended that Council assume the Director-General's concurrence.

SEPP No. 55 - Remediation of Land

Information was requested of the applicant in relation to management of potentially hazardous materials during demolition, and potential land contamination.

The applicant stated that material containing asbestos is likely to be encountered and removed during the initial demolition phase. The applicant stated that such material will be removed and disposed of in accordance with legislative requirements, and requested that a condition requiring preparation of a demolition work plan prior to issue of a Construction Certificate be imposed. The requested process is considered to be appropriate, and an appropriate condition has been recommended.

The correspondence included a preliminary investigation relating to potential contaminated land. The preliminary investigation stated that there is no information to indicate that any previous land uses correspond with any potentially contaminating activities as outlined in the document 'Guidelines for the Assessment and Management of Contaminated Sites'. It was stated that the land has been used for residential purposes since 1939, and a statutory declaration from a relative of the landowner was included.

The statutory declaration stated that there were no chemicals applied to the soil prior to pouring of concrete slabs. It was noted that holes were drilled into timber posts, and oil was poured into the holes for termite control. Such a control method is no longer considered to be appropriate, however was widely used in the past. The practice is unlikely to have resulted in contamination of soil.

There are no cattle tick dip sites in the vicinity of the property and no change to the current land use is proposed. As such, adverse impacts associated with contaminated land are not anticipated and there is no requirement for further investigation of contaminated land.

SEPP No 71 – Coastal Protection

Clause 8 of the Policy details 16 matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered compatible with the intent for the development of the locality. It will not restrict public access to the foreshore.

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

The shire-wide Draft Tweed Shire Local Environmental Plan 2010 was exhibited in 2010. The draft zone for the subject site is R3: Medium Density Residential. The proposed additions/alterations to the detached dual occupancy is a 'child' form of 'Residential' development (detached dual occupancy) which is permissible in the relevant zone under Item 3 through its omission as a form of prohibited development in Item 4. There is a proposed 9m height limit on development in this proposed zone. There is no minimum lot size, but a desired Floor Space Ratio of 2:1. The proposed development complies with the draft controls.

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

Tweed Development Control Plan (Adopted 22 April 2008)

A1-Residential and Tourist Development Code

Part B - Dual Occupancy Housing, Granny Flats, Town Houses and Row Houses

The applicant has requested four variations to development controls contained within this DCP as submitted in the amended variation report supplied 4 April 2012.

1. Design Control 2 – Site Configuration – Deep Soil Zones - Control c.
2. Design Control 2 – Site Configuration – Above Ground External Living Spaces, Balconies and Terraces - Control a.
3. Design Control 2 – Site Configuration – Topography, Cut and Fill - Controls f. and g.
4. Design Control 10 – Floor Space Ratio – Control a.

The variations are considered minor and have been supported.

This assessment takes into consideration the age of the dual occupancy (2003) and the fact that existing and proposed elements may not strictly meet DCP A1 requirements. Assessment takes into account the overall site and impermeable area, gross floor area and floor space ratio which involve the second dwelling but will otherwise focus exclusively on alterations/additions to the dwelling with Marine Parade frontage.

The applicable design controls are addressed as follows:

Building Types

Suitable Locations for Dual Occupancy Housing

The site is 670.3m² and is regular and rectangular in shape. The area of the subject site meets the current minimum criteria of 450m² required to suitably locate dual occupancy housing in accordance with this DCP.

Due to the steep nature of the site, the dwelling facing Marine Parade is unable to provide a ground level external living area but does provide a small outside area to the southern side. Decking on the second and third levels forms the majority of external living area with the addition of an existing 65m² outdoor decking area up the slope to the rear approved in 1997 which will remain.

Public Domain Amenity

Streetscape

There has never historically been a front deep soil zone (DSZ) within the Marine Parade setback. As such, landscaping in accordance with this plan is not possible. Stairs to the existing dwelling were built to the front boundary many years ago. The single garage (1.2m setback) is to be retained.

The facade from the public domain visually adds an upper level to the rear. From the side elevations, it is predominantly two-storey. Overall, the design is compatible with the existing historic dwelling and the character of the locality.

Of issue here is the appropriate nature of a part third storey in an area with a two-storey height restriction. Due to the topography of the allotment, additions to the dwelling provide a significantly recessed upper level, separated from the two-storey dwelling through retention of the existing roof structure. It is important to define the three-storey component in accordance with the TLEP 2000 definition.

Existing fencing remains for side and rear boundaries.

Public Views and Vistas

The dwelling addition does not appear to obscure views from the rear dwelling or have a significant impact upon views from the adjoining dwellings above it which are accessed from Hungerford Lane.

Given the degree of existing vegetation on neighbouring allotments and the general conformity of the proposed development to the natural ground level and the 9m building height limit, impact upon public views and vistas is minimal.

The development will not unreasonably obscure public view corridors along Marine Parade.

Site Configuration

Deep Soil Zones (DSZ)

A front DSZ is provided in association with the second dwelling on the Hungerford Lane frontage as historically, there is no area available for a front DSZ on the Marine Parade frontage.

The existing rear DSZ area currently consists of steep slope, rock walls and decking. There is an area between the dwellings in the middle of the site that could be considered a rear DSZ for both dwellings.

At 8m x 7.3m, it falls short of the criteria of 9.05m length (18% x 50.29m) but the overall area available is comparable with the 72.4m² required. An additional 12m² DSZ has been provided adjacent to the dwelling on the southern boundary.

The allotment also has access to substantial public open space areas across Marine Parade. Given the above, the following variation is accepted.

Design Control 2 – Site Configuration – Deep Soil Zones - Control c:

- c. Rear Deep Soil Zones are to have minimum width of 8m or 30% of the average width of the site whichever is the greater and a minimum depth of 18% of the length of the site up to 8m but not less than 5.5m. Greater than 8m may be provided if desirable.

Impermeable Site Area

The maximum area for impervious surfaces for the site is 65% or 435.7m². The calculations for the proposal show the site has an impermeable area of 303m² which is consistent with the design control at 44.9%. A rainwater tank with a capacity of 2500 litres has been included on the plans.

External Living Areas

Two above ground, decked external living areas are proposed: a 15m² deck on the south east elevation of level 1 and a 14m² deck on the north west elevation of the upper level. The upper level external living area is associated exclusively with the master bedroom and is considered a minor balcony.

The level 1 external living area is associated with the living and dining area of the dwelling. It extends to approximately 1.556m from the side boundary. Amended plans indicate a 3m long, full height feature timber privacy screen along the portion of the deck that corresponds with access from the dining/living area of the level 1. This is considered acceptable and complies with screening controls.

Above Ground External Living Spaces, Balconies and Terraces

The external living area to the south east elevation is above ground. It measures 6.81m in length x 2.2m in width resulting in an area of 15m². The deck does not satisfy Control a. as its depth is less than 2.5m. The variation is however supported as there is enough space for a table and chairs and it would be undesirable for the deck to extend any further towards the adjacent boundary.

Design Control 2 – Site Configuration – Above Ground External Living Spaces, Balconies and Terraces - Control a:

- a. Above ground external living areas are to have a minimum depth of 2.5m and a minimum area of 10 sq.m.

The secondary balcony on the upper level associated with the master bedroom is located a minimum distance of 4.71m from the front boundary and a minimum of 1.5m from side boundaries satisfying controls. Privacy screening is not considered necessary on the north western end as the deck area will be utilised in association with a bedroom.

Landscaping

The proposal attempts to retain existing landscaping elements and add local native species to complement the alterations. The lot does not adjoin bushland and physical connection is made by way of stairs to the upper level. A 1m wide pathway with steps is located along the north western side boundary in order to gain access to the rear, elevated, mainly decked portion of the site. Locations for proposed plantings are appropriate.

Topography, Cut and Fill

The location of the existing dwelling and steep topography have been determining factors in locating additions to the rear and above the dwelling.

According to Section A and Section B (Drawing No. WD07), proposed retaining walls appear to be greater than 1.2m in height with excavations exceeding 1m. The amended variation report clarifies that part of the proposal results in a combined (existing and proposed) cut greater than 1m with retaining walls greater than 1.2m.

Additional excavations have been required under the building to provide the enlarged garage, new bathroom and playroom. These excavations will not be visible and are located wholly within the building footprint. As such, the following variations to controls are considered acceptable.

Design Control 2 – Site Configuration – Topography, Cut and Fill - Controls f. and g.:

- f. The maximum level of cut is 1m and fill is 1m except for areas under control j.
- g. Retaining walls maximum 1.2m.

Setbacks

Front Setbacks (Building lines)

The existing, historic front setback, at 1.246m will not change as a result of this proposal.

Side Setbacks

Side setbacks to the existing dwelling will not change. The side setback to the upper level are a minimum of 1.5m on the north west elevation and 3.8m on the south east elevation which are acceptable.

Amended plans indicate an open area adjacent to the driveway in both directions to cater for 2m x 2m site triangles. Any fencing within proximity maintains a 60% openness ratio and maintains site lines.

Rear Setbacks

Existing rear setbacks are maintained allowing for location of the rear deck and deep soil zones.

Car Parking and Access

Carparking Generally

The single garage arrangement for the dwelling was accepted upon approval of DA02/2052 for the creation of the dual occupancy on the site. The current arrangement will continue. Although not in accordance with DCP A2 requirements for parking, it is an historic configuration with little opportunity for the creation of a second parking space.

The garage remains in historic alignment with the front elevation of the dwelling with garage door width less than 50% of the front elevation.

Building Footprint and Attics, Orientation and Separation

Building Orientation

The dwelling is oriented to, and addresses the street. Pedestrian entry is clearly visible and accessible. Ancillary room windows are oriented to the side boundaries. Living areas face the ocean (front boundary) and employ passive solar design principles.

Building Separation

All building separation controls are met.

Height

Building Height

The maximum overall building height permitted is 9m. The applicant proposes a maximum building height of 8.984m.

The maximum wall plate height permitted is 8.5m. The applicant proposes a height of 8.489m.

Ceiling Height

Existing floor to ceiling height of 2.25m is retained on level 1. The ground floor will have a 2.4m ceiling height which is acceptable. In order to achieve a reduction in building height, the upper level ceiling height has been reduced to match that on level 1 (2.25m). The building unit have raised no objection to this as it is in accordance with requirements.

Building Amenity

Sunlight Access

There are no issues with regard to sunlight access or overshadowing. Shadow diagrams have been supplied by the applicant and indicate minimal impact upon the south eastern boundary of 16 Marine Parade. This property gains full solar access from its north eastern and north western boundaries.

Visual Privacy

As discussed previously, the balcony with views to the north and north east associated with the main bedroom does not require screening. The deck associated with living areas on level 1 has been suitably screened. As such, there are no further visual privacy issues.

Acoustic Privacy

There are no acoustic privacy issues.

View Sharing

The footprint of the proposed development will not result in an unreasonable reduction in any views enjoyed by nearby residents. The small 'three-storey' element within the design maintains height controls, is setback a minimum of 4.7m from the front boundary and is not a significant factor with regard to view sharing. No variation has been identified in this assessment and the impact is considered to be minimised.

Natural Ventilation

There are no issues regarding natural ventilation. The proposal incorporates windows, decks and openings on all elevations which will enable cross-ventilation of breezes.

External Building Elements

Side and rear fences

The existing side and rear fencing is proposed to be retained.

Front fences

The proposed timber battens to the stairs will function as a 1.5m high fence. There is an openness ratio in the fencing and so it cannot be termed as 'paling' and does not obstruct driveway sight lines. The fencing is appropriate for the development and consistent with the character of the building.

Roofs, Dormers and Skylights

The skillion 'butterfly' roof design is of simple design and similar pitch to the existing roof below. No skylights are proposed.

Amended plans reduced the roof pitch for the upper level from 15 to 12.5 which assists in maintaining a lower building profile. Roof colour is a subdued grey.

Elevations Visible from the Public Domain

Amended plans have illustrated compliance with building height and side setbacks. Pitch of roof has been decreased. Given the topographical constraints of the site, additions to this example of outdated housing stock would be impossible without taking advantage of the higher ground level to the rear of the existing dwelling. It is considered that the visual impact of the development has been satisfactorily minimised and that variations to development controls have been substantially reduced by the provision of amended plans. Elevations visible from the public domain have been improved and are consistent with the desired street character of the locality.

Building Performance

Energy Efficiency

The applicant has submitted a BASIX certificate which meets the minimum energy targets. A new rainwater tank is shown on the site plan.

Waste Management

A demolition work plan will be required to be provided by the applicant prior to the issue of construction certificate.

Floor Space Ratio

The maximum floor space ratio (FSR) for detached dual occupancy housing is 0.45:1.

The report for DA02/2052 (detached dual occupancy) states that the overall GFA for both dwellings was approximately 315m². However, the calculation included decked areas for the second dwelling. The approved construction certificate plans for the second dwelling give a total floor area for both levels of 240.93m² including decks. Calculation from the figures provided and a physical check with scale rule indicates an overall GFA of 210.4m².

Existing plans were provided for the older dwelling with the current application. Calculation from the plan gives an overall GFA of 80.1m² excluding garage and storage areas on the lower level. Therefore, a more accurate calculation of overall existing GFA for the site is 290.5m². This gives an FSR of 0.43:1 which complied with the maximum FSR for the site in 2003 (0.5:1).

New calculations for the proposed dwelling alterations and additions give a GFA of 154m². This excludes garage and decks. The GFA increases approximately 73.9m². Therefore the total GFA for the site increases to 364.4m².

With a site area of 670.3m², the FSR is 0.5436:1 which exceeds the maximum FSR allowable for detached dwellings by 0.0936 or approximately 50m². This is mostly due to the modest area of the site and the two-storey building height control.

This resultant FSR is a variation to the following development control:

Design Control 10 – Floor Space Ratio – Control a.:

- a. The maximum FSR for Dual Occupancy housing is:
 - 0.55:1 for attached dwellings except where the dwellings do not cover more than 50% of the site area in which case the max. is 0.65:1.
 - 0.45 for detached dwellings.

Although the proposal makes a minor increase to the overall FSR of the site, the proposal maintains a consistent residential character to surrounding sites and the two dwellings remain clearly differentiated due to the topography of the allotment. In addition, density on the allotment has not been increased as it still supports a detached dual occupancy. As such, the variation to Control a. is supported.

A2-Site Access and Parking Code

As discussed previously the proposal does not alter the existing historic parking arrangements for the dwelling. There is no increase in density on the site and an increase in the number of parking spaces is not able to be achieved. This scenario is consistent with parking arrangements for other older dwellings within the shire and is considered acceptable.

A11-Public Notification of Development Proposals

The development proposal was advertised in accordance with this section. The proposal was placed on exhibition for 14 days from 18 January to 2 February 2012. Four submissions were received as a result of this process and are discussed in detail later in this report.

B9-Tweed Coast Strategy

The Plan sets objectives for future development concentrating on public services and design principals. This application does not contradict the objectives of this plan.

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

Clause 92(a) Government Coastal Policy

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies of the policy.

Clause 92(b) Applications for demolition

The proposal includes demolition in order to facilitate additions to the dwelling. A Demolition Works Plan is to be provided by the applicant in accordance with a recommended condition of consent.

Clause 94 Buildings to be upgraded

Clause 94 is considered satisfied as the proposed alterations and additions generally comply with the Building Code of Australia.

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

The subject site is not located within an area that is affected by this management plan.

Tweed Shire Coastline Management Plan 2005

The subject site is not located within an area that is affected by this management plan.

Tweed Coast Estuaries Management Plan 2004

The subject site is not located within an area that is affected by this management plan.

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

The subject site is not located within an area that is affected by this management 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

There are no further likely impacts in addition to those previously discussed.

The proposal is consistent with surrounding residential character. The suitability of the site has been demonstrated throughout the assessment of the proposal including the assessment of minimal environmental impact and general consistency with environmental planning instruments and the DCP.

The proposed development does not generate any additional Section 94 or Section 64 contribution charges.

(c) Suitability of the site for the development

The suitability of the site for the development has been demonstrated by way of general consistency with the applicable environmental planning instruments and the Tweed Development Control Plan with minimal environmental impact. The proposal is consistent with the residential character of the locality.

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

Public:

The proposal was advertised in accordance with DCP A11 – Public Notification of Development Proposals for a period of 14 days from Wednesday 9 June to Wednesday 24 June 2010. During this time, four submissions were received.

The submissions raised issues pertaining primarily to the scale of original lodged plans. Subsequently, the applicant addressed matters raised by amending plans to eliminate variations and reasonably reduce the bulk and scale of the proposal.

Significant issues raised include:

- Scale of the additions inconsistent with streetscape
- Excessive height
- Creates a precedence for three-storey development
- Unsatisfactory side setback to north west boundary
- Confusion regarding use of playroom on ground level
- Privacy issues with regard to adjoining properties
- Impact of roof configuration with regard to glare
- Demolition approval waiver
- The proposal should take into account view lines of adjacent properties
- The building should be redesigned

- Critical dimensions are omitted to substantiate compliance
- Lack of deep soil zones
- Unreasonable loss of amenity / public views
- Overshadowing
- Lack of landscaping
- Too many variations to controls are sought
- Overdevelopment of the site

The applicant has addressed the submissions as follows:

Issue	Response
<p>Three-storey building height</p>	<p>The proposal has been amended to reduce the three-storey component and is now fully compliant with Council's 9m maximum height and 8.5m wall plate height. The development presents a compliant physical height. Physical height is a more appropriate means of determining bulk and scale.</p> <p>The extent of the three-storey element is minor and a result of topographic conditions of the area. It is centrally located along the north east/south west axis. Minor three-storey elements are a regular feature along Kingscliff Hill. The proposal provides a high quality architectural design and provides compliance with the physical height limits.</p> <p>The upper floor addition has been designed so that there is access to the existing roof of the dwelling for maintenance (300mm to allow the removal of roofing iron when it needs replacing). The issue of overall height of the extensions has been uppermost in the minds of the owners as the height of the building impinges on the residence at 14B Marine Parade. All attempts have been made to reduce the building height.</p> <p>The proposal has submitted accurate full 3D images of the proposal. These images show its relation to surrounding land and the deck above as a clear point of reference. With regards to precedent, the proposal as amended is consistent to other SEPP No.1 objections consented to by Council within the locality.</p> <p>One of the submissions requests a floor plan of the 'third level'. The proposal includes a minor three-storey element only. A 'third level' cannot be shown as it does not exist.</p> <p>The proposal does not include a full third storey. Further, the proposal seeks to reference other recent 'complying' developments located on Kingscliff Hill. One of the submissions specifically references 13 Moss Street which includes a partial third storey element. The SEPP No.1 objection for 13 Moss Street was approved by Council as part of DA06/0705.14. The submission effectively provides support that technical third storey elements cannot be easily discerned when included as part of a high quality architectural design.</p>
<p>Side setback to north western boundary</p>	<p>The upper level has been amended to fully comply with the current setback requirements to wall and eave. Drafting errors have been amended.</p>

<p>Use of playroom on ground level</p>	<p>The present configuration of the ground floor is largely unchanged. It currently has a separate bathroom, front door and outdoor area. It is used as an area to store beach equipment (surf ski, chairs, toys), as a beach shower after swimming, a playroom for kids when it is wet and undercover area for wet towels and togs. The proposed renovations make no change to the likelihood that the function of this area might change to something that contravenes residential use.</p>
<p>Privacy issues/views: adjoining property to north west (window on level 1 and upper floor deck) and south east (level 1 deck)</p>	<p>The renovation will not change the existing window area on the north west elevation. It does change the distribution so that the windows towards the front of the property are increased in area and the side window area will be decreased. The window being referenced within the objection is W03 as marked on the plans. This window is not the primary window of the living room.</p> <p>The deck area will overlook the yard however the upper deck area is located off a bedroom and is not an 'external living area' as defined within Section A1 of the TDCP 2008. The upper deck is design in compliance with the relevant design controls. As demonstrated by the photographs submitted within this submission, the neighbouring residence significantly overlooks the property at 14 Marine Parade. Assertion that the development will significantly impact on the neighbouring properties amenity is unfounded.</p> <p>The additional living area on the south east side of the house now includes a privacy screen in accordance with Council's design controls.</p> <p>The renovation will replace an existing window on the south east elevation with doors at the front section of the wall and will remove a side door at the back section of the wall. Overall this does not significantly change the current arrangement. The additional living area on the south east side of the house now includes a privacy screen in accordance with Council's design controls.</p> <p>On the proposed upper level, windows are designed to be minimal and to provide ventilation and natural light rather than views.</p> <p>Any new building on adjacent properties will be set back approximately 6m from the front boundary which results in a reduction of window/external living areas that will overlook any neighbouring area.</p>

<p>Impact of roof configuration with regard to glare and heat load to adjoining properties</p>	<p>Given the relative elevation of the proposed structure and the existing neighbouring residence, one would have to substantiate this claim with better data. From observation, by early afternoon the sun does not reach the roof area of concern to create any reflection.</p> <p>The proposed colour of the building and roof is included in the plans submitted to council; it is a dark grey shade to reduce reflection. The issue of reflection is of much more concern to the dual residence above the proposed building (14B Marine Parade) and the design of the renovations has focused on minimising such impacts. The proposal will not impact the locality due to glare or reflectivity.</p> <p>The roof of the upper level has been designed to minimise the impact of reflectivity and height through splitting the roof into three elements. The darker roofing colour is designed to minimise reflectivity. The pitch of the two side elements is designed to give an aesthetic continuity to the proposed additions while at the same time enabling effective space for a solar hot water system.</p> <p>Amended plans lower the roof pitch to 12.5 degrees.</p>
<p>Demolition approval waiver</p>	<p>A demolition plan is to be provided prior to commencement of work.</p> <p><i>NB: a condition has been applied that requires a demolition work plan prior to issue of construction certificate.</i></p>
<p>View lines of adjacent properties</p>	<p>There are no issues with view lines from neighbouring properties. Due to the different elevation between the existing residences there are no line of sight issues. Height and setback have been amended.</p>
<p>Redesign</p>	<p>This is provided in the current plans.</p>
<p>Omission of critical dimensions and lack of deep soil zones</p>	<p>Where dimensions are not specifically provided the plans are drawn to an accurate scale to allow these to be measured. Review of the information requested within the submission indicates a clear lack of understanding of the proposal.</p> <p>The permeable area and Floor Space Ratio calculations are given in the DA. Although the property at 14 Marine Parade does not have a contiguous deep soil zone of 8m x 8m, it does provide an overall deep soil zone area of approximately 70.4m² including one contiguous area of approximately 8m x 7m dimension.</p> <p>The provision of deep soil zones are impeded by the existing development on the site. The deep soil zones provided are in accordance with Council established thinking on deep soil zone within existing developed allotments. An additional 12m² of deep soil zone has been nominated on the amended plans.</p>

<p>Loss of amenity and public views including visibility of the headland and vegetation</p>	<p>Existing dwellings are located at both the lower and upper levels of the subject site and at Nos. 2 and 6 Marine Parade.</p> <p>There seems to be a contradictory element in the submission. On the one hand the property owner claims they wish to undertake future development of their block (which might be compromised by the proposal) but on the other hand objects to any interruption of the "littoral rainforest" on the headland. Any development of the adjoining property would require tree removal.</p>
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Council's assessment of amended plans provided by the applicant supports the applicant's comments with regard to the submissions. Remaining issues of overshadowing, lack of landscaping, degree of variations sought and overdevelopment of the site have been assessed in the body of this report. The applicant will be required to provide a landscaping plan to support the statement of landscaping intent as a condition of consent.

As such, it is considered that issues raised within the four submissions have been resolved satisfactorily.

Public Authority:

This application was not identified as integrated development. However, the subject site was identified as being bushfire prone prior to finalisation of assessment as a result of recently updated bushfire mapping. As such, the application was referred promptly to the NSW RFS for assessment. Conditions were recommended regarding maintenance of an Asset Protection Zone and the provision of water to the proposed development.

(e) Public interest

The proposed development, generally consistent with the applicable environmental planning instruments and the Tweed Development Control Plan, is considered to be in accordance with public interest, with no significant impacts anticipated for surrounding residential uses and the local community in general.

OPTIONS:

1. State Environmental Planning Policy No. 1 objection to Clause 16 of the Tweed Local Environmental Plan 2000 regarding building height be supported and the concurrence of the Director-General of the Department of Planning and Infrastructure be assumed; or
2. Refuse the development application with reasons.

CONCLUSION:

The proposed alterations and additions to the detached dual occupancy are generally consistent with the applicable environmental planning instruments, the Tweed Development Control Plan and policies. The proposal will not result in adverse cumulative impacts. It is considered that the site is suitable for the development.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Finance Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

17 [PR-CM] Review of Environmental Factors PTV12/0005 for Arkinstall Park Redevelopment (3 Stages) at Lot 1 DP 780163 Sullivan Street, Lot 296 DP 755740, Lot 1 DP 588267 Cunningham Street, Hourigan Street, Oxley Street, Robert Street and Cunningham Street,

SUBMITTED BY: Development Assessment



Civic Leadership

SUMMARY OF REPORT:

This application has been prepared by Tweed Shire Council's Design Unit for the redevelopment of Arkinstall Park to improve the recreation facilities at the site, in line with an aim to provide regional standard sporting facilities at this location. At present on site there are tennis, netball and soccer facilities as well as grassed open space.

The proposal has been divided into three stages to allow flexibility to the development which is subject to funding. These are:

- Stage 1: Upgrade of tennis facilities, construction of first stage of internal access road and additional tennis parking.
- Stage 2: Upgrade of netball facilities, extension of internal access road east to Oxley Street road reserve, provision of additional netball parking and construction of Cunningham Street playground.
- Stage 3: Extend internal access road south to connect with Kirkwood Road and provide additional football parking.

The proponent has requested flexibility to undertake this staging in reverse as depending on the start date, it is hoped to undertake all works to have a minimal impact on the ongoing use of the site.

The proposal involves works on both 6(a) Open Space zoned land and unzoned road reserve. The application has been assessed under Part 5 of the Environmental Planning and Assessment Act as determined by Division 12 (Parks and other public reserves) and Division 17 (Roads and Traffic) of the SEPP (Infrastructure) 2007. Tweed Shire Council is the determining authority under Section 110A of the Environmental Planning and Assessment Act 1979. Section 111 of the Act states that the determining authority shall examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

The proposed development is not considered to have a significant impact upon the environment including critical habitat or threatened species, populations or ecological communities, or their habitats. Accordingly, an Environmental Impact Statement or a Species Impact Statement is not required.

RECOMMENDATION:

That:

- A. Following assessment of the Review of Environmental Factors for the Arkinstall Park Redevelopment it is determined that the activity is not likely to have a significant impact on the environment (including critical habitat) or threatened species, populations or ecological communities, or their habitats.
- B. PTV12/0005 application for the Arkinstall Park redevelopment (3 stages) at Lot 1 DP 780163 Sullivan Street, Lot 296 DP 755740, Lot 1 DP 588267 Cunningham Street, Hourigan Street, Oxley Street, Robert Street and Cunningham Street, Tweed Heads South be approved subject to the following conditions:

1. The development shall be completed in general accordance with the Review of Environmental Factors and the Addendum to Review of Environmental Factors prepared by Tweed Shire Council dated May 2012 and June 2012 respectively, except where varied by these conditions.

[PTV0010]

2. Prior to commencement of work all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the General Manager or his delegate. Erosion and sedimentation control devices shall be designed and installed in accordance with Council's Design Specification D7 - *Stormwater Quality* and Council's Construction Specification C211 - *Control Of Erosion and Sedimentation*.

All erosion and sedimentation controls shall be maintained throughout the period of construction.

[PTV0020]

3. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.

[PTV0030]

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

Monday to Friday from 7.00am to 6.00pm

Saturday 8am to 1pm

No work to be carried out on Sundays or Public Holidays

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

[PTV0050]

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

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

[PTV0060]

- 6. Should any stage propose the construction or modification of a food preparation area (for the retail of food) a detailed food premise fit out plan shall be submitted for approval of the General Manager or his delegate prior to commencement of construction. All works shall comply with the approved fit out plan.**
 - 7. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -**
 - Noise, water or air pollution**
 - dust during filling operations and also from construction vehicles**
 - material removed from the site by wind**
- [DUR1005]
- 8. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.**
- [DUR1025]
- 9. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blow from the site.**
- [DUR2185]
- 10. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.**
- [DUR2425]
- 11. Should dewatering be required, these works shall not be carried out until a dewatering management plan has been submitted and approved to the satisfaction of the General Manager or his delegate. All work shall comply with that approved plan.**
 - 12. Should excavation greater than 1.5m below ground level be required these works shall not be carried out until an acid sulphate soil management plan has been submitted and approved to the satisfaction of the General Manager or his delegate. All works shall comply with the approved plan.**
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[DURNS01]

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

[USE0125]

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

[USE0225]

15. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act* 2003, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental Health Officer included in this approval.

[USE0835]

16. Any car parking lighting and playing field lighting shall not spill beyond the boundary of the site. Lighting shall comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting.

[USENS01]

17. A Habitat Restoration Plan must be prepared for the vegetation offset sites nominated as Swamp Sclerophyll Forest EEC offset at Avondale Park Tweed Heads prior to the removal of native vegetation from the site. Such plan must be prepared in accordance with Council's *draft Habitat Restoration Guidelines* and submitted to Council's Development Assessment Unit for approval. Such plan must describe how restoration works will be funded for a minimum 5 year period whilst restoration is undertaken and how the site will be managed thereafter.

18. Vegetation clearing is limited to works outlined on Pages 83-85 of the Review of Environmental factors and as listed in Appendix L: register of trees subject to disturbance (as amended June 2012). All trees to be retained must be protected in accordance with Australian Standard for the protection of Trees on development sites.

19. A registered Spotter-catcher must be present on site during all works that involve the clearing of native vegetation so as to minimise impacts to native fauna.

20. Hollow-bearing trees to be removed shall be inspected for the presence of animals by a suitably qualified person, prior to their removal. Where animals are found, works in the vicinity will cease until animals leave, or are captured for later release on another site. Nocturnal animals shall be released at dusk. Injured fauna shall be transferred to the care of a Northern Rivers Wildlife Carers recommended veterinarian.

21. A Compensatory Fauna Nest-Box Plan must be submitted to Council's Natural Resources Unit for approval within six months of the date of this approval. All reasonable opportunities to re-use hollows removed from trees on the site must be taken.

- 22. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the works (as applicable).**
- 23. A Traffic Control Plan, prepared by an RTA accredited person, in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be endorsed by Council prior to commencement of works (as applicable).**
- 24. The development must provide a minimum of 12 disabled car parking spaces in accordance with Tweed Shire Council's Development Control Plan Part A2 - Site Access and Parking Code, (unless accepted otherwise by Council).**

REPORT:

Applicant: Tweed Shire Council
Owner: Tweed Shire Council
Location: Lot 1 DP 780163 Sullivan Street, Lot 296 DP 755740 Cunningham Street, Hourigan Street, Oxley Street, Robert Street, Tweed Heads South
Zoning: 6(a) Open Space
Cost: \$7,750,000

BACKGROUND:

This site has been designated for development as a regional sporting centre in both the Tweed Shire Open Space Infrastructure Policy (2002) and the subsequent Tweed Shire Regional Sports and Recreation Facility Plan (RS RFP) (2006).

These policies prompted the undertaking of a feasibility study and subsequently a master plan for guiding the development of the site as a regional sporting facility. The final masterplan was endorsed by the Sports Advisory Committee in September 2007.

The proposal would improve the recreational facilities at the site, in line with the aim of providing regional standard sporting facilities, consistent with the Arkinstall Park Masterplan.

The proposed development is to be undertaken in three stages as outlined below.

Stage 1- Upgrade of tennis facilities, construction of first stage of internal access road and additional tennis parking

Upgrade of existing tennis facilities

- Provision of eight additional tennis courts, including:
 - A single court including four 'hot shot' junior courts;
 - A show court;
 - Six module tennis courts;
- Repairs/ upgrades to existing courts;
- Minor renovations to existing clubhouse being limited to cosmetic works such as tiling and painting. No expansion of amenities or canteen facilities is proposed.

Construction of first stage of internal access road

- The Cunningham Street entrance is proposed to be relocated approximately 30m west of its existing alignment to accommodate additional tennis courts and on-site parking to service tennis courts and proposed playground. The arrangement of the tennis courts and internal access road alignment has been designed to accommodate the required tennis facilities whilst minimizing the disturbance of the adjoining Swamp Sclerophyll Forest occurring on the north-west of the site.

On-site and Cunningham Street parking

- On-site parking associated with Stage 1 includes:
 - 39 parking spaces west of tennis courts attached to the reconstructed internal access road at the Cunningham Street end;
 - 41 parking spaces along Cunningham Street, 10 to the east of the access road and 31 to the west;

- 23 parking spaces south of the tennis courts attached to the proposed internal access road at Hourigan Street reserve intersection; and
- Approximately 30 overflow parking spaces provided on the grassed area south of the tennis courts.
- A roundabout is proposed at the end of the first stage of the internal access road to facilitate traffic utilising the southern car parks to turn around and egress from the site.
- Minor streetscape landscaping.

Pedestrian access

- Provide connecting footpaths throughout tennis facility.

Upgrade onsite stormwater drainage

- Surface flow drainage from the reconstructed internal access road will be directed over flush kerbing into a grassed infiltration swale and infiltration basins which have been strategically located at low points. Overflow from the proposed infiltration basin at the intersection of Robert Street/Hourigan Street intersection will be directed into an existing stormwater pipe which directs water south beneath the playing fields and releases at an existing outlet into the drainage line which runs along the southern boundary of the site, eventually draining into the Tweed River at Ukerebagh Passage.

Street lighting

- Provide lighting along internal access road to minimise the threat to personal and asset security.
- Subject to budgetary constraints, these lights are proposed to be solar-powered low (5) rating street lamps to minimise light pollution and power consumption whilst providing adequate light for personal safety and asset protection.

Stage 2: Upgrade of netball facilities, extension of internal access road east to Oxley Street road reserve, provision of additional netball parking and construction of Cunningham Street playground.

Upgrade of existing netball facilities

- Upgrade existing netball courts by converting three grass courts to asphalt.

Extend internal access road east to Oxley Street road reserve

- Internal access road constructed along southern boundary of Lot 296 on DP755740 extending from Stage 1 roundabout east to Oxley Street road reserve;
- Provide additional parking to service netball facilities including:
 - 13 angle (45°) parking spaces south of netball courts; and
 - 25 overflow parking spaces on the grassed area south of the netball courts.
- Minor streetscape landscaping.

Pedestrian access

- Provide footpaths connecting with Stage 1 pathways and Oxley Street road reserve.

Upgrade onsite stormwater drainage

- Surface flow drainage from the reconstructed internal access road will be directed over flush kerbing into a grassed infiltration swale and infiltration basins which have been strategically located at low points.

Street lighting

- Provide lighting along internal access road to minimise the threat to personal and asset security.
- Subject to budgetary constraints, these lights are proposed to be solar-powered low (5) rating street lamps to minimise light pollution and power consumption whilst providing adequate light for personal safety and asset protection

Cunningham Street Playground

- Construct playground facility on Lot 1 DP 588267.
- Existing swamp Sclerophyll vegetation to be retained and protected.
- Pedestrian pathways to connect with Cunningham Street and tennis facility pathways.

Stage 3: Extension of internal access road south to connect with Kirkwood Road and provision of additional football parking.

Extend internal access road south to Kirkwood Road

- Internal access road constructed within Oxley Street road reserve extending from Stage 2 extent south to Kirkwood Road road reserve;
- Provide additional parking to service football facilities including:
 - 54 parking spaces east of football fields (within Oxley Street road reserve).
- Minor streetscape landscaping.

Pedestrian access

- Provide footpaths connecting with Stage 2 pathways and proposed Kirkwood Road footpath.

Upgrade onsite stormwater drainage

- Surface flow drainage from the reconstructed internal access road will be directed over flush kerbing into a grassed infiltration swale and infiltration basins which have been strategically located at low points.
- Construct stormwater pipe and outlets to direct overflow from infiltration basins at southern end of Oxley Street into the existing drainage line bordering the southern boundary of the site.

Street lighting

- Provide lighting along internal access road to minimise the threat to personal and asset security.
- Subject to budgetary constraints, these lights are proposed to be solar-powered low (5) rating street lamps to minimise light pollution and power consumption whilst providing adequate light for personal safety and asset protection.

The applicant has requested that the sequencing of the staging be reversed, to be more amenable to the existing site users (i.e. netball, soccer and tennis clubs) in that disruption from construction works would be minimised. Council's Development Engineer supports the reversing of the staging and has conditioned the approval appropriately.

The subject works are to be undertaken by Tweed Shire Council and specialist contractors as follows;

Tweed Shire Council	Specialist contractors
<ul style="list-style-type: none"> • internal access road and car parking • drainage swale and infiltration basins • footpaths • stormwater pipes and outlets 	<ul style="list-style-type: none"> • tennis and netball courts • lighting

The development is expected to have an environmental impact through earthworks and vegetation clearing works to be undertaken. Construction machinery expected to be used includes excavators, graders, rollers and haulage trucks.

Earthworks

Earthworks associated with the proposed internal access road and footpath would be minor and limited to minor surface grading for preparing the road base and to establish the required levels for stormwater drainage into the swales and infiltration basins. Lighting footings would be screw-piled to minimise potential disturbance of Acid Sulfate Soils. The modification of the existing stormwater pipe at the southern end of Robert Street and the new stormwater pipe proposed at the southern end of Oxley Street would require trenching to a depth of 1m below ground level.

Vegetation clearing

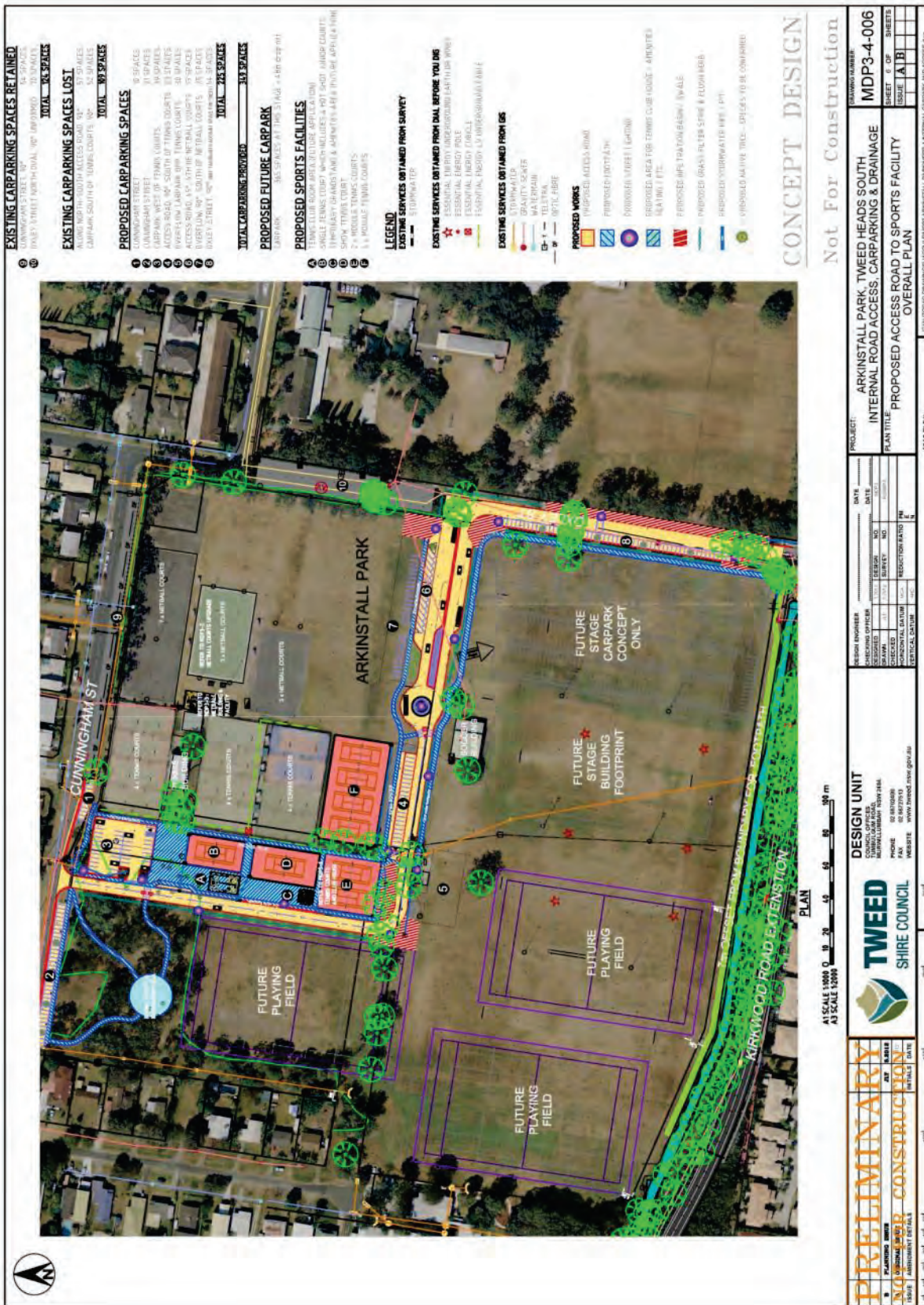
The proposed works have been designed to minimise the extent of vegetation clearing; however, still necessitates the clearing of 0.394ha of native vegetation equating to 54 trees of mixed native and exotic amenity plantings. The 0.394ha of native vegetation community is Swamp Sclerophyll Forest on Coastal Floodplains (SSF) which is listed as an Endangered Ecological Community (EEC) under the *Threatened Species Conservation Act 1994* (TSC Act).

Compensatory offsets for the clearing of the Swamp Sclerophyll Forest EEC is proposed in the form of re-creating the EEC community at a nearby site, as an extension to the current restoration works being undertaken at Avondale Park, on the eastern side of Greenway Drive, Tweed Heads South. The area proposed to be restored is approximately 7900m² which achieves a 2:1 (gain:loss) ratio.

The proposed works also require the removal of three small hollows (<5cm diameter) and one medium hollow (5-10cm diameter), with the potential loss of an additional two small hollows and an additional medium hollow. This would result in a reduction in nest/roost habitat in the locality and would likely result in increased competition for these resources. To mitigate this impact, lost hollows are proposed to be replaced with nest boxes at a ratio of 2:1 onsite and/or in nearby vegetation where there is minimal risk of future clearing.

Works on the proposal is due to start at the end of October 2012 and is estimated to take approximately 6 months to complete.

APPLICATION PLANS:





CONSIDERATIONS UNDER PART V OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

The proposed activity constitutes an assessment under Part 5 of the Environmental Planning and Assessment Act. Section 111 of the Act states that the determining authority must take into account a range of matters prescribed in Clause 228(2) of the Environmental Planning & Assessment Regulation 2000, in its decision to proceed with an 'activity' which does not require development consent. The matters raised under Clause 228(2) are addressed below.

Rating of Impact (for inclusion in Table below): 1 = Beneficial/Nil 2 = Minor 3 = Significant

Factors taken into consideration	Rating of Impact	Comments (if applicable)
a) Any environmental impact on a community	2	The proposal is considered to result in a minor impact on a community in the short term through disruption associated with construction and in the long term through its contribution to the accumulative loss of native bushland in the locality.
b) Any transformation of a locality	1	The Arkinstall Park redevelopment is considered to provide a beneficial long term impact to the locality as the proposed upgrades will improve recreational facilities within the locality.
c) Any environmental impact on the ecosystems of the locality	2	The proposed development would result in minor impacts upon the ecosystems on the site through the accumulative loss of native bushland in the area and through disruption associated with construction.
d) Any reduction of the aesthetic, recreational, scientific, or other environmental quality or value of a locality	2	Some short term negative impacts associated with construction are anticipated in this regard. However, in the long term, there is considered to be a negligible impact as landscaping associated with the proposal would reduce any visual impact. Recreational values of the site will be improved through improved tennis and netball facilities as well as improved access and parking.

Factors taken into consideration	Rating of Impact	Comments (if applicable)
e) Any effect on the locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations	1	<p>An Aboriginal Cultural Heritage Due Diligence Assessment has been submitted as part of this Part 5 application. This states that two Cultural Heritage Assessments have been undertaken on the subject site, in 2005 and 2010. No objects or areas of specific cultural heritage significance were identified within Arkinstall Park;</p> <p>As such the proposal is unlikely to impact on any locality, place or building having aesthetic, anthropological, archaeological, architectural, or historic value.</p>
f) Any impact on the habitat of protected fauna (within the meaning of the National Parks and Wildlife Act 1974)	2	Impacts are expected to protected (i.e. non-threatened native) fauna due to the loss of habitat in the area. Few species are considered to rely on the site for the whole or any part of their life-cycle and most are mobile species which use the site more for forage than roosting or nesting. Nonetheless, amelioration is proposed in the form of habitat restoration which will benefit all relevant species, a nest-box program, and use of a spotter-catcher during site works to relocate any captured fauna to suitable bushland.
g) Any endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air	2	The clearing of Swamp Sclerophyll Forest would reduce the extent of the Endangered Ecological Community (EEC) in the medium term, however offset compensation will assist in maintaining this community in the long term. The proposal is unlikely to result in the extinction or endangering of any species.
h) Any long term effects on the environment	1	The loss of vegetation will not be replaced on site thus may be considered to cause long term impacts on the environment, however, the proposal will result in a greatly improved environmental outcome for a large contiguous native area which will is presently mown and will become bushland. On balance, overall impacts are considered to be negligible due to the compensatory off-set plan associated with the development on the site. Permanent measures to prevent erosion and improve water quality and road verges will result in long-term improvements.

Factors taken into consideration	Rating of Impact	Comments (if applicable)
i) Any degradation of the quality of the environment	2	<p>There is likely to be some minor short term impacts on the environment associated with the construction phase. Construction mitigation measures are proposed to minimise these impacts and prevent the further degradation of the quality of the environment at the site and these aspects have been conditioned.</p> <p>Following completion of works and provision of environmental compensation measures, it is considered that the overall quality of environment in the locality will not be degraded by virtue of this development.</p>
j) Any risk to the safety of the environment	2	<p>There are some minor risks to the safety of the environment associated with the construction phase. A range of risk management measures would be used, including adherence to TSC Safe Operating Procedures.</p>
k) Any reduction in the range of beneficial uses of the environment	1	<p>The proposed development is not considered to reduce the range of beneficial uses to the environment. Whilst the proposal does consist of the removal of vegetated areas currently on the site, it is considered that elements of the proposal such as the installation of stormwater quality control devices and pedestrian cycleway would result in a beneficial use of the environment.</p> <p>The pedestrian cycleway proposed as an element of this proposal would increase pedestrian access in the locality and improve amenity and recreational values of the site.</p>
l) Any pollution of the environment	1	<p>Construction management measures (i.e. erosion and sediment control, dust management and waste management) would ensure the risk of pollution to the environment is minimised during construction.</p> <p>Following construction, the Arkinstall Park Redevelopment Project is not considered to result in any additional pollution within the environment.</p>

Factors taken into consideration	Rating of Impact	Comments (if applicable)
m) Any environmental problems associated with the disposal of waste	1	Disposal of waste as a result of the activity is not expected to result in any environmental problems. There will be some excess spoil, general site rubbish and construction material created as a result of the activity. Where material cannot be reused or recycled, waste material would be transported to a Council landfill site. No contaminating activities are known from the site.
n) Any increase demands on resources (natural or otherwise) that are, or are likely to become in short supply	1	The proposed development is to source fill from cut associated with the western section of the proposal where possible. Some additional material is to be imported to the site, however these are not considered to be in short supply and will be sourced locally.
o) Any cumulative environmental effect with other existing or likely future activities	1	The proposal is not likely to result in a significant negative cumulative environmental effect with other existing or likely future activities. Overall, the proposed development is considered to be acceptable having regard to the provision of compensatory habitats elsewhere in the locality.
p) Any impact on coastal processes and coastal hazards, including those under projected climate change conditions	1	The proposal is not likely to impact negatively on coastal processes or hazards, having regard to its location outside the coastal hazard zone.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT)

Section 111(2) - A determining authority shall consider the effect of an activity on:

- a. any conservation agreement entered into under the National Parks and Wildlife Act 1974 and applying to the whole or part of the land to which the activity relates;*
- b. any plan of management adopted under that Act for the conservation area to which the agreement relates;*
- c. any joint management agreement entered into under the Threatened Species Conservation Act 1995.*
- d. any biobanking agreement entered into under Part 7A of the Threatened Species Conservation Act 1995 that applies to the whole or part of the land to which the activity relates.*

A conservation agreement or plan of management (*National Parks and Wildlife Act 1974*) does not apply to the land on which the activity would be undertaken. There is no joint management agreement pursuant to the *Threatened Species Conservation Act 1995*. Furthermore no biobanking agreement applies to the site.

Section 111(3) - A determining authority shall consider the effect of an activity on any wilderness area (within the meaning of the Wilderness Act 1987) in the locality in which the activity is intended to be carried on.

There is no designated wilderness area, pursuant to the Wilderness Act 1987, in the locality of the proposed Arkinstall Park redevelopment.

Section 111(4) - A determining authority must consider the effect of an activity on:

a. critical habitat; and

A review of NSW National Parks and Wildlife Service critical habitat declarations register did not identify any critical habitat and occurring within the locality of the proposed activity area.

b. in the case of threatened species, populations and ecological communities, and their habitats, whether there is likely to be a significant effect on those species, populations or ecological communities, or those habitats; and

Consideration of the Assessment of Significance 7-part test has been provided for threatened species, populations or ecological communities and their habitats. The outcome of which is that a Species Impact Statement is not required. Amelioration is also proposed in the form of habitat restoration which will benefit all relevant species, a nest-box program, and use of a spotter-catcher during site works.

c. any other protected fauna or protected native plants within the meaning of the National Parks and Wildlife Act 1974.

This matter has been considered in detail and discussed above. No significant impact is expected to arise with the protection and rehabilitation of offset sites.

GENERAL COMMENTS

The application was placed on public exhibition for a period of 14 days from Wednesday 23 May 2012 to Wednesday 6 June 2012. During this time, one submission was received. A late submission has also been received with respect to the proposal.

An assessment of the submissions received is provided below:

- **Increased traffic in area**

The submission states that although happy with the proposed development, there are some concerns regarding increased traffic in the area.

The submission specifically notes that there is a traffic risk with respect to cars cornering from Lloyd St to Oxley St too fast and requests that some form of traffic calming be put in place at this location. The submission also goes on to state that local children who walk to school across Arkinstall Park at present may be at risk from increased traffic and questions whether there is a crossing for them to use.

Applicant's response

"The proposal does not impact on the current intersection. The traffic report submitted with the planning application demonstrated that there was more than adequate capacity on existing local street network to accommodate this proposal - refer "Traffic Report - Arkinstall Park Upgrade" Section 4 Traffic Generation. This small impact will even reduce further once the internal road is connected to Kirkwood Road. Connection to Kirkwood Road will reduce traffic flow on the local street network adjacent Arkinstall Park.

The proposal incorporates a number of cycleway/pedestrian linkages within the development, which maintains connectivity. The northern section of Oxley Street will remain unformed adjacent the primary school. Speed control devices such as speed bumps / raised pedestrian crossings together with advisory signage will be installed along the proposed internal road link. These devices will assist in reducing vehicular speeds along this link and allowing pedestrian flow. Details are provided in the planning application refer "Traffic Report - Arkinstall Park Upgrade" Section 6 and associated preliminary engineering drawings."

Council Assessment

Council's Development Assessment Engineer has raised no objection to the proposed road layout, noting that Oxley Street is not proposed to be constructed as a through route to the north, as this would create an opportunity for traffic to travel immediately north to LLOYD Street or Heffron Street, increasing intersection capacity.

- **Upgrade/widening of Cunningham Street, open drain, fencing and potholes**

The submission states that Cunningham Street needs to be wider and aligned with the curb and guttering at Sullivan Street end and the two drainage grates keep subsiding and require attention. In addition, the open drain at Hourigan Street is in need of a headwall and grating etc. The submission also notes that the baseball diamond chain link fence is in a state of disrepair, and that Sullivan Street requires resurfacing.

Applicant's response

"Cunningham Street has two distinct road reserve widths, 30m wide adjacent the netball courts and 20m wide adjacent the Recreation Park. The current proposal involves widening of Cunningham Street within the existing road reserve. It will provide parking adjacent to the Recreation Park similar to the region near the netball courts. It is acknowledged that the transition between new and existing isn't perfect due to the reduced road reserve width. During the detailed design phase we can further investigate pushing the car parking into the park to improve the transition between existing and proposed without any additional vegetation removal.

The submission relates to remediation works at existing inlet structure where local drainage is currently piped towards the Tweed River via Dry Dock Road. During the detailed design phase we can further investigate remediation options on this issue.

Baseball is no longer played at Arkinstall Park. We can investigate repairing or removing the fence.

The proposal has insignificant impact on the current and future use of Sullivan Street. Resurfacing of Sullivan Street can be accommodated under council's annual works program."

The subject application has been reviewed by Councils Development Engineering Section, Environmental Health Section and Natural Resource Management Unit with no objections raised in respect to the proposal. Applicable conditions have been applied.

The proposed Arkinstall Park Redevelopment is considered to be in the public interest. The development is considered not to adversely impact on the natural or built environments of the locality.

OPTIONS:

1. Approve the Review of Environmental Factors as per the recommendation; or
2. Determine that an Environmental Impact Statement and/or Species Impact Statement is required.

CONCLUSION:

The proposed activity is not considered likely to significantly affect the environment including critical habitat or threatened species, populations or ecological communities, or their habitats.

This redevelopment will improve the recreational infrastructure of the area as highlighted in the Arkinstall Park Masterplan and other policy documentation. The proposed development is considered to be in the public's interest.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Finance Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

UNDER SEPARATE COVER/FURTHER INFORMATION

Nil.

18 [PR-CM] Unauthorised Activity - Poultry Farm at Lot 1 DP881996 No. 576
Cudgen Road, Cudgen

SUBMITTED BY: Development Assessment



Caring for the Environment

SUMMARY OF REPORT:

Contempt of court proceedings were held in the NSW Land and Environment Court before Justice Sheahan on 24 May 2012 for the failure of the property owner to comply with orders of the Court handed down by Justice Sheahan on 9 December 2011.

The property owner was found guilty of contempt of court and a penalty handed down as part of the judgment. The judgment is provided at Attachment 1.

RECOMMENDATION:

That:

1. **ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act 1993, because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**
2. **Council pursues recovery of costs in relation to this matter in accordance with the advice prepared by Sparke Helmore Lawyers dated 13 June 2012.**

REPORT:

Council resolved on 24 January 2012 as follows:

"That Council engages its Solicitors to enforce compliance with the NSW Land and Environment Court Orders dated 9 December 2011 for the premises known as No. 576 Cudgen Road, Cudgen (Lot 1 DP881996)."

The proceedings were heard on 24 May 2012 with Justice Sheahan finding the property owner guilty of and convicted of contempt of court of orders 4 and 5 of the judgment of 9 December 2011.

Orders 4 and 5 required the removal of the chickens and sheds from the property.

The chickens were required to be removed by 1 January 2012 and the sheds were required to be removed by 20 January 2012.

The chickens were removed by 23 May 2012 and the Court as part of the contempt judgment gave the owner until 3 June 2012 to remove the sheds.

The orders have now been complied with.

The owner was fined \$18,000 plus \$2,000 per week until the orders were complied with. The weekly fine was suspended until 3 June 2012.

Council were awarded costs incurred from 1 January 2012 on an indemnity basis. This means that for the contempt proceedings Council is entitled to recover its costs in full from the land owner.

Council was successful in the initial proceedings to stop the unauthorised activity and removal of buildings and was awarded costs. These costs are assessed on a party-party basis and are generally 75-80% of the actual costs.

Council costs are approximately \$120,000. Costs up to the end of December 2012 were approximately \$80,000 and approximately \$40,000 from 1 January 2012. Council's recoverable costs are estimated at around \$100,000.

Further details regarding the recovery of costs is provided in confidential Attachment 2.

OPTIONS:

1. Pursue recovery of costs; or
2. Not pursue the recovery of costs.

Option 1 is recommended.

CONCLUSION:

Costs were awarded to Council for both proceedings and recovery of these costs should be pursued.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Council will incur further costs pursuing the awarded costs however it is recommended that the costs are vigorously pursued given the magnitude of the costs and the contemptuous nature of the proceedings.

c. Legal:

Yes, legal advice has been attached.

Yes, legal advice has been received.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
- 4.1.2.2 Review compliance issues
- 4.1.2.2.1 Provide effective response to compliance issues

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Contempt of Court Judgment dated 24 May 2012 (ECM 52439184)
 2. **Confidential Attachment** Recovery of Legal Costs letter from Sparke Helmore dated 13 June 2012 (ECM 52439186)
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REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

19 [CNR-CM] Request for "In Kind" Support/Waive Fee

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

Council has received requests from various organisations asking that Council provides in-kind support/waives the fees for room hire. Details of the requests are reproduced in the body of this report.

In accordance with Section 356 of the Local Government Act 1993 - Donations, Council resolved on 6 October 2004 that:-

".... in future, all donations made by Council, whether in cash or in kind, be made by way of a resolution of Council."

RECOMMENDATION:

That Council endorses the waiver of fees to the amount of \$509 for provision of the HACC Centre Tweed Heads South to the Twin Towns Friends Association Inc for meetings to be held on 13 February, 13 March, 10 April, 8 May and 12 June 2013 and the South Tweed Community Hall for the "Volunteers Certificate of Appreciation" on 22 May 2013 and the "Cuppa for Cancer" on 30 May 2013 and the Tweed Heads Civic Centre on 20 March 2013 for the "Seniors Week Rock'n'Roll Exhibition for Clients" as per the adopted Facility Hire and Use Policy and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".

REPORT:

Council has received requests from various organisations asking that Council provides in-kind support/waives the fees for room hire. Details of the requests are reproduced as follows:-

Organisation Name	Request	Est \$ Amount of Waiver	Recommendation	Meets Policy?
Twin Towns Friends Association Inc	Request fee be waived for the hire of the HACCC Centre Tweed Heads South for 2013 meetings held on 13 February, 13 March, 10 April, 8 May, 12 June, 10 July, 14 August, 11 September, 9 October, 13 November and 11 December 2013 and the South Tweed Community Hall for the "Volunteers Certificate of Appreciation" on 22 May 2013 and the "Cuppa for Cancer" on 30 May 2013 and the Tweed Heads Civic Centre on 20 March 2013 for the "Seniors Week Rock'n'Roll Exhibition for Clients".	\$509	That the fee of \$509 which is applicable for the 2012/2013 financial year be waived. The organisation will be advised to seek a waiver for meetings that occur in the 2013/2014 financial year by a further request for consideration by Council in that period.	Yes.

A copy of the request is reproduced below.

Twin Towns Friends Association, Inc.

6 Chardonnay Crescent, Tweed Heads South NSW 2486

Phone 07 - 5524 1841 Fax 07 - 5523 2282

ABN 83 963 937 501 - ICN 3496919

12th June 2012

The General Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484



Dear Sir,

Use of HACC Centre and Community Hall, South Tweed Heads – 2013

During 2012 our group Twin Towns Friends Association Inc, a non-profit voluntary organisation was granted the use (free of charge) of the HACC Centre and Community Hall, South Tweed Heads.

We would appreciate your generosity in granting us the same for the calendar year of 2013 for the following activities:

- a) HACC Centre South Tweed Heads for the volunteers (meetings & training) on the second Wednesday of the months of:

February Wed 13 th	June Wed 12 th	October Wed 9 th
March Wed 13 th	July Wed 10 th	November Wed 13 th
April Wed 10 th	August Wed 14 th	December Wed 11 th
May Wed 8 th	September Wed 11 th	

- b) Use of the Community Hall, South Tweed Heads to conduct special activities for clients and volunteers on the following dates in 2013.

May Thurs 30 th	Cuppa For Cancer
May Wed 22 th	Volunteers Certificate Of Appreciation

Use of the Civic Centre Brett St Tweed Heads for

- c) March Wed 20th Seniors Week Rock'n'Roll Exhibition For Clients

Wish to advise we have been in touch with David Martain requesting the dates above.

Thanking you once again it is surely appreciated.

Yours faithfully

Doreen Welsh (Co-ordinator)

**Twin Towns Friends Association, Inc. is an Organisation Supported Solely by
Volunteers & Community Sponsorship.**

OPTIONS:

1. Council approves the request for the waiving of fees for hire of its facilities.
2. Council not approve the request for the waiving of fees of its facilities.

CONCLUSION:

Council has received a request from Twin Towns Friends Association requesting that Council provides in-kind support/waives the fees for room hire. It is recommended that the request be granted and a waiver of fees be provided. Council is unable to provide a waiver for meetings that occur in the 2013/2014 financial year and the organisation will be advised to make a further request for consideration by Council in that period.

COUNCIL IMPLICATIONS:

a. Policy:

Facility Hire and Use Version 1.0.

b. Budget/Long Term Financial Plan:

Should requests be approved for the waiving of fees for room hire, the income for the meeting room will be impacted by the amount of the fee reduction.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities
- 2.3.6.2 Provide conveniently placed and well equipped community facilities
- 2.3.6.2.1 Promote the use of Council's community facilities including the Auditoria, Banora Point Community Centre, South Tweed Hall and Activities Room at the Home and Community Care Centre

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

20 [CNR-CM] The Conservation Status of Albert's Lyrebird (*Menura alberti*)

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

At the Council meeting of 24 January 2012, a notice of motion resulted in the following resolution:

"that Council brings forward a report on the current situation for the Albert's Lyrebird and the merits of applying for this species to be listed as Endangered on the State and National Threatened species list."

Albert's Lyrebird (*Menura alberti*) is a cryptic ground-dwelling rainforest bird that is listed as a *Vulnerable* species under the Threatened Species Conservation Act 1995. Council's resolution of 24 January 2012 seeks information on the potential to alter the status of the species in NSW to a higher risk category. Such alteration must be undertaken by the NSW Scientific Committee on the basis of specific and detailed evidence relating to the current status of the species in NSW.

In the absence of a comprehensive and systematic assessment of Albert's Lyrebird distribution and abundance within its range which illustrates a significant decline, the species cannot be considered to be at a "very high risk of extinction in the near future". In addition, the main habitat for the species is contained within the mountainous areas in both NSW and Queensland which are protected and not under threat from habitat removal. These criteria alone would exclude the Albert's Lyrebird from being listed on the Endangered Species list.

RECOMMENDATION:

That Council receives and notes the report on the Conservation Status of Albert's Lyrebird (*Menura Alberti*).

REPORT:

Albert's Lyrebird (*Menura alberti*) is a large, cryptic ground-dwelling rainforest bird that is listed as a *Vulnerable* species under the Threatened Species Conservation Act 1995. The species occurs from 100-1100m above sea level. It is found in subtropical, warm temperate, and cool temperate rainforests and wet sclerophyll forest with a rainforest understorey. It feeds on invertebrates raked from the leaf-litter of the forest floor, and from epiphytes growing on rainforest trees.

At the Council meeting of 24 January 2012, a notice of motion resulted in the following resolution:

"that Council brings forward a report on the current situation for the Albert's Lyrebird and the merits of applying for this species to be listed as Endangered on the State and National Threatened species list."

Council's resolution of 24 January 2012 seeks information on the potential to alter the status of the species in NSW to a higher risk category. Such alteration must be undertaken by the NSW Scientific Committee on the basis of specific and detailed evidence relating to the current status of the species in NSW.

Conservation Status

The current conservation status of Albert's Lyrebird under Australian and State/Territory Government legislation and international conventions is as follows:

New South Wales: Listed as *Vulnerable* under the Threatened Species Conservation Act 1995 (TSC Act).

Queensland: Listed as *Rare* under the Nature Conservation Act 1992.

Federal: Not listed on any of the schedules under the Environment Protection and Biodiversity Conservation Act 1999.

International: Listed as *Vulnerable* on the IUCN Red List of Threatened Species 2004.

The current status of the species in NSW is vulnerable. A species is eligible to be included in the vulnerable category under the NSW TSC Act at a particular time if:

- it is facing a high risk of extinction in New South Wales in the medium-term future, as determined in accordance with criteria prescribed by the regulations, and
- is not eligible to be listed as an endangered or critically endangered species.

A species is eligible to be included in the endangered category if:

- it is facing a very high risk of extinction in New South Wales in the near future, as determined in accordance with criteria prescribed by the regulations, and
- is not eligible to be listed as a critically endangered species.

Thus, the determining factor is the level of extinction risk and the immediacy of that risk.

What criteria must be satisfied for an Endangered Species listing?

The criteria for listing of species are contained in the Tweed Shire Council Regulations 2000.

It is apparent from the criteria that the factors for consideration for an endangered species listing include the species distributional range and population size (including number of mature individuals) and trends occurring in those factors in light of threats to the species.

The Australian Department of Sustainability, Environment, Water, Populations and Communities (DSEWPaC) Species Profile and Threats (SPRAT) database (<http://www.environment.gov.au>) produces a comprehensive account of distribution, population, threats, abatement and research.

Does current information warrant an alteration to the status of Albert's Lyrebird?

Geographic distribution parameters

In considering a species distributional range, the 'key indicators' referred to in the regulations are 'Extent of Occurrence' (the area defined by the outermost limits of the species range) and 'Area of Occupancy' (that part of the Extent of Occurrence in which the species is found). In this case the Extent of Occurrence is described as some 1500km² in northern NSW and south eastern Queensland.

Although it is considered that the species range may be 'highly restricted', the key indicators do not show a projected or continuing decline in Extent of Occurrence or Area of Occupancy.

Population parameters

The above information indicates that a large reduction has occurred in population size in the 19th and 20th centuries, coinciding with clearing and logging of rainforest and wet sclerophyll forest habitat. No evidence is available to Council or the Department to indicate that such a population decline is continuing and evidence is available that threats to the species (particularly the largest sub-population of the species) from logging, clearing and plantations is reducing due to reservation of most of the species remaining habitat. The total number of mature individuals is not considered to be very low.

Does current information warrant an alteration to the status of Albert's Lyrebird?

There is little doubt that the status of the Albert's Lyrebird is not secure as yet and thus the Vulnerable species listing is warranted. Analysis of available information to consider the criteria that must be met for listing of an endangered species, it is considered that empirical data to support such a listing is not available. Therefore, it is unlikely that the Scientific Committee would determine such an application favourably.

OPTIONS:

1. That Council receives and notes the report.
2. That Council does not receive and note the report.

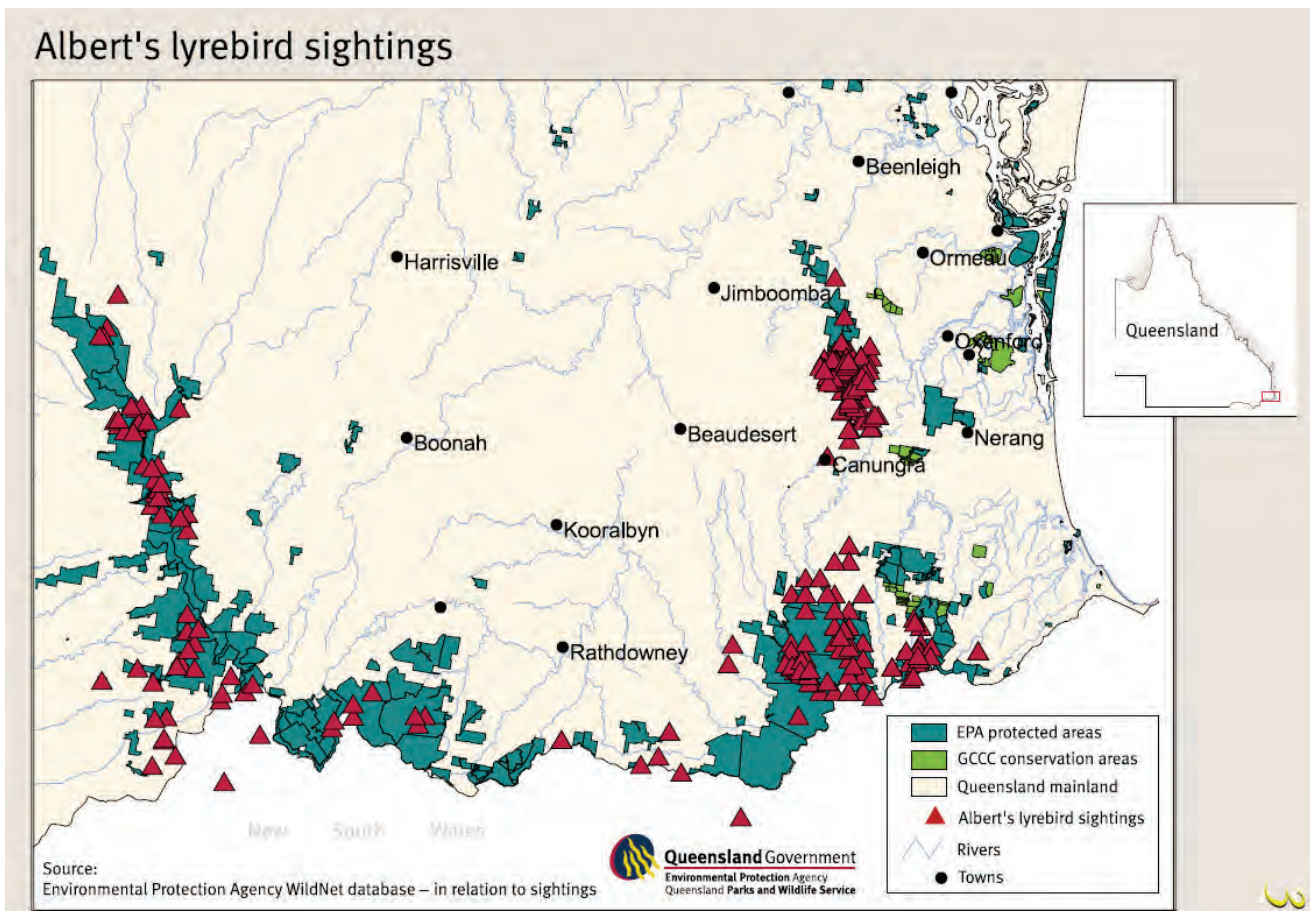


Figure 1: Sightings and reserves occupied within south east Queensland.

CONCLUSION:

From available information, the level of risk is not considered sufficient to warrant an Endangered species listing because the habitat of the species is now largely protected and the risk of habitat removal is now largely avoided.

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.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.2 Conserve native flora and fauna and their habitats
- 4.2.5 Establish and promote a framework for the implementation, continued development and monitoring of vegetation management and planning measures

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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21 [CNR-CM] River Health Grants

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

This report provides Council with details of proposed investments in river and riparian management, through implementation of the River Health Grants Program. The goal of this project is to improve the quality of Tweed Waterways by subsidising works on private properties, for example by revegetation, weed control and provision of off stream water for cattle. The source of funding for this program is the Water Unit mandatory dividend for water and sewerage.

RECOMMENDATION:

That Council approves the proposed River Health Grants included within this report.

REPORT:

Since June 2006, Tweed Shire Council has worked with riparian landowners to initiate projects which protect and improve water quality and stream bank condition. The goal of this program is to enhance the environmental condition of Tweed waterways, improve the water quality of raw water extracted for treatment at Bray Park.

The River Health Grants Program has been successful in attracting a diverse range of landholders, from traditional farmers to rural lifestyle property owners. Projects included for endorsement through this report will provide positive outcomes in the restoration of tributaries to the Tweed Rivers and Bilambil Creek.

In each case of funding, an agreement with landholders will be signed that details Council's contribution to the project and the commitments and responsibilities of the landholder. Each grant is based on the agreement that the landholder will contribute significantly to the project, in most cases by undertaking agreed works, with materials supplied by Council.

The River Health Grants program has been very well received by the community and has made an immediate improvement in the riparian conditions of treated areas.

It is proposed to support landholders with additional River Health Grants as detailed below.

It is proposed in this report that twenty two (22) landholders, listed below, receive assistance to implement Council's riparian vine weed control program.

Riparian vine weed infestation is recognised as one of the most serious threats to biodiversity in NSW, having been listed as a key threatening process under the Threatened Species Conservation Act. In April 2012, Cats Claw Creeper (CCC) and Madeira Vine (MV) were both listed on the Weeds of National Significance. Given the prolific growth of riparian vine weeds along the waterways of the Tweed Valley, Tweed Shire Council has mapped the extent and severity of the occurrences of CCC and MV in the upper regions of the Tweed River Catchment. The purpose of this data collection exercise was to provide a baseline against which to monitor future growth, and to provide an informed basis for a strategy to commence control of CCC and MV.

In March 2010 a strategy was developed for control of CCC and MV, which classified each sub-catchment based on its existing (mapped by Ecosure) level of infestation, and defined a set of objectives and actions for each. Actions in the high priority areas were implemented throughout 2010-11.

Following these primary actions, recommendations have been made, principally for follow-up weed control, with primary weed control at three additional sites. These actions will ensure the initial works are maintained and that there is no further spread of the vines in these streams.

Property Owner	Locality	Stream frontage (m)	Objective of works	Council contribution
Alderton	Bilambil Creek	200	Fencing for stock exclusion and revegetation of Bilambil Creek riparian zone.	\$4150
Cormack	Bilambil Creek	70	Fencing for stock exclusion and revegetation of Bilambil Creek riparian zone.	\$1750
Watson	Dum Dum (Tweed River tributary)	250	Weed control and revegetation of cleared waterway to reduce erosion.	\$1440
Elliot	Upper Tweed River tributary	160	Bush regeneration in riparian zone of upper Tweed River tributary.	\$3600
Hall	Uki	100	Follow-up control of Madeira	\$720
Ross	Rowlands Creek	200	Follow-up control of Madeira	\$1440
Mills	Rowlands Creek	250	Follow-up control of Madeira	\$1440
Irvine	Chowan Creek	50	Follow-up control of Cats Claw	\$360
Cox	Chowan Creek	150	Follow-up control of Cats Claw	\$1800
Simms	Uki	150	Follow-up control of Madeira	\$1800
Roberts	Rowlands Creek	180	Follow-up control of Madeira	\$1080
Corbett	Uki	100	Follow-up control of Madeira	\$720
Sherwood & Van Der Leeden	Rowlands Creek	50	Follow-up control of Madeira	\$360
Loydell	Uki	200	Follow-up control of Madeira	\$1080
Daly	Rowlands Creek	250	Follow-up control of Madeira	\$2160
Fogarty	Numinbah	400	Follow-up control of Madeira	\$2520
Brazel	Chillingham	150	Primary control of Madeira	\$2880
McLeod	Chillingham	50	Primary control of the most upstream Cats Claw	\$360
Weber	Hopkins Creek	500	Follow-up control of Madeira	\$2880
Capner and Colefax	Numinbah	400	Follow-up control of Madeira	\$2880

Stubbs	Numinbah	200	Primary control of Madeira	\$4320
Stoddart	Tyalgum Creek	50	Follow-up control of the most upstream Cats Claw	\$180
Lemaire	Tyalgum Creek	200	Follow-up control of Cats Claw	\$360
Carrol	Tyalgum Creek	50	Follow-up control of Cats Claw	\$180
Dickfos	Brays Creek	50	Follow-up control of Cats Claw	\$180
Yawarra Pty Ltd	Brays Creek	100	Follow-up control of Cats Claw	\$360

CONCLUSION:

The projects nominated for approval in this round of river health grant agreements all include significant in-kind contributions from the property owners. Projects will achieve the aims of the River Health Grants Scheme, and are in accordance with the Water Supply Catchment Stream Bank Protection Policy.

COUNCIL IMPLICATIONS:

a. Policy:

Water Supply Catchment Stream Bank Protection Version 1.2.

b. Budget/Long Term Financial Plan:

Funded through river health grants scheme.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
- 4.1.2.5 Revegetate riparian zones
- 4.1.2.5.1 River health grants on private land

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

22 [CNR-CM] Jetty at Chinderah

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

Council resolved at its meeting of 17 April 2012 to support the establishment of a pontoon on the foreshore at Chinderah. This report provides details of consultation between Council and the Chinderah community and information on location, size, funding and the process of designing and constructing a pontoon.

RECOMMENDATION:

That :

1. Council agrees to partner with Chinderah District Residents Association to fund and progress the establishment of a recreational boating pontoon at Chinderah.
2. Council accepts the offer of the Chinderah District Residents Association to prepare a development application for the proposed pontoon and proceed with this phase of the project.
3. The project be developed on the basis of the pontoon being 30 metres in length.
4. The Tweed River Committee's advice be sought with regard to the proposal.
5. An application for funding be submitted to NSW Roads and Maritime Services' Better Boating Program for the proposed pontoon.

REPORT:

In response to a notice of motion from the Council meeting of 17 April 2012, investigations have commenced into the options available for Council to design, fund and construct a pontoon at Chinderah.

The location and size of the structure proposed is as shown in the figure below. It is located on the bank of the Tweed River at Chinderah Bay Drive, just north of the intersection with Chinderah Road, opposite the Chinderah Tavern.



Figure 1. Proposed location and scale of Chinderah Pontoon

The proposed pontoon is approximately 40 metres long, connected to the foreshore by a single gang plank of approximately 20 metres. The floating pontoon would be secured to five concrete piles.

Estimate construction costs of the structure are from \$100,000 to \$130,000.

There is strong community support for this project. Council's Waterways Program Leader has attended two meetings where representatives from a coalition of the Chinderah Districts Residents' Association Inc. and the Chinderah Fishing Club have outlined the need for the facility and their desire and capacity to partner with Council in the process of developing it.

Council has been advised that the community will be able to secure funding from a number of sources to assist with construction costs.

There are three aspects that need to be considered to progress the project:

- Funding
- Approvals and contract management
- Design

Each of these is discussed below.

Funding

Council's Waterways Program Leader has met with NSW Roads and Maritime Services staff and confirmed the eligibility of an application for a pontoon in the location. Applications for the Better Boating close in early August, however it would be possible to submit amendments to an application for up to two months following, as details of structure size and cost are confirmed.

Council provides annual funding to the Waterways Program to improve and maintain recreational boating facilities in the Tweed River. The NSW Roads and Maritime Services Better Boating Program provides 1:1 funding for construction of new infrastructure.

A maximum of \$30,000 is available from Council's budget for this purpose.

Funding for boating facilities is also held in the Tweed River Committee budget. Based on confirmation advice from the Tweed River Committee, it is possible that up to \$20,000 could be made available from this budget to the construction of a pontoon.

Community members have advised that the funding available to them is significant, and in the order of the sum available to Council.

Based on the above, it is likely that a combination of funds from Council, the community and NSW Roads and Maritime Services will be sufficient to cover the cost of a pontoon and ancillary works.

Approvals and Contract Management

Council would be the owner of the proposed pontoon and responsible for its maintenance. Council would also be the proponent through the development application process and manage contractors who are engaged to build the facility.

The NSW Land and Property Management Authority, NSW Roads and Maritime Services and NSW Department of Primary Industries Fisheries will need to be consulted through the application process. Land and Property Management Authority would need to give land owners consent, Department of Primary Industries Fisheries will consider potential impacts on marine vegetation and commercial fishing areas and NSW Roads and Maritime Services will advise on issues related to navigation and the appropriateness of the facility with respect to recreational boating demand.

Community representatives have advised that they would be willing to engage a suitably qualified and experienced firm to prepare a planning application for the facility, with the application to be submitted by Council. Council could resolve to take advantage of this offer, however there would need to be scrutiny of the application to ensure that the associated review of environmental factors was sufficiently comprehensive and robust, and that all relevant social issues are taken into account.

Design

The design of the facility has been considered with respect to size and location. The specific purpose and subsequent time of occupation of the facility by vessels must also be considered.

The location is deemed to be appropriate for a recreational boating facility. There are no pontoons provided for vessels in the Lower Tweed estuary between Tumbulgum and Boyd's Bay, and it is expected that there will be consistent use of the proposed pontoon, particularly on weekends. The facility will provide convenient access to shops and public toilets.

There are small, scattered patches of seagrass present within the location of the proposed pontoon, and mangroves line the immediate foreshore. The pontoon is not considered to present a significant risk to the condition of seagrass, and construction should be possible with no damage to mangroves.

Installing a pontoon in this location will potentially increase and concentrate boating activity into the immediate vicinity. There is a small risk that wake impact on the river bank could be increased as a result, however the foreshore in the area has been stabilised.

It is anticipated that the facility would become a popular fishing spot, and it must also be recognised that the proximity of the tavern could result in it becoming a site where people gather and drink. It is difficult to predict possible impacts arising from this use, however an increase in littering in the area could be expected.

The specific purpose of the facility will need to be determined and made clear to the public. Many facilities of this kind are provided for the specific purpose of safe loading and unloading of vessels, and therefore relatively short time restrictions are placed on vessels, ensuring a continual rotation. It would be recommended that there be no overnight occupation of the facility permitted, otherwise, given the proposed size, it could become a de facto marina, without marina services. It is difficult for Council to regulate vessel owners who take up temporary residence or leave unattended vessels for long periods on public facilities.

Installation of the facility would provide the opportunity to undertake small scale landscape improvement works immediately adjacent to it, including ground levelling, turfing and installation of bollards to improve foreshore amenity. At this point, there are no other social or amenity impacts that have been identified that would suggest that the location is inappropriate for the construction of a pontoon.

The size of the pontoon proposed by the Chinderah Districts Residents' Association Inc. is 40 metres long and would extend approximately 20 metres out from the river bank.

The size of the proposed pontoon is large relative to most of Council's existing boating facilities, however it is advised by community representatives that this is appropriate to meet demand within the boating community. In overall scale the proposal is comparable to the combined timber wharf and pontoons located at Foyster's Jetty on Minjungbal Drive, and slightly larger than the timber wharf and pontoon at Kennedy Drive Boat Ramp.

Pontoon size will have the most bearing on the cost of construction, with a small impact on the ongoing cost of maintenance. The nature of its use and time restrictions applied, will also govern the size that it needs to be to service boating demand. If shorter time restrictions are applied, a smaller pontoon will be able to service the demand of the boating community. If Council and the community anticipate boats being able to be tied up and left on the facility unattended for hours at a time, it would need to be larger.

It would appear that subject to receiving a grant from NSW Roads and Maritime Services, a 40 metre pontoon at this location could be funded through a Council/Chinderah community partnership.

Construction of a 40 metre long pontoon at Chinderah is a project of a substantial scale, and the structure would become a significant feature within the local foreshore character. Local community representatives maintain that this will be of value to the community, and that the facility is in keeping with the historic site of a river wharf in the location.

In order to properly service the demands of the boating fraternity, it is considered that a structure of at least 20 to 30 metres should be established, depending on the time restrictions applied to vessels.

Next Steps

Council will need to confirm its desire to partner with the Chinderah community to progress this project, and consider the means by which community funding can be incorporated into contract payments at some future point.

Council will need to either accept the offer of the Chinderah community to prepare a development application for the proposal, which Council would review and submit, or undertake this aspect of the project with internal resources.

Council should confirm the size of the facility to be constructed, between the boundaries of 20 metres, which would be the minimum recommended to service boating demand, and 40 metres, which would be a project of significant scale in the locality.

The Tweed River Committee's advice should be sought with regard to the proposal, and in particular to determine whether or not funding from the Boating Facilities allocation of the Tweed River Estuary Management budget should be allocated to the project.

An application to NSW Roads and Maritime Services' Better Boating Program should be submitted, based on confirmed project scale, and shared funding arrangements.

OPTIONS:

1. That Council endorses this proposal for Council officers to work in partnership with Chinderah Districts Residents' Association Inc. to progress this proposal.
2. That Council does not participate in this proposal.

CONCLUSION:

Council has resolved to establish a facility for the boating community in this locality. Local community support for the facility is strong, and Council has been advised that community funding is available to help deliver a project in partnership.

Council input is required in determining the final scale of the project, recognising that the dimensions of the pontoon advocated by the community would become a feature of prominence in the locality.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Part funding from the Waterways Program, Waterways Asset Replacement budget, with community contribution and a grant from the NSW Roads and Maritime Services' Better Boating Program.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Communication and consultation with representatives of the Chinderah community is ongoing. Submission of a development application for the project would initiate formal development notification procedures. It would be appropriate to provide ongoing advice to the community through the Tweed Link as the project is progressed.

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
- 4.1.3.9 Maintain waterways infrastructure (canals, jetties, boat ramps)

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

23 [CNR-CM] Home and Community Care Transition Funding 2011-2012

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

Council's Community Options team has been funded under the Home and Community Care Program (HACC) by NSW Government Family and Community Services, Ageing Disability and Home Care (ADHC).

As Council is aware, from 1 July 2012 Tweed Shire, like many other organisations providing community care to clients aged 65 and over (50 years and over for Aboriginal and Torres Strait Islander people) and to those under 65 years (under 50 years for Aboriginal and Torres Strait Islander people), has transitioned to two contracts, one with the Commonwealth (Department of Health and Ageing - DoHA) and one with the State (ADHC).

Council is in receipt of correspondence from ADHC informing of a one-off payment per provider for assistance with HACC transition costs for the amount of \$12,775. ADHC has advised it considers this a non significant change and as such a funding variation is not required.

These funds will assist in any transition costs and be used for service development within the Community Options team.

RECOMMENDATION:

That Council:

- 1. Accepts the one-off payment of \$12,775 from NSW Government Family and Community Services, Ageing, Disability and Home Care.**
- 2. Votes the expenditure.**

REPORT:

Council's Community Options team has been funded under the Home and Community Care Program (HACC) by NSW Government Family and Community Services, Ageing Disability and Home Care (ADHC).

As Council is aware, from 1 July 2012 Tweed Shire, like many other organisations providing community care to clients aged 65 and over (50 years and over for Aboriginal and Torres Strait Islander people) and to those under 65 years (under 50 years for Aboriginal and Torres Strait Islander people) has transitioned to two contracts, one with the Commonwealth (Department of Health and Ageing - DoHA) and one with the State (ADHC).

Council is in receipt of correspondence from ADHC informing of a one-off payment per provider for assistance with HACC transition costs for the amount of \$12,775. ADHC has advised it considers this a non significant change and as such a funding variation is not required.

These funds will assist in any transition costs and be used for service development within the Community Options team.

A copy of the correspondence received from ADHC dated 23 May 2012 is reproduced below for Councillors' information:



Family & Community Services
Ageing, Disability & Home Care

GOVT GRANT - COMMUNITY OPTIONS
DISABILITY/ACCESSIBILITY
AGED SERVICES MATTERS

TWEED SHIRE COUNCIL	
FILE No:	HACC
DOC. No:	
REC'D:	23 MAY 2012
ASSIGNED TO:	OXENHAMID
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

Mr Mike Rayner
General Manager
Tweed Shire Council (ID 413)
PO Box 816
MURWILLUMBAH NSW 2484

Contact: Cecile Delotavo
Contact number: 02 6621 1400
ADHC Region: Northern
Ref: AHA11/38845 & AHA12/42602
DofS ID: 00496-02-003

Dear Mr Rayner

Ageing, Disability and Home Care (ADHC), NSW Department of Family and Community Services has approved changes to your organisation's funding. Please refer to the attached Description of Service (DofS) for information about your funding grant.

Changes to your funding are made pursuant to Clause 6.1 and/or Clause 4.1 of ADHC's Funding Agreement. This can include both significant and/or non significant changes.

Significant Changes

Where the change to your funding is considered to be significant as outlined in the Funding Agreement, the appropriately Duly Authorised Representative(s) are required to sign each copy of the Acceptance of Funding Variation. A Notice of Change of Duly Authorised Representative is included for your reference and should be updated if ADHC's records are out of date.

Funding cannot be paid to your organisation until both copies of the Funding Variations are signed and returned. Funding Variations may be returned by email or fax however it will still be necessary to return the originals by post. Return details are:

Email: Funding.Administration@facns.nsw.gov.au
Fax: 02 9765 5130
Postal: Funding Administration
NSW Department of Family and Community Services
Locked Bag 7466
LIVERPOOL BC 1871

Funding Administration, NSW Department of Family and Community Services
Locked Bag 7466, Liverpool BC 1871 | T 1300 136 067 | DX 5064 Liverpool | TTY 133 677
Translating and Interpreting Service 13 14 50 | ABN 82 016 305 789 | www.dadhc.nsw.gov.au

Once signed, the funding is considered part of your current Funding Agreement and replaces any previous versions of your DofS that may have been issued.

Non Significant Changes

Should changes to your funding be non significant as outlined in the Funding Agreement the Acceptance of Funding Variation is not attached and is not required. ADHC will assume that you accept these changes unless you advise otherwise in writing.

Please contact **Cecile Delotavo** on **02 6621 1400** should you require any further information regarding this funding approval or require any additional DofS for your organisation.

Yours sincerely

Rhea Rivera
Client Service Operator
16 May 2012



Tweed Shire Council

Funding Agreement Term: 01/07/2009 - 30/06/2012

Service Provider Name: Tweed Shire Council
Service Provider ID: 0413
Service Provider Address: Tweed Community Options Hacc Centre, Heffron Street
 TWEED HEADS SOUTH NSW 2486
Funding Agreement ID: 13485
Administering Department: Ageing, Disability and Home Care
ACN: 0
ABN: 90178732496

Schedule 1: Description of Service (DofS) 00496-02-003

SERVICE

Description of Service Name:		Tweed Shire Community Options (#496)			
Bank Details:		CBA Murwillumbah NSW	062-580	00000048	
DofS Id:	Administrative Address:	DofS Start:	DofS End:	Region:	LPA:
00496-02-003	Tumbulgum Rd MURWILLUMBAH NSW 2484	01/07/2009	30/06/2012	Northern	Far North Coast
		Scheduled Extended Date:			
DofS Status:	Active				

Sub Program:	Service Model:	MDS Code:
Multi Service Outlet	10.21.01 Multi Service Outlet	10.21
Sub-Programs/Service Model Description:	https://portal.dadhc.nsw.gov.au/guidelines/Sub_Program/multi_service_outlet.pdf https://portal.dadhc.nsw.gov.au/guidelines/Service_Model/multi_service_outlet.pdf	
No Additional Conditions.		

OUTLETS

MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001783	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:	Tweed				
Target Group:	General				100%
Outputs:	Type:	Domestic Assistance Hours	Amount:	454	



Tweed Shire Council

Funding Agreement Term: 01/07/2009 - 30/06/2012

MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001784	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Social Support Hours	Amount:	1,750
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001785	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Personal Care Hours	Amount:	738
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001786	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Meals Services Meals	Amount:	860
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001787	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Respite Hours	Amount:	635
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001788	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Case Management Hours	Amount:	9,755
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001789	Tumbulgum Rd MURWILLUMBAH			



Family & Community Services
Ageing, Disability & Home Care

Tweed Shire Council

Funding Agreement Term: 01/07/2009 - 30/06/2012

		NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Home Modification Dollars	Amount:	0
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001790	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Transport Trips	Amount:	837
MDS Id:	Outlet Id:	Outlet Address:	Min Clients:	Max Clients:	%:
10316	20001791	Tumbulgum Rd MURWILLUMBAH NSW 2484			
LGA:		Tweed			
Target Group:		General			100%
Outputs:		Type:	Goods & Equipment Items	Amount:	0

ANNUAL FUNDING VARIATION

O-Id:	Type [Frequency]:	Annual Amount:	CYE:	One-Off:	Funding Period:	Description:
20001783	One-off [One-off]	\$0.00	\$12,775.00	\$12,775.00	01/03/2012-30/06/2012	One-off payment per Provider for assistance with HACC transition costs (NHRA)
Sub Total:		\$0.00	\$12,775.00	\$12,775.00		

ANNUAL FUNDING

O-Id:	Type [Frequency]:	Annual Amount:	CYE:	One-Off:	Funding Period:	Description:
20001783	Base [Quarterly]	\$15,494.00	\$15,494.01	\$0.00	01/07/2009-30/06/2012	
20001783	Indexation [Quarterly]	\$374.00	\$374.00	\$0.00	01/07/2009-30/06/2012	
20001783	Indexation [Quarterly]	\$397.00	\$397.01	\$0.00	01/07/2010-30/06/2012	
20001783	Indexation [Quarterly]	\$414.76	\$414.76	\$0.00	01/07/2011-30/06/2012	



Family & Community Services
Ageing, Disability & Home Care

Tweed Shire Council

Funding Agreement Term: 01/07/2009 - 30/06/2012

20001783	One-off [One-off]	\$0.00	\$0.00	\$269.76	16/06/2011- 16/06/2011	
20001784	Base [Quarterly]	\$30,989.00	\$30,989.00	\$0.00	01/07/2009- 30/06/2012	
20001784	Indexation [Quarterly]	\$793.00	\$793.00	\$0.00	01/07/2010- 30/06/2012	
20001784	Indexation [Quarterly]	\$829.54	\$829.54	\$0.00	01/07/2011- 30/06/2012	
20001784	Indexation [Quarterly]	\$749.00	\$749.00	\$0.00	01/07/2009- 30/06/2012	
20001784	One-off [One-off]	\$0.00	\$0.00	\$539.55	16/06/2011- 16/06/2011	
20001785	Base [Quarterly]	\$27,890.00	\$27,890.01	\$0.00	01/07/2009- 30/06/2012	
20001785	Indexation [Quarterly]	\$746.59	\$746.59	\$0.00	01/07/2011- 30/06/2012	
20001785	Indexation [Quarterly]	\$714.00	\$714.00	\$0.00	01/07/2010- 30/06/2012	
20001785	Indexation [Quarterly]	\$674.00	\$673.99	\$0.00	01/07/2009- 30/06/2012	
20001785	One-off [One-off]	\$0.00	\$0.00	\$485.59	16/06/2011- 16/06/2011	
20001786	Base [Quarterly]	\$5,164.00	\$5,164.00	\$0.00	01/07/2009- 30/06/2012	
20001786	Indexation [Quarterly]	\$138.21	\$138.21	\$0.00	01/07/2011- 30/06/2012	
20001786	Indexation [Quarterly]	\$132.00	\$132.00	\$0.00	01/07/2010- 30/06/2012	
20001786	Indexation [Quarterly]	\$124.00	\$124.00	\$0.00	01/07/2009- 30/06/2012	
20001786	One-off [One-off]	\$0.00	\$0.00	\$89.90	16/06/2011- 16/06/2011	
20001787	Base [Quarterly]	\$25,824.00	\$25,823.99	\$0.00	01/07/2009- 30/06/2012	
20001787	Indexation [Quarterly]	\$661.00	\$661.01	\$0.00	01/07/2010- 30/06/2012	
20001787	Indexation [Quarterly]	\$624.00	\$623.99	\$0.00	01/07/2009- 30/06/2012	
20001787	Indexation [Quarterly]	\$691.28	\$691.28	\$0.00	01/07/2011- 30/06/2012	
20001787	One-off [One-off]	\$0.00	\$0.00	\$449.62	16/06/2011- 16/06/2011	
20001788	Base [Quarterly]	\$448,883.00	\$448,883.00	\$0.00	01/07/2009- 30/06/2012	
20001788	Growth [Quarterly]	\$60,000.00	\$60,000.00	\$0.00	01/01/2011- 30/06/2012	2010/11-2nd-GR- FNC-03
20001788	Indexation [Quarterly]	\$11,494.00	\$11,494.01	\$0.00	01/07/2010- 30/06/2012	



Family & Community Services
Ageing, Disability & Home Care

Tweed Shire Council

Funding Agreement Term: 01/07/2009 - 30/06/2012

20001788	Indexation [Quarterly]	\$10,862.00	\$10,862.00	\$0.00	01/07/2009-30/06/2012	
20001788	Indexation [Quarterly]	\$13,546.59	\$13,546.59	\$0.00	01/07/2011-30/06/2012	2010/11-2nd-GR-FNC-03
20001788	One-off [One-off]	\$0.00	\$0.00	\$7,815.67	16/06/2011-16/06/2011	
20001788	One-off [One-off]	\$0.00	\$0.00	\$11,973.00	01/04/2010-30/06/2010	(HACC%) 09-10 AHA10/20216.
20001789	Base [Quarterly]	\$18,593.00	\$18,593.00	\$0.00	01/07/2009-30/06/2012	
20001789	Indexation [Quarterly]	\$449.00	\$448.99	\$0.00	01/07/2009-30/06/2012	
20001789	Indexation [Quarterly]	\$476.00	\$476.00	\$0.00	01/07/2010-30/06/2012	
20001789	Indexation [Quarterly]	\$497.71	\$497.71	\$0.00	01/07/2011-30/06/2012	
20001789	One-off [One-off]	\$0.00	\$0.00	\$323.71	16/06/2011-16/06/2011	
20001790	Base [Quarterly]	\$10,329.00	\$10,329.00	\$0.00	01/07/2009-30/06/2012	
20001790	Indexation [Quarterly]	\$249.00	\$249.00	\$0.00	01/07/2009-30/06/2012	
20001790	Indexation [Quarterly]	\$264.00	\$264.00	\$0.00	01/07/2010-30/06/2012	
20001790	Indexation [Quarterly]	\$276.47	\$276.47	\$0.00	01/07/2011-30/06/2012	
20001790	One-off [One-off]	\$0.00	\$0.00	\$179.83	16/06/2011-16/06/2011	
20001791	Base [Quarterly]	\$34,658.00	\$34,658.01	\$0.00	01/07/2009-30/06/2012	
20001791	Indexation [Quarterly]	\$887.00	\$886.99	\$0.00	01/07/2010-30/06/2012	
20001791	Indexation [Quarterly]	\$927.77	\$927.77	\$0.00	01/07/2011-30/06/2012	
20001791	Indexation [Quarterly]	\$838.00	\$838.00	\$0.00	01/07/2009-30/06/2012	
20001791	One-off [One-off]	\$0.00	\$0.00	\$603.43	16/06/2011-16/06/2011	
Sub Total:		\$726,653.92	\$726,653.93	\$22,730.06		
Grand Total:		\$726,653.92	\$739,428.93	\$35,505.06		

ANNUAL OUTPUTS VARIATION

O-Id:	Outputs:	Units:	CYE:	Start Date:	End Date:
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Family &
Community Services
Ageing, Disability & Home Care

Tweed Shire Council

Funding Agreement Term: 01/07/2009 - 30/06/2012

ANNUAL OUTPUTS

O-Id:	Outputs:	Units:	CYE:	Start Date:	End Date:
20001783	Domestic Assistance Hours	454	454	01/07/2009	30/06/2012
20001784	Social Support Hours	1,750	1,750	01/07/2009	30/06/2012
20001785	Personal Care Hours	738	738	01/07/2009	30/06/2012
20001786	Meals Services Meals	860	860	01/07/2009	30/06/2012
20001787	Respite Hours	635	635	01/07/2009	30/06/2012
20001788	Case Management Hours	8,654	8,654	01/07/2009	30/06/2012
20001788	Case Management Hours	1,101	1,101	01/01/2011	30/06/2012
20001789	Home Modification Dollars	0	0	01/07/2009	30/06/2012
20001790	Transport Trips	837	837	01/07/2009	30/06/2012
20001791	Goods & Equipment Items	0	0	01/07/2009	30/06/2012

OPTIONS:

1. That Council accepts the one-off transition funding and continue this service to the community.
2. That Council not accept the funding.

CONCLUSION:

That Council continues to support Tweed Community Options delivering the Community Options Program to the community.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Fully funded by Family and Community Services Ageing Disability and Home Care.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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24 [CNR-CM] ComPacks Funding 2012-2013 - 1 July to 30 September 2012

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

Council, through Tweed Community Options (COPs), has been contracted to NSW Department of Health for the past four years to provide the ComPacks program. ComPacks are community packages of support to eligible persons discharged from participating NSW hospitals.

Council is aware that NSW Department of Health is in the middle of a tender process for provision of these ComPacks from 1 October 2012. At the Council meeting of 26 June 2012 Council endorsed the proposal for Tweed COPs to partner with NSW Community Options Inc in a tender submission for the ComPacks program in Tweed Shire. Council is still awaiting the outcome of the final stage of the tender process.

Council received correspondence in February 2012 advising that in order to manage contracts through the tender process, existing ComPacks Service Provider contracts would be extended until 30 September 2012. Correspondence dated 29 June 2012 has been received from NSW Department of Health outlining the total funding allocation and number of packages to be delivered for the period 1 July to 30 September 2012.

The summary of the total funding allocation for Tweed COPs is as follows:

2012-2013 1 July - 30 September 2012	Amount	Number of Packages to be delivered				Assessment Only
		Band 1	Band 2	Band 3	Total	
	\$264,605	43	128	26	197	26

RECOMMENDATION:

That Council:

- 1. Accepts the funds from NSW Department of Health for the amount of \$264,605 for ComPacks for the period 1 July to 30 September 2012.**
- 2. Votes the expenditure.**

REPORT:

Council, through Tweed Community Options (COPs), has been contracted to NSW Department of Health for the past four years to provide the ComPacks program. ComPacks are community packages of support to eligible persons discharged from participating NSW hospitals.

Council is aware that NSW Department of Health is in the middle of a tender process for provision of these ComPacks from 1 October 2012. At the Council meeting of 26 June 2012 Council endorsed the proposal for Tweed COPs to partner with NSW Community Options Inc in a tender submission for the ComPacks program in Tweed Shire. Council is still awaiting the outcome of the final stage of the tender process.

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The summary of the total funding allocation for Tweed COPs is as follows:

2012-2013 1 July - 30 September 2012	Amount	Number of Packages to be delivered				Assessment Only
		Band 1	Band 2	Band 3	Total	
	\$264,605					26
		43	128	26	197	

OPTIONS:

1. To resolve to accept the funds.
2. To not accept the funds and not continue this service to the community.

CONCLUSION:

That Council continues to support Tweed Community Options delivering the ComPacks program for the period 1 July to 30 September 2012.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Fully funded by Family and Community Services Ageing Disability and home care and the Commonwealth Government Department of Health and Ageing.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.1 Work closely with government and community organisations to improve services to children and families, youth, elderly, Indigenous people, disadvantaged and minority groups and to build stronger and more cohesive communities

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Letter dated 9 February 2012 from NSW Department of Health (ECM 46611234)
 2. Letter dated 29 June 2012 from NSW Department of Health (ECM 52774513)
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25 [CNR-CM] Lease to Chillingham Community Association - Numinbah Road, Chillingham

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

The Chillingham Community Centre has occupied an area of Council land containing a community centre building with toilets at Chillingham since 2008. The current lease has expired and the tenancy is now on a month to month basis. The Community Association has requested a new lease to formalise their tenancy and to secure future funding for the various activities undertaken by them.

During their tenure, the Association has established a community vegetable garden and nursery, undertaken grounds maintenance, environmental works and education events. They also hold weekly art classes, youth drumming classes and have developed an active choir, the Chillingham Voices, which performs locally and interstate.

The leased area and buildings are well maintained and provide a well-located venue for the community activities described above.

The land is operational land, so there are no statutory restraints in relation to the leasing of the land. Two consecutive five year leases at a peppercorn rental are recommended to assist the Community Association to continue their activities.

RECOMMENDATION:

That:

- 1. Council approves entering into a lease with the Chillingham Community Association for the premises located at 1469 Numinbah Road, Chillingham for two consecutive terms of 5 years each at a peppercorn rental;**
- 2. All necessary documentation is executed under the Common Seal of Council.**

REPORT:

A letter from the Association is shown below, which provides a comprehensive description of the Association's activities:

Chillingham Community Association
1469 Numinbah Road
Chillingham NSW 2484
Phone/Fax: 02 66 791633
Email: cca@nsw.chariot.net.au



"From little things big things grow"

General Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484
26 June 2012

Attn: Mrs Nela Turnbull

Re: Renewing the lease on 1469 Numinbah Rd, Chillingham to the Chillingham Community Association

Dear Mrs Turnbull

The Association has received a letter from Paul Morgan dated 12 June 2012 inquiring as to the intentions of the Association regarding the occupation of the above premises.

The Association would like to renew the lease, though first we would like to describe the functions the premises (the Centre) provides to the community. We have been occupying the Centre for almost a decade in which time it has become a focus for a range of community activities. Originally the Centre was envisaged as a technology hub; providing internet and IT services to the community. It still does that but other activities also now occur.

A range of groups now use the Centre; the book group, the arts group, and a yoga group. Possibly the most active of the groups is the local choir, the Chillingham Voices with a membership of over 40 and performances locally and interstate. People also use the Centre for birthday parties, Christmas celebrations etc., and daily to drop in and catch up with friends.

The grounds of the Centre are maintained by an active group of volunteers. A key part of this work is upkeep of the community vegetable garden. Some of the produce from this garden is used by the "jam group". These members of the Association produce jams and other products to sell at our monthly markets. The sale of products is donated to the Association and covers our annual insurance costs.

In the last three years the Association has been running a monthly market on the premises. This was a challenging undertaking as none of us had had experience in this sort of thing. However the markets have proved really successful despite the tough economic times. This provides us with a small income stream to cover administrative costs, but more importantly provides a venue for people to meet and catch up. We see it as a real community builder.

I have described some of the activities of the Centre to indicate how much the local community has invested in the place, and its importance to many people. The Centre is actively used by many people, is well supported by the community and is financially secure.

We would like to continue these activities into the future and would like to renew our lease. To create greater certainty for its future, the Chillingham Community Association is requesting that the Council issue it with a five year lease plus a five year extension on the above premises. The Association also requests that the lease be issued at a peppercorn rent.

Yours sincerely

Peter Liston
President
Chillingham Community Association

The aerial photo below shows the leased area:



OPTIONS:

1. Lease the premises to Chillingham Community Association as recommended.
2. Offer the premises for lease on the open market.

CONCLUSION:

As the Chillingham Community Association continues to thrive and develop community activities, there is a strong argument to approve two consecutive leases for five years each at a peppercorn as evidence of Council's support of the Association and the residents of Chillingham.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Has no financial impact as lease income is negligible and the Chillingham Community Association is responsible for maintenance of the premises.

c. Legal:

Land is operational, so there are no statutory restraints as to the length of the lease.

d. Communication/Engagement:

Not Applicable.

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
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.3 Provide Leasing and Licensing services to clients

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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**26 [CNR-CM] Waste Minimisation and Management Development Control Plan
Section A15**

SUBMITTED BY: Waste Management



Supporting Community Life

SUMMARY OF REPORT:

Following a 28 day exhibition period, Council at its meeting on 17 April 2012 resolved to adopt the Waste Minimisation and Management Section A15 of the Tweed Development Control Plan (DCP).

An internal review process to determine functionality and practicality prior to implementation of the DCP identified that it was not practical to impose a waste plan requirement for minor residential and change of use development applications, or complying development applications. The intention of this DCP remains unaffected by the proposed minor changes and will still assist in minimising waste through all steps of development from construction to occupation.

Given the minor nature of these changes, it is considered unnecessary to re-exhibit the DCP amendments.

Following the incorporation of the internal amendments, it is now proposed that Waste Minimisation and Management Section A15 be adopted and included in the current Tweed Development Control Plan. A copy of the revised Waste Minimisation and Management Section A15 is provided as an attachment to this report.

RECOMMENDATION:

That Council adopts the minor amendments to the Waste Minimisation and Management Section A15 in the current Tweed Development Control Plan, as identified in the body of this report.

REPORT:

Following a 28 day exhibition period, Council at its meeting on 17 April 2012 resolved to adopt the Waste Minimisation and Management Section A15 of the Tweed Development Control Plan (DCP).

An internal review process to determine functionality and practicality prior to implementation of the DCP identified that it was not practical to impose a waste plan requirement for minor residential and change of use development applications, or complying development applications. The intention of this DCP remains unaffected by the proposed minor changes and will still assist in minimising waste through all steps of development from construction to occupation.

The earlier exhibited version of the DCP Chapter required all development to provide a waste management plan prior to issuing of Development Consent. It was identified that waste management for smaller development such as new single dwellings and alterations and additions to dwellings, complying development and change of use development applications is considered to be impractical. Consequently amendments were implemented which remove the requirement for smaller development to provide a waste management plan prior to issuing of development consent. A waste management plan for these smaller developments will be required prior to the issuing of a construction certificate so that construction waste management methods can still be controlled. The minor amendments maintain intended waste management controls while removing onerous unnecessary obligations from smaller development applications.

Due to the amendments being of a minor nature, it is not deemed relevant to resubmit the chapter for further public exhibition. It is noted that the DCP chapter is still based on the Model "Waste Not DCP" Chapter that was produced by the NSW Environment Protection Authority (*formerly Department of Environment and Climate Change*).

OPTIONS:

1. Council adopts and includes the Waste Minimisation and Management section A15 in the current Tweed Development Control Plan; or
2. Council refuses to adopt and include Waste Minimisation and Management section A15 in the current Tweed Development Control Plan.

The Council officers recommend Option 1.

CONCLUSION:

It is considered that the proposed amendments to the adopted DCP are of a minor nature, and will enhance the effectiveness of its implementation.

COUNCIL IMPLICATIONS:

a. Policy:

The amended Waste Minimisation and Management Section A15 is proposed to be inserted into the current Tweed Shire Council Development Control Plan.

b. Budget/Long Term Financial Plan:

Failure to adopt a "Waste Not DCP" may result in loss of financial payment through the WaSIP program.

Failure to adopt and enforce a "Waste Not DCP" may result in loss of landfill airspace due to increased landfilling of potentially recoverable resources.

c. Legal:

Nil.

d. Communication/Engagement:

The Draft Waste Minimisation and Management Section A15 of the Tweed Shire Council DCP was placed on public exhibition for 28 days. Two submissions were received during the exhibition period. Post adoption amendments have been made to improve functionality and practicality prior to implementation.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.4 Provision of high quality, best practice, solid waste disposal with energy recovery, and improving resource recovery practices and infrastructure which meets health and environmental requirements and projected demand
- 2.3.4.2 Provide strategic direction to improve resource recovery

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Proposed Waste Minimisation and Management Section A15 of Tweed DCP (ECM 52733592)
-

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27 [CNR-CM] Clean Energy Legislation Liability 2012-2013

SUBMITTED BY: Waste Management



Civic Leadership

SUMMARY OF REPORT:

As of 1 July 2012, Australian landfills that emit over 25,000 tonnes of carbon dioxide equivalent (CO₂e) will be required to collect and remit funds under the Federal Government's carbon pricing mechanism. Council has recently received confirmation from the Australian Government Clean Energy Regulator advising that it is unlikely Council will be a liable entity for 2012-2013.

RECOMMENDATION:

That Council receives and notes the advice that Council is not identified in the Liable Entities Public Information Database for the 2012-2013 financial year as advised by the Australian Government Clean Energy Regulator, as a result of the following initiatives:

- **Methane gas extraction system installed at Stotts Creek Resource Recovery Centre (SCRRC) in 2002.**
- **Renewable energy facility incorporating a methane gas combustion engine installed at Stotts Creek Resource Recovery Centre in 2006.**
- **Reduction in organic waste to landfill by introducing a three bin collection system in 2009.**
- **Ongoing recovery and reuse of organic waste at Stotts Creek Resource Recovery Centre.**
- **Extensive community education programs throughout Tweed Shire.**

REPORT:

Under the provision of the Australian Clean Energy Act, as of 1 July 2012 Australian landfills that are calculated to be emitting more than 25,000 tonnes of carbon dioxide equivalent (CO₂e) emissions will be required to collect and remit funds under the Federal Government's carbon pricing mechanism.

Council has calculated its annual carbon emissions from Stotts Creek Resource Recovery Centre (SCRRC) for the past three years and reported calculations to the Federal Government each year using the National Greenhouse Energy Rating System (NGERS). Based on the NGERS calculations, Council has now received advice from the Australian Government Clean Energy Regulator advising that it is unlikely that Council will be a liable entity for 2012-2013 - copy of letter reproduced below:



Council's ability to stay below the 25,000 tonne threshold is a result of initiatives including:

- Methane gas extraction system installed at SCRRC in 2002.
- Renewable energy facility incorporating a methane gas combustion engine installed at SCRRC in 2006.
- Reduction in organic waste to landfill by introducing a three bin collection system in 2009.
- Ongoing recovery and reuse of organic waste at SCRRC.
- Extensive community education programs throughout Tweed Shire.

As required under the Clean Energy Act, Council's Waste Management Unit continues to calculate CO₂e emissions from SCRRC and report to the Australian Clean Energy Regulators using NGERs.

OPTIONS:

1. That Council acknowledges the advice from the Clean Energy Regulator that under the provision of the Clean Energy Act, it is not a liable entity for 2012-2013 financial year.
2. That Council rejects the advice from the Clean Energy Regulator.

CONCLUSION:

Council has provided environmental and economic benefit to the community by reducing carbon emissions from SCRRC and reducing liability under the Clean Energy Act in 2012-2013.

COUNCIL IMPLICATIONS:

a. Policy:

Not applicable.

b. Budget/Long Term Financial Plan:

Fees and charges for SCRRC not will require addition of the fixed carbon price for 2012-2013.

c. Legal:

Not applicable.

d. Communication/Engagement:

Not applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.3 Prepare for climate change through adaptation and mitigation strategies
- 1.1.3.1 Monitor and report on emissions profiles of Council infrastructure
- 1.1.3.1.1 Engage in the National Greenhouse and Energy Reporting Scheme for Council landfill facilities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

28 [CNR-CM] Submission to NSW Legislative Council's Standing Committee on State Development - Inquiry into the Adequacy of Water Storages in NSW

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

The NSW Legislative Council's Standing Committee on State Development is currently conducting an inquiry into the adequacy of water storages in NSW and has invited Council to make a submission to the inquiry. The closing date for submissions is Friday 3 August 2012.

As a Local Water Utility (LWU) Tweed Shire Council is responsible for the supply of water to the urban and industrial population of the shire.

Since 2010, two preferred augmentation options have been either i) recommended by Council officers or ii) identified by Council, and both are water storages, namely:

- Increasing the capacity of the existing Clarrie Hall Dam at Doon Doon Creek
- Building a new water storage on Byrrill Creek

It is therefore considered relevant for Council to provide a submission to the inquiry. It is proposed that this report forms Council's preliminary submission to the inquiry. Council has received confirmation that a late submission, in addition to this interim report, will also be accepted up to the end of August by the Standing Committee to enable Council to provide further technical details as required.

RECOMMENDATION:

That:

- 1. Council endorses this report as Council's preliminary submission to the NSW Legislative Council's Standing Committee on State Development - Inquiry into the adequacy of water storages in NSW.**
- 2. Council officers provide further technical details to the Standing Committee at a later date as required, and report the content to Council.**

REPORT:

Background

Standing Committee's Terms of Reference

The NSW Legislative Council's Standing Committee on State Development is currently conducting an inquiry into the adequacy of water storages in NSW and has invited Council to make a submission to the inquiry. The closing date for submissions is Friday 3 August 2012.

The Terms of Reference for the Standing Committee inquire into and report on the adequacy of water storages in NSW, and in particular:

- a) the capacity of existing water storages to meet agricultural, urban, industrial and environmental needs,
- b) models for determining water requirements for the agricultural, urban, industrial and environmental sectors,
- c) storage management practices to optimise water supply to the agricultural, urban, industrial and environmental sectors,
- d) proposals for the construction and/or augmentation of water storages in NSW with regard to storage efficiency, engineering feasibility, safety, community support and cost benefit,
- e) water storages and management practices in other Australian and international jurisdictions,
- f) any other matter relating to the adequacy of water storages in NSW.

Relevance to Tweed

As a Local Water Utility (LWU) Tweed Shire Council is responsible for the supply of water to the urban and industrial population of the shire. Operation of Council's water supply systems also entails meeting the water needs of relevant environmental licensing requirements.

Since 2010, two preferred augmentation options have been either i) recommended by Council officers or ii) identified by Council, and both are water storages, namely:

- Increasing the capacity of the existing Clarrie Hall Dam at Doon Doon Creek
- Building a new water storage on Byrill Creek

It is therefore considered relevant for Council to provide a submission to the inquiry. It is proposed this report forms Council's preliminary submission to the inquiry. Council has received confirmation that a late submission, in addition to this interim report, will also be accepted up to the end of August by the Standing Committee to enable Council to provide further technical details as required.

Terms of Reference

a) The capacity of existing Tweed water storages to meet agricultural, urban, industrial and environmental needs

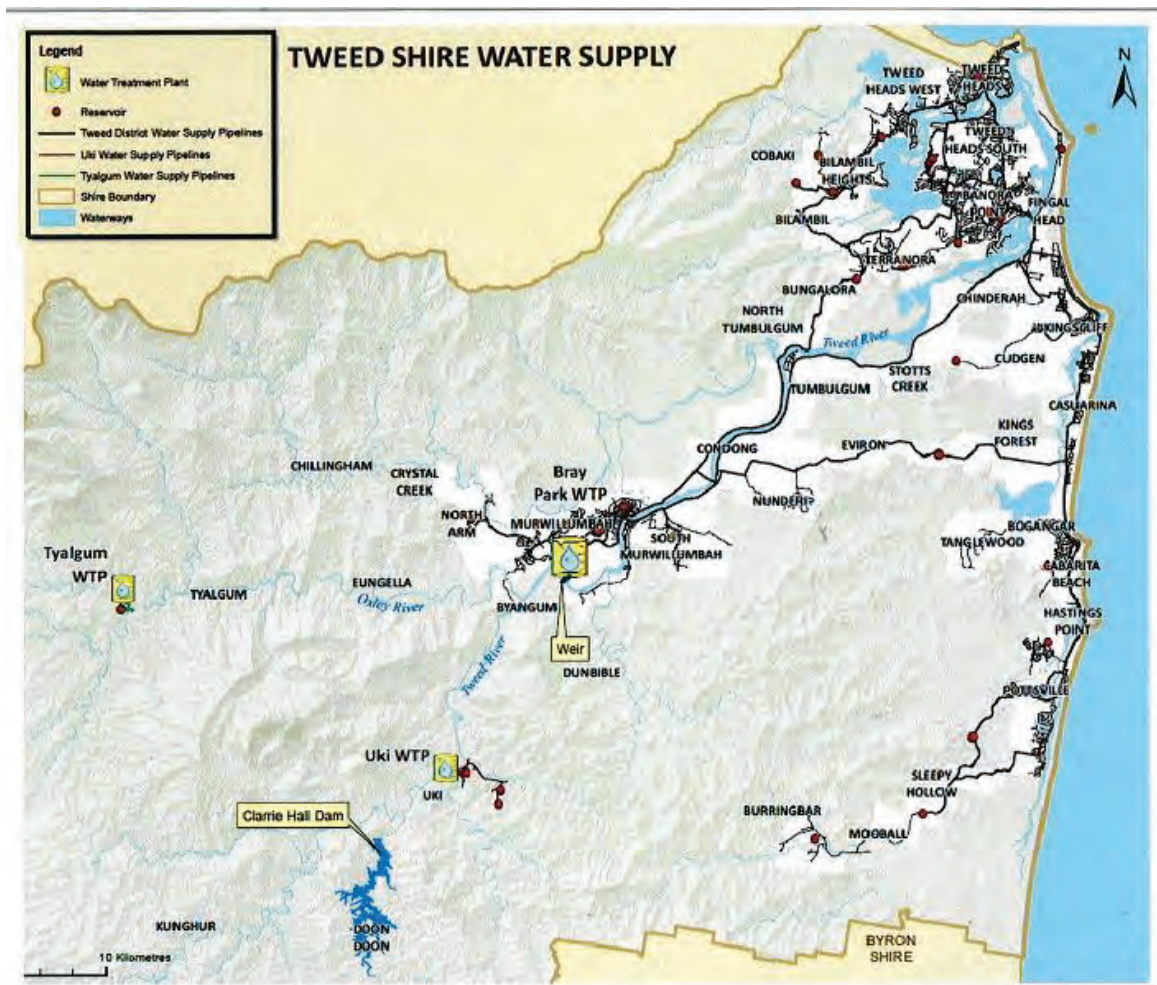
Background to the Tweed Water Supply System

There are three water supply networks in the Tweed Shire. Two small networks supply the rural villages of Tyalgum and Uki, while the major network supplies Tweed Heads and surrounds, the Tweed Coast and the Murwillumbah district.

Council operates three water storages, namely Clarrie Hall Dam, Bray Park Weir and Tyalgum Weir.

Water Storage	Useable Storage Volume (ML)
Clarrie Hall Dam	15,000
Bray Park Weir	640
Tyalgum Weir	7.5

The major network (Tweed District Water Supply - TDWS) draws its water from the Tweed River, upstream of the Bray Park weir. The weir acts as a tidal barrage, preventing salt water from the estuary getting in to the fresh water supply. Flows into the weir are supplemented by releases from Clarrie Hall Dam situated on Doon Doon Creek - a tributary to the Tweed River.



It is important to note that Clarrie Hall Dam is only used to supplement the town water supply for urban and industrial needs. For much of the year it is natural flows in the Tweed River that supply our water. Water is only released from the dam when flows in the freshwater section of the Tweed River fall below 95%, usually during winter and spring.

These releases contribute to environmental flows in the river during the drier months of the year, with the water flowing down Doon Doon Creek and into the Tweed River upstream of Uki village. It then flows down to Bray Park Weir, where it is extracted, treated and pumped via a network of over 660km of pipes to 23 reservoirs throughout the shire.

Capacity of existing Tweed District Water Supply (TDWS)

Despite significant ongoing reductions (of up to 40%) in per capita water use, Council's *Demand Management Strategy* (DMS) (2009) found the existing water supply capacity will be exceeded due to ongoing population growth.

The population of the Tweed is expected to double over the next 30-40 years. Despite a recent reduction in population growth rates, a significant future increase in population is still expected. This projection is based on the population supported by existing land zoned residential in the Local Environment Plan 2000 (LEP2000) and is in line with population growth projections in the NSW Dept of Planning's "Far North Coast Regional Strategy" (2006).

The secure yield of the existing TDWS is approximately 13,750ML/a, based on modelling outlined in (b) below. Current water demand for the TDWS is between approximately 9000 and 10,000ML/a.

Due to ongoing population growth current modelling suggests that the secure yield of the existing TDWS may be exceeded by approximately 2023.

Further risks to system capacity exist from climate change impacts. Changes to rainfall patterns and intensities potentially may adversely affect the yield of Clarrie Hall Dam. Sea level rise potentially results in salt water ingress into Bray Park Weir which would need to be raised to avoid the entire TDWS becoming affected by salinity.

b) Models for determining water requirements for the agricultural, urban, industrial and environmental sectors.

Until the major drought of 2002-03, the secure yield of the TDWS was estimated at 16,700ML/a. The inclusion of this one event into the dataset reduced the estimated secure yield to 13,750ML/a according to DEUS 5/10/20 guidelines.

Standardisation of the definition of "Yield" across the state. This should include standardising the acceptable degree of resource shortage risk faced by communities, and the allowances required for future climate uncertainty. This would enable water service providers to size water storages appropriately and/or make the decision to go towards climate independent supply options if the risk is great.

The impact of environmental flows, climate change, adaptive management, and other similar issues are not modelled consistently and would be assisted by standardisation.

c) Storage management practices to optimise water supply to the urban, industrial and environmental sectors.

Council has adopted various storage management practices at Clarrie Hall Dam, Bray Park Weir and Tyalgum Weir.

As a LWU and a Local Planning Authority, Council has limited powers to restrict or regulate existing landuses within the water storage catchment area and riparian zones.

A risk assessment using the Australian Drinking Water Guidelines (ADWG) highlights the greatest risks to the quality of Council's water supply arise from poor riparian zone management, inappropriate landuses, poorly maintained septic systems, and limited powers and resources to manage and regulate the water storage catchment area.

The catchment for Clarrie Hall Dam is approximately 60km² and is mainly rural in nature with some National Park, environmental and timbered areas. The catchment for Bray Park Weir is approximately 565km² and includes rural, village, environmental, timbered areas and National Park.

d) Proposals for the construction and/or augmentation of water storages on the Tweed with regard to storage efficiency, engineering feasibility, safety, community support and cost benefit.

In October 2009, Council adopted a process to augment the water supply to meet projected demand. The phased approach reduces risks by ensuring the requirements of the previous phases have been met and will not impede subsequent phases. This approach provides both security and flexibility by:

1. Selecting a preferred option (based on the *Tweed District Water Supply Augmentation Options Study, 2010*).
2. Gaining development approval for that option in time to construct by 2023 (so that the Tweed has an augmentation option that can be brought online quickly when required).
3. Committing further resources to construct and operate the approved scheme when it is actually needed.

Council's *Tweed District Water Supply Augmentation Options Study - Fine Screen Assessment of Shortlisted Options* (Fine Screen) (September 2010) suggested that demand will exceed supply in approximately 2023, but noted the actual date this occurs will depend on the success of demand management actions and actual population growth rates. This study, together with the DMS, investigated more than a dozen options to augment the water supply and assessed each against cost, social, environmental and governance criteria. The option recommended by Council officers was to increase the capacity of the existing Clarrie Hall Dam at Doon Doon Creek.

Since 2010, the two augmentation options either i) recommended by Council officers or ii) identified by Council have been water storages, namely:

- Increasing the capacity of the existing Clarrie Hall Dam
- Building a new water storage on Byrrell Creek

Details of the assessment of these options are contained in the *Tweed Demand Management Strategy* and the *Tweed District Water Supply Augmentation Options Study - Fine Screen Assessment of Shortlisted Options*.

e) Water storages and management practices in other Australian and international jurisdictions.

No comment.

f) Any other matter relating to the adequacy of water storages in NSW.

Water Sharing Plan

The Water Sharing Plan for the Tweed River Unregulated and Alluvial Water Sources was gazetted on 17 December 2010 and contained Clause 48 (1) prohibiting construction of a dam at Byrrell Creek.

The proposal for a future dam at the site has been public knowledge since the mid 1980's and has been incorporated into Council's LEP since 1987 as a Potential Water Supply Catchment Area. During that time Council has purchased the majority of property likely to be inundated by a future dam.

Council has requested this decision be reconsidered. Council is not asking the government to support the proposed dam on Byrrell Creek. As with all new dams or dam raisings a robust and transparent environmental assessment process will be required to ensure the most appropriate decision is made. Council's concern is that Byrrell Creek was singled out from all other (third order or higher) streams within the Tweed River Area for prohibition of a water supply work approval in the Water Sharing Plan without any due and transparent assessment process.

Adaptive Management requirements under the Water Management Act (2000)

The use of adaptive management under the Water Management Act (WM Act) creates risks to developers of water storages, including LWUs such as Tweed Shire Council.

Council and its ratepayers require certainty regarding the additional secure yield provided by the construction of a given water storage. Adaptive management under the WM Act allows the amount of water Council is permitted to extract to be changed over time. This reduces certainty regarding the secure yield provided by the construction of a given water storage, effectively putting the community's investment in that infrastructure at risk.

OPTIONS:

1. Provide the submission to the Inquiry and ensure Council's concerns are raised given Council is a LWU and is considering water storages to augment the water supply.
2. Not provide a submission and not participate in the Inquiry, thereby missing an opportunity to raise Council's legitimate concerns with state government.

CONCLUSION:

Council continues to consider augmentation of the Tweed district water supply through use of a new or an enlarged water supply storage. This report refers to issues faced by Council in those endeavours and which are relevant to the terms of reference of the inquiry.

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.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.2 Provision of a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
- 2.3.2.3 Implement Augmentation Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Council Meeting Agenda Item 19 October 2010 - Tweed District Water Supply Augmentation Options - Selecting a Preferred Option (ECM 22526442)
 2. Council Meeting Agenda Item 19 October 2010 - Tweed Demand Management Strategy (ECM 22523264)
 3. Tweed Catchment and Water Quality Factsheet (ECM 52817274)
 4. Tweed District Water Supply Augmentation Options Study - Fine Screen Assessment of Shortlisted Options (ECM 22445566)
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29 [CNR-CM] Amendment of Cobaki and Terranora Broadwater Coastal Zone Management Plan - Certification by NSW Office of Environment and Heritage

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

This report is to advise Council that a small amendment is required to the existing Cobaki and Terranora Broadwater Coastal Zone Management Plan 2010, to allow it to be endorsed by NSW Department of Primary Industries Catchments and Lands, and thus able to be certified under the NSW Coastal Protection Act 1979.

RECOMMENDATION:

That Council notes and endorses the amendment of the Cobaki and Terranora Broadwater Coastal Zone Management Plan 2010, resulting in the deletion of action 2.10.

REPORT:

At its meeting of 15 February 2011 Council resolved to:

- "1. Adopt the Coastal Zone Management Plan for Cobaki and Terranora Broadwater.
2. Submit the Coastal Zone Management Plan for Cobaki and Terranora Broadwater to the NSW Minister for Climate Change and Environment, for gazettal under the NSW Coastal Management Act 1979."

As part of the process of certifying the Coastal Zone Management Plan, advice was sought from relevant NSW State Government Departments regarding the acceptability or otherwise of actions included in the plan.

In correspondence to Tweed Shire Council dated 12 March 2012, the Department of Primary Industries Catchments and Lands (Lands) has raised objection to management action 2.10 relating to the transfer of land under the management of one government agency to another government agency. It is advised that this should be conducted through existing inter agency processes.

The specific action referred to is documented in the Coastal Zone Management Plan as follows:

No.	Action	Priority	Responsibility
2.10	Investigate the inclusion of Meebun Island and other wetland areas of conservation value into the Tweed Estuary Nature Reserve.	High	TSC – Natural Resource Management/ NPWS

The most appropriate course of action to take in this regard is to delete this action from the management plan. The action, while identified as a high priority, has no bearing on the key objectives of the plan, that being, to protect and improve the ecological health and recreational values of the waterways.

Once amended, the management plan will be provided to Department of Primary Industries Catchments and Lands for their endorsement, and resubmitted to the Office of Environment and Heritage for certification under the NSW Coastal Management Act 1979.

CONCLUSION:

This is a purely administrative amendment and will have no impact on Council's existing projects contributing to delivery of Coastal Zone Management Plan Objectives.

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.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
- 4.1.2.4 Prepare, review and implement coastal zone and catchment management plans
- 4.1.2.4.3 Implement Cobaki and Terranora Broadwater Coastal Zone Management Plan

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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30 [CNR-CM] Upgrade of Tweed River Art Gallery Café

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

The Tweed River Art Gallery Foundation Ltd seeks approval from Council to proceed with the upgrade of the Gallery Café, with funds provided by the Foundation, to enhance visitor experience of the facility. The upgrade of the Café area will also protect the open-air verandah area during periods of inclement weather.

A number of design proposals and costings have been investigated and considered during the last year.

RECOMMENDATION:

That Council supports the proposal from the Tweed River Art Gallery Foundation Ltd for it to fully fund the upgrade of the Gallery Café as detailed in the report.

REPORT:

The Tweed River Art Gallery Foundation Ltd has for a number of years proposed and recommended to Council the extension of the Gallery Café to enhance the experience gained by visitors to the facility. A number of proposals have been investigated and considered.

Council's meeting of 20 September 2011 resolved to support the Foundation's proposal to fully fund a modest improvement to the Gallery Café, and voted expenditure of \$5000 towards the options assessment, concept, budget and detailed designs.

Following extensive discussions at several meetings of the Foundation's Board of Directors, the Board resolved to fully fund a design for the upgrade of the Gallery Café costed at \$152,000. These plans involve the extension of the Café awning to the east and west to cover the entire length of the verandah, and installation of glass balustrades and concertina windows to weather proof the seating area. The Minutes of the Foundation meeting confirming this offer are attached to this report for Councillors' information.

It is recommended that Council supports the Foundation's proposal and proceeds with detailed design of this project.

As well as a copy of the Minutes of the Board Meeting of the Directors of the Tweed River Art Gallery Foundation Ltd held on 20 June 2012, also attached to this report is a subsequent letter to the General Manager from the Foundation Secretary seeking Council's approval for the alterations to the Café to proceed.

OPTIONS:

1. That Council supports the Foundation's proposal to fund the alterations to the Gallery, currently costed at \$152,000.
2. Council does not support the Foundation's proposal.

CONCLUSION:

It is recommended that Council supports the Foundation's proposal and proceeds with detailed design of this project.

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.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities
- 2.3.6.1 Provide conveniently placed well equipped community facilities
- 2.3.6.1.3 Maintain and improve the Tweed River Art Gallery's physical and built environment through the provision of additional educational and family friendly facilities

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Minutes of the Tweed River Art Gallery Foundation Ltd Board 20 June 2012 (ECM 52735735)
 2. Letter of request from Foundation (ECM 52436011)
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31 [CNR-CM] Contract EQ2011-099 Coastal Project Management- Optional 12 Month Extension of Project

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

Council employed Seaboard Consultants Pty Ltd in June 2011 under Contract EQ2011-099 to supply specialist coastal project management services for twelve months with an option for a further twelve months.

The continuation of the contract for twelve months increases Council's capacity and provides ongoing access to a higher level of expertise in the development and review of the numerous detailed coastal management projects currently being undertaken by Council. Seaboard Consulting, in the previous twelve month contract, has proven to provide an effective and efficient service for the current short term needs of Council.

RECOMMENDATION:

That Council extends Contract EQ2011-099 Coastal Project Management to Seaboard Consultants Pty Ltd for twelve (12) months for \$104,000 (GST inclusive) as per the option provided for in the Contract.

REPORT:

Council employed Seaboard Consultants Pty Ltd in June 2011 under Contract EQ2011-099 to supply specialist coastal project management services for twelve months with an option for a further twelve months.

The project management and other activities undertaken in the last twelve months by Seaboard Consulting have included:

Area 5 Sand Extraction Preliminary Options Design and Environmental Impact Study

A management action arising from the *Tweed Shire Coastline Management Plan 2005* involves placement of sand onto Kingscliff Beach for beach nourishment purposes. To move towards this sand placement capability, an Environmental Impact Study (EIS) and preliminary operations plan are currently being prepared by consultants and are nearing completion.

Many matters addressed in the EIS and operations plan are key feasibility issues for the proposal to transfer sand to Kingscliff Beach from Area 5. The EIS and operations studies are the subject of a single consultant brief and engagement, prepared during the 2011-12 contract period.

Seaboard Consultants contributed to:

- designing the strategic approach of the studies (EIS and Operations Plan);
- resolution of related planning requirements including seeking Director General's requirements for the EIS;
- preparation of a consultant's brief;
- selection of consultants;
- ongoing management of consultants; and
- consideration of possible smaller, as required, sand delivery volumes using smaller dredge equipment.
- Related review and planning for revised environmental assessment of the sand placement process at Kingscliff Beach (EIS).

Kingscliff Beach – permanent seawall option

Based on the *Tweed Shire Coastline Management Plan 2005*, Council's foreshore protection plan considers installation of permanent seawalls to halt erosion and delay long-term beach recession. Preliminary design of seawalls is currently being undertaken by the University of NSW Water Research Laboratory to assist further consideration by Council.

Seaboard Consultants contributed to:

- designing and preparing an appropriate consultant's brief;
- selection of a consultant;
- review of findings, technical methodology, and direction in preliminary findings by the consultants and;
- ongoing direction of consultants and briefing for additional study.

Kingscliff Beach Coastal Zone Management Planning (CZMP)

NSW Government coastal policy requires periodic review of coastal planning along the NSW coast. Specifically for Kingscliff Beach, the NSW Coastal Panel (advising the Minister) has requested Council to prepare a Coastal Zone Management Plan that re-examines hazards and risk to the Kingscliff foreshore and that develops a sound planning approach to hazard management.

During the 2011-12 contract period Seaboard Consultants contributed to:

- planning the elements of the CZMP process and their integration to form a soundly prepared CZMP;
- prepared the related schedule of activities;
- initial building of the preliminary framework of a CZMP report that may be completed in-house by Tweed Shire Council;
- communication with NSW Office of Environment and Heritage (NSW Governments' relevant agency) regarding CZMP development and;
- review of alternative management options (some proprietary) that were raised or suggested following the major erosion events in 2011.

Coastal hazards assessment – Kingscliff foreshore

During the 2011-12 contract period Seaboard Consultants contributed to:

- development and specification of study requirements in a consultant's brief for a collaborative semi-regional based Tweed Shire Council/Byron Shire Council coastal processes and hazards assessment, including related contractual matters. Specification of requirements was a technically complex matter. The joint councils' approach also required continual liaison with Byron Shire Council to obtain a mutually agreeable methodology to achieve all intended outcomes.
- review of proposals and selection of a consultant.

Kingscliff Foreshore Cost-Benefit Analysis Framework

Options developed as a management response to risks generated by the coastal processes are to be the subject of an analysis of costs and their benefits, including social considerations.

Seaboard Consultants has assisted in the development and preparation of a preliminary Cost-Benefit analysis consultant's brief. This included examination of likely management options available, and a preliminary schedule of their costs.

Tweed Coastal Zone Planning

Preparation of an updated CZMP for the Tweed Coastline is under consideration in accordance with NSW Government policy. The hazards assessment element of a Tweed Coast CZMP was allowed for in the joint Tweed/Byron hazards assessment. Seaboard Consultants contributed to the Tweed coast hazards specification.

Coastal Zone Management – Assistance to Council

On an as needed basis, Seaboard Consultants assisted Council with a range of matters that arose through the year. These included specific coastal zone management questions that arose with regard to technical or policy questions.

Proposed 2012-2013 Works

It is proposed to take the option for another twelve months with the following revised Terms of Engagement, including Project Outcomes for 2012-2013 as detailed.

Contract EQ2011-099 - Revised Terms of Engagement for 12 month extension

1. The twelve month extension to EQ2011-099 will commence 30 July 2012 until 26 July 2013.
2. Contact hours at Council will preferably be Mondays and as required for relevant meetings.
3. As per the original agreement, the fee structure is \$130 / hour (GST inclusive) for 800 hours over the 12 month period. This averages to 2 work days per week for 50 weeks.
4. The following revised Project Outcomes and Scope of Works will apply:

PROJECT OUTCOMES

The key projects that will form the basis of this contract are as follows:

- Investigative licence requirements including relevant studies for sand extraction of Area 5 Tweed River.
- Relevant studies and approval requirements for sand nourishment of Kingscliff Beach including dredging of Area 5 Tweed River, pumping route and placement (existing sand nourishment EIS to be updated).
- Other relevant studies, including seawall options investigations and foreshore cost benefit analysis, to commence a review of the Tweed Shire Coastline Management Plan 2005 in accordance with the Guidelines for Preparing Coastal Zone Management Plans, DECCW, 2010.
- Kingscliff Coastal Hazards Assessment 2012.
- Options report for Council on coastal hazard management at Kingscliff.
- Other tasks and projects as identified in relation to the project.

SCOPE OF WORKS

Tasks which may need to be undertaken to implement the projects identified above will include:

- Liaising with a broad range of Council staff, State Government agencies, industry representatives and members of the community.
- Supervision of, and liaison with, contractors preparing documentation for environmental impact assessments and other studies.
- Critical review and evaluation of documentation relating to the projects.
- Assist with developing reports to Council.
- Assist with identifying funding opportunities and writing grant applications.

OPTIONS:

1. Council extends Contract EQ2011-099 Coastal Project Management to Seaboard Consultants Pty Ltd for twelve (12) months from 30 July 2012 until 26 July 2013 for \$104,000 (GST inclusive) as per the option provided for in the Contract.
2. Council does not extend Contract EQ2011-099 and seeks an alternative source of coastal project management expertise.

CONCLUSION:

The continuation of the contract for 12 months increases Council's capacity and provides ongoing access to a higher level of expertise in the development and review of the numerous detailed coastal management projects currently being undertaken by Council. Seaboard Consulting, in the previous 12 month contract, has proven to provide an effective and efficient service for the current short term needs of Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.
Tweed Shire Coastline Management Plan 2005.

b. Budget/Long Term Financial Plan:

Projects are funded through Council's Coastal Management Plan implementation budget with 50% financial assistance through the NSW Government's Coastal Management Program including relevant project management costs.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.2 Protect, regulate and maintain natural assets (the coastline, coastal and inland waterways, biodiversity, bushland and scenic landscapes) for current and future generations
- 4.1.2.4 Prepare, review and implement coastal zone and catchment management plans
- 4.1.2.4.1 Review and implementation of Tweed Coastline Coastal Zone Management Plan
- 4.4 Manage the Tweed coastline to ensure a balance between utilisation and conservation
- 4.4.1 Recognise and accommodate natural processes and climate change
- 4.4.1.2 Identify and manage coastal areas with erosion vulnerability
- 4.4.1.2.1 Kingscliff foreshore protection

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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32 [CNR-CM] Submission on the NSW State Wide Asbestos Plan; Consultation Draft

SUBMITTED BY: Waste Management



Supporting Community Life

SUMMARY OF REPORT:

The Heads of Asbestos Coordination Authorities (HACA) established by the NSW Government, aims to improve the management, monitoring and response to asbestos issues in NSW by developing coordinated prevention programs.

These programs include a State-wide plan for asbestos, a model asbestos policy for NSW councils (currently being developed by the Local Government and Shires Association (LGSA)) and a comprehensive public awareness campaign to promote the safe handling of asbestos and help prevent the risk of exposure to asbestos related diseases in the NSW community. HACA is currently seeking public comment on the draft NSW State-wide asbestos plan open until 5pm AEST, Friday 17 August 2012.

Officers have prepared a brief submission on the NSW State-wide asbestos plan relating to proper transportation and disposal of asbestos, and supporting the comprehensive awareness program and regulatory response.

Of significant interest to Council officers is the LGSA model asbestos policy. This is currently under development and will be released for review and comment late 2012.

RECOMMENDATION:

That Council:

- 1. Makes a submission to the New State-wide Asbestos Plan as detailed in this report.**
- 2. Requests the inclusion of Council's Coordinator Waste Management in the review of the model Asbestos Policy to be undertaken by the Local Government and Shires Association.**

REPORT:

The Heads of Asbestos Coordination Authorities (HACA) established by the NSW Government, aims to improve the management, monitoring and response to asbestos issues in NSW by developing coordinated prevention programs.

These programs include a State-wide plan for asbestos, a model asbestos policy for NSW councils (currently being developed by the Local Government and Shires Association (LGSA)) and a comprehensive public awareness campaign to promote the safe handling of asbestos and help prevent the risk of exposure to asbestos related diseases in the NSW community. HACA is currently seeking public comment on the draft NSW State-wide asbestos plan open until 5pm AEST, Friday 17 August 2012.

The NSW State-wide asbestos plan can be found using the link produced here:

<http://www.workcover.nsw.gov.au/formspublications/publications/Pages/nsw-state-wide-asbestos-plan.aspx>

The NSW State-wide plan dedicates initiatives across four priority areas, being:

- Research
- Risk Communication
- Prevention
- Coordination

Officers have prepared a brief submission on the NSW State-wide asbestos plan relating to proper transportation and disposal of asbestos, and supporting the comprehensive awareness program and proposed regulatory responses.

Of significant interest to Council officers is the LGSA model asbestos policy. This is currently under development and will be released for review and comment late 2012. It is this policy that will guide consistency across NSW Council's in acceptance and handling of asbestos at licensed waste facilities. It would be prudent for Council Officers to offer assistance to the LGSA in the development of this model policy prior to its official exhibition period.

Following is a copy of the submission on the NSW State-wide asbestos plan:



NSW state-wide asbestos plan - How to provide your feedback and comments

Introduction

The NSW Ombudsman's report, [*Responding to the asbestos problem: The need for significant reform in NSW*](#) was tabled in the NSW parliament on 17 November 2010. The report investigated how government agencies respond to significant safety issues arising out of asbestos-related risks and incidents.

The [*NSW government response*](#) to the NSW Ombudsman's report announced by the Minister for Finance and Services on 12 August 2011 included the establishment of the Heads of Asbestos Coordination Authorities (HACA) who were tasked with developing a state-wide asbestos plan.

WorkCover NSW on behalf of the HACA is seeking public submissions or comments to assist in the development of the NSW, state-wide asbestos plan (the plan).

Public submission and comment is an important part of the development process. The discussion paper provides information about how members of the public can be involved by the preparation of a submission or comment.

Content

The aim of the plan is to secure the safe management of asbestos to reduce the incidence of asbestos-related diseases in NSW.

The plan is divided into four priority areas:

- Research
- Risk communication
- Prevention
- Coordination

The plan provides a risk profile of asbestos for NSW and then identifies initiatives, actions and responsibilities and timeframes to address each of the four priority areas. The plan also sets out how it will be delivered and evaluated.

Your comments

You can provide your submission or comment as an individual or you may wish to contribute to a joint submission through your employer or union organisation, professional association, safety group, committee forum or work health and safety committee.

The closing date for submissions is Friday 17 August 2012.

Submissions should be prepared using the format provided.

General comments should relate to the purpose, scope or structure of the plan.

Specific comments should relate to specific content in the plan. Please indicate the precise page and paragraph, or initiative and action number.

Once WorkCover receives your submission an acknowledgement will be sent to confirm receipt of your submission. Each submission will generally be treated as a public document and will be placed on the WorkCover website and reviewed by members of the HACA and the HACA working group.

Should any information in the submission be provided on a confidential basis, this should be clearly marked as 'IN CONFIDENCE'.

Please reply by:

Email submission to karyn.davidson@workcover.nsw.gov.au

Written submissions to Karyn Davidson, WorkCover NSW, Locked bag 2906, Lisarow, NSW 2252.

Enquiries contact Karyn Davidson on (02) 4321 5912.

Public comment

NSW state-wide asbestos plan	
To: Karyn Davidson WorkCover NSW Locked Bag 2906 Lisarow NSW 2252 Email: karyn.davidson@workcover.nsw.gov.au	From: [insert your name, company and position (if applicable), address and contact details] Adam Faulkner, Coordinator Waste Management, Tweed Shire Council
Closing date: 17 August 2012	Date: 2 July 2012
General comments 1. Tweed Shire Council supports in whole the NSW Government and HACA in the preparation and resourcing of a State Wide Asbestos Plan 2. Tweed Shire Council endorses the NSW Government in the proposed awareness and regulatory initiatives contained within the consultation draft NSW State Wide Asbestos Plan 3.	
Specific comments: insert-text	
Reference ie page number and paragraph or initiative and action number	Recommended changes and reason
Page 20 Initiative 15	That the LGSA seek Council participation in the development of the model asbestos policy
Page 20 Initiative 16	That Council's are resourced where appropriate to implement business/operational changes (if/where required) stemming from adoption of the model asbestos policy
Page 23 Initiative 44	That asbestos waste is exempt from the Waste & Environment Levy
Page 20	That Priority Area 3 contain a specific initiative/action relating transporting and handling of asbestos as it relates to acceptance (& rejection) and disposal of asbestos waste at licenced waste facilities
Page 15	Asbestos is the Ground - The diagram nominates local councils as responsible for orphan waste. The role/responsibilities of local councils on private and public lands will be different. Asbestos is also classified as a hazardous substance therefore any suspected such waste requires a response by NSW Fire and Rescue. Reference should also be made to the MOU that exists between NSW FR and EPA. Diagram is misleading.
Page 15	Removal - The diagram nominates local councils as responsible for domestic premises in all other cases. NSW Workcover legislation provides for a requirement to engage a licensed contractor to remove bonded asbestos of greater than 10 square metre. NSW Workcover has taken the position that even if it is greater than this amount they will not regulate if a licensed contractor is not engaged. Clarity is required. Diagram is misleading.

Page 15	Emergency Response - The diagram nominates local councils as responsible for routine recovery operations. This appears to be a throw out line. Local councils are responsible for public lands and public buildings under their care and control only.
Page 16	The AIM of the Plan should also incorporate Outcome 4.3 Provide clarity to regulatory authorities roles and responsibilities and enhanced regulatory tools.
Page 24	The Outcomes should include the provision of practical regulatory tools based on an adequate cost recovery assessment from regulatory authorities. Consideration needs to be given to rural/regional local councils where the support of State agencies are not readily accessible and/or can not respond within reasonable timeframes.

OPTIONS:

1. That Council endorses the recommendations and provide a submission on the NSW State-wide asbestos plan and request involvement in the LGSA model policy.
2. That Council does not endorse the recommendations and do not provide a submission on the NSW State-wide asbestos plan or request involvement in the LGSA model policy.

CONCLUSION:

Asbestos management is a particularly important issue as it relates to the safe and effective operation of licensed waste management facilities. Participation in the development of the asbestos policy is part of Council's response to this issue.

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.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.4 Provision of high quality, best practice, solid waste disposal with energy recovery, and improving resource recovery practices and infrastructure which meets health and environmental requirements and projected demand
- 2.3.4.2 Provide strategic direction to improve resource recovery
- 2.3.4.2.1 Education programs to promote understanding and behavioural change in the community

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

33 [EO-CM] Infrastructure Program 2012/2013

SUBMITTED BY: Works



Supporting Community Life

SUMMARY OF REPORT:

Submitted for Council's consideration is the proposed Infrastructure Program for 2012/2013. The total Program is for \$40,874,154 and represents a range of improvements to existing assets and some new assets.

This report describes how the new asset management systems have produced optimised road related programs for 2012/2013 that will maximise the effectiveness of expenditure on roads. The road programs are presented in a format compatible with asset management principles.

The water supply and sewerage construction program contains infrastructure projects commencing in the 2012/2013 financial year.

RECOMMENDATION:

That Council approves the Infrastructure Program for 2012/2013 as detailed in this report.

REPORT:

Over the past few years staff has been working on improved asset management practices for infrastructure. Council adopted its Asset Management Policy, Asset Management Strategy and Asset Management Plans for buildings, drainage, open space, plant and fleet, transportation, waste water and water at its meeting on 21 June 2011.

Quoting from the Asset Management Policy –

"Asset management is a systematic process to guide the planning, acquisition, operation and maintenance, renewal and disposal of assets. Its objective is to maximise asset service delivery potential and manage related risks and costs over their entire lives.

In simplest terms, asset management is about the methods of decision making to preserve assets, both on a day-to-day basis (ie. maintenance and operations) and in the medium to long term (ie. strategic and forward planning).

Asset Management ensures that Council's assets are capable of providing services, of a desired quality, in a sustainable manner, for present and future communities."

For the purposes of asset management, the life cycle of assets can be categorised as –

1. Creation of new assets
2. Upgrading of existing assets
3. Renewal of assets
4. Asset preservation (maintenance)

With regard to roads these life cycle phases are characterised by -

1. New road assets created by subdivision and additional road links
2. Upgrading - Reconstruction of existing roads to increase their level of service, for example, the addition of kerb and guttering, or additional lanes or width.
3. Rehabilitation - Strengthening the pavement
4. Maintenance - Patching, grading, repainting of lines

The budget for roads and associated assets has been arranged to reflect these life cycle phases. This allows a better understanding of how Council is managing its assets to optimise the life cycle costs and level of service, and to provide for the long term preservation of the community's assets. A simple example is that if an individual road is assigned a life of 100 years, then it follows that the budget should provide for 1% of all roads to be rehabilitated each year. Similarly, bitumen seals have a service life of about 10 years, so the budget should provide for resealing of 10% of sealed roads each year so as to avoid excessive potholing. It is noted that the adopted budget provides for approximately 60% of these required treatment frequencies, and it is inevitable that the level of service provided to the community by the road network will decline over time.

The program of road works is based on a road condition survey that is carried out every 3 years. The current forward program is based on a survey conducted in 2010. When a new condition survey is carried out and analysed in 2013, the forward program will vary to align with the changes in road condition since 2010. Accordingly the Infrastructure Program for roads should remain static for 2012/2013 and 2013/2014, but is likely to vary from 2014/2015 onwards. A draft 5 Year Road Program is an attachment to this report.

Road Assets

Council maintains 1,230km of roads which are made up of:

	Local Roads	Regional Roads
Urban sealed	442	34
Rural sealed	474	114
Rural unsealed	166	0

Council maintains 242 bridges which are made up of:

	Local Roads	Regional Roads
Timber	31	2
Concrete/steel	165	44

The major capital works items include:

Item	Proposed 2012/2013 Expenditure \$	Comments
Replace timber bridges	\$0.75 m	Richards Bridge on Stokers Siding Road
Kirkwood Road	\$16.9m	Completion of construction of eastern interchange with Pacific Highway
Walmsleys Road Res No.2	\$1.74 m	
Kyogle Road	\$0.5 m	Rehabilitation from Byrrell Creek Road to McDonalds Road
Blue Jay Circuit, Kingscliff	\$2,425,440	Major upgrade of drainage system
Arkinstall Park - Stage 1	\$7.75m	Commencement of regional sporting facility
Park upgrades	\$1.0m	
Improvements to public toilets	\$0.3m	Budd Park, Walter Peate fields and Faulks Park

Project delivery is managed by a combination of in house and external resources.

Most larger jobs are being delivered by a contract process and the design of major works is generally carried out by specialist consultants.

The proposed 2012/2013 Infrastructure Program of \$40,874,154 represents a range of improvements to existing assets and some new assets.

2012/2013 INFRASTRUCTURE PROGRAM

LOCAL ROADS

Resurfacing (Renewal) \$2,607,477

Rehabilitation (Renewal)			\$3,564,750
ROAD	LOCATION	WORK	
Byangum Road	Murwillumbah	Pavement rehabilitation 130m	35,750
Crabbes Creek Road	Crabbes Creek	Pavement rehabilitation 500m	340,000
Dry Dock Road	Tweed Heads South	Pavement rehabilitation 780m	530,400
Ducat Street	Tweed Heads	Pavement rehabilitation 520m	353,600
Dulguigan Road	North Tumbulgum	Pavement rehabilitation 210m	147,000
Fraser Drive	Banora Point	Pavement rehabilitation 340m	231,200
Greenway Drive	Banora Point	Pavement rehabilitation 310m	210,800
Greenway Drive	Banora Point	Pavement rehabilitation 540m	367,200
Kennedy Drive	Tweed Heads West	Pavement patching	150,000
Recreation Street	Tweed Heads	Pavement rehabilitation 210m	142,800
Rose Street	Tweed Heads	Pavement rehabilitation 280m	190,400
Terranora Road	Banora Point	Pavement rehabilitation 720m	750,000
Wommin Bay Road	Kingscliff	Pavement rehabilitation 170m	115,600

Upgrading (Upgrading) \$2,240,000

ROAD	LOCATION	WORK	
Chinderah Bay Drive	Chinderah	Increase green space	200,000
Fawcett Street	Tumbulgum	Reconstruction including kerb and gutter	300,000
Fingal Road	Fingal	Reconstruction including kerb and gutter	540,000
Seaview Road	Banora Point East	Reconstruction including kerb and gutter	320,000
Simpson Drive	Bilambil Heights	Reconstruction including kerb and gutter	580,000
Sleepy Hollow Road	Sleepy Hollow	Floodway upgrade	300,000

REGIONAL ROADS

Resurfacing (Renewal)			\$500,000
Rehabilitation (Renewal)			\$450,000
ROAD	LOCATION	WORK	
Kyogle Road	Byrrill Creek Road to McDonalds Road	Pavement rehabilitation	450,000
Upgrading			\$0

KERB AND GUTTERING

Rehabilitation	\$62,552
Upgrading	\$0

FOOTPATHS AND CYCLEWAYS

Rehabilitation	\$241,272
Upgrading	\$511,377
Hall Drive, Murwillumbah - Byangum Road to school gate	11,535
Castlefield Drive - North Arm Road south to existing path	34,674
Chinderah Bay Drive foreshore pathway	25,940
Overall Drive Diana Court walkway towards shops	10,927
Corporation Circuit frontage of Lot 124 DP817783	11,272
Sunshine Avenue - Dry Dock Road to Lindsfarne School	17,647

BRIDGES

Rehabilitation	\$0	
Upgrading	\$776,000	
ROAD	LOCATION	
Richards Bridge	Stokers Siding Road	776,000

DRAINAGE

Rehabilitation	\$890,400
Upgrading	\$3,524,360
Blue Jay Circuit, Kingscliff	471,000
Quigan Street, Kingscliff	350,000
Wentworth Street, Murwillumbah	350,000

RECREATION

Public Toilets Capital Works	\$300,000
Budd Park toilet block replacement	100,000
Walter Peate fields Kingscliff - Public Toilet	100,000
Faulks Park Kingscliff	100,000

Sportsfield Capital Works Program	\$9,090,000
Knox Park Netball Clubhouse Refurbish	100,000
Shire wide Irrigation Management System	50,000
Jim Devine Building refurbishment	300,000
St Josephs Playing Fields - amenities block	250,000
Barry Sheppard sportsfield amenities upgrade	50,000
Les Burger fields Cabarita- construction of additional playing field	200,000
Black Rock Sportsfield toilet facility	100,000
*Arkininstall Park Regional Sports Centre stage 1	7,750,000
Upgrade program for sportsfield canteens	100,000
Refurbishment South Tweed sportsfields car park	190,000

Park Upgrades	\$1,015,000
Hastings Point – Park Upgrade	305,000
*Newell/Mcillwrath Parks Murwillumbah	130,000
Budd Park Murwillumbah	150,000
Knox Park Murwillumbah	250,000
Wilson Park Banora Point	100,000
Chinderah Foreshore landscaping and park furniture	80,000

Playgrounds	\$205,000
Kingscliff foreshore exercise trail	80,000
Faulks Park Kingscliff - replacement	60,000
JEBH toddler play	25,000
Jack Julius Park Kingscliff - replacement	40,000

Aquatic Facilities	\$307,305
Equipotential Bonding Tweed and Kingscliff	65,230
Replacement of concourse - Tweed	42,075
Replace heating systems - Tweed	200,000

* Denotes that these projects include financial contributions from grants or other sources

WATER PROGRAM		\$8,826,811
Clarrie Hall Dam Spillway	Construction	2,187,292
Clarrie Hall Dam improvements	Equipment - Capital Expenditure	30,000
Bray Park WTP Potassium Permanganate Dosing System	Contract Payments	267,750
WPS 18 Tree Street Murwillumbah	Flow Metering	40,000
WPS 20A Rayles Lane Booster To Azura	Flow Metering	40,000
Banora Point Reservoir	Rehabilitation	700,000
Round Mountain 2 Reservoir	Telemetry Upgrade	80,000
Walmsleys Road 2 Reservoir	Construction	3,450,000
Warana Street 200mm x 345m	Mains New	171,851
Baker Street , Barnby to Almac Streets 100mm x 80m	Mains Replacement	38,805
River Street Modifications Alma to Prospero Streets	Mains Replacement	50,000
Banora Point Sextons Hill 450mm relocation	Mains Replacement	110,000
Park Avenue Murwillumbah north from Ray Street 200mm x 800m	Mains Upgrade	388,051
Stuart Street 150mm x 235m	Mains Upgrade	105,000
Whart Street 150mm x 530m + 20mm x 300m	Mains Upgrade	521,097
Frances Street West 150mm x 190m	Mains Upgrade	80,000
McGregor Street 150mm x 335m	Mains Upgrade	155,221
Florence Street (Powell to Ivory) 150mm x 160m	Mains Upgrade	75,000
Frances Street East 150mm x 155m	Mains Upgrade	72,067
Hill Street 150mm x 260m	Mains Upgrade	149,677
Florence Street	Mains Upgrade	115,000

SEWER PROGRAM		\$5,761,850
Tumbulgum Vacuum System	Trunk Main and Pump Upgrade	77,000
SPS 1010 Lundberg Drive (West)	Electrical Upgrade (Platform)	48,000
SPS 2000 Tweed Heads Regional	Telemetry Upgrade	20,000
SPS 2005 Meridian Way	Telemetry Upgrade	20,000
SPS 2018 Gollan Drive (Park)	Odour & Septicity Control	759,000
SPS 2033 Afex Park	Telemetry Upgrade	50,000
SPS 2036 Fern Street	Mechanical and Electrical Upgrade	80,000
SPS 2037 Broadwater Esplanade	Telemetry Upgrade	20,000
SPS 3004 Martinelli Avenue	Mechanical and Electrical Upgrade	80,000

SPS 3010 Cox Drive (Small)	Electrical Upgrade	20,000
SPS 3012 Amber Road	Electrical Upgrade	25,000
SPS 3028 Enterprise Avenue	Odour, Mechanical and Electrical Upgrade	493,000
SPS 4025 Coast Road Casuarina Beach Sub Regional	Telemetry Upgrade	20,000
SPS 4030 Point Break Circuit	Telemetry Upgrade	20,000
SPS 4034 Cnr Phillip & Ozone	Telemetry Upgrade	20,000
SPS 4035 Cnr Elrond & Turnock	Telemetry Upgrade	20,000
SPS 5001 Towners Avenue	Telemetry Upgrade	20,000
SPS 5004 Tamarind Avenue	Mechanical Upgrade	30,000
SPS 5005 Creek Street	Telemetry Upgrade	20,000
SPS 5010 Philip Street	Mechanical Upgrade	60,000
SPS 5014 Overall Drive	Mechanical and Electrical Upgrade	245,000
SPS 5028 Coast Road North Pottsville	Odour & Septicity Control	933,100
SRM 5014 Overall Drive 1100m x 200mm	SRM Upgrade	500,000
Gravity Sewer Relining	Annual Program	828,000
M/H A/1A reconstruction Murwillumbah	Gravity Sewer Replacement	50,000
Manhole Telemetry Sites	Telemetry Upgrade	51,750
Banora Point WWTP Outfall Upgrade to 125000EP	SRM New	1,000,000
Hastings Pt WWTP sludge dewatering beds refurbishment	Construction	150,000
Tyalgum WWTP New Building	Building Works	10,000
SRM 1010 Lundberg Drive underbore and sleeve under airstrip	SRM Replacement	80,000
Banora Pt WWTP Outfall Actuator	Telemetry Upgrade	12,000

OPTIONS:

Not Applicable.

CONCLUSION:

The 2012/2013 Infrastructure Program provides for a range of asset renewals, improvements and upgrades.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Provision for the 2012/2013 Infrastructure Program is included in the 2012/2013 budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.2 Provision of secure, high quality and reliable drinking water supply service which meets health and environmental requirements and projected demand
- 2.3.3 Provision of high quality and reliable waste water service which meets health and environmental requirements and projected demand
- 2.3.5 Ensure adequate stormwater drainage, flood management and evacuation systems are in place to protect people and property from flood
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities
- 2.4.1 Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities.
- 2.4.3 Ensure local Streets, footpaths and cycleways are provided, interconnected and maintained.
- 2.5.1 Encourage establishment of well located centres to provide a wide range of mixed-use retail, commercial and community services, supported by high amenity public spaces, quality urban design and good access by public transport or bicycle.

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Draft 5 Year Road Upgrading Program (ECM 53061408).
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34 [EO-CM] Extinguishment of Easement - Seaview Road, Banora Point

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

Council has received an application for the extinguishment of an Easement for Drainage affecting Lot 1 in DP 538205 (created in DP 29289), Seaview Road, Banora Point, which benefits Tweed Shire Council. The easement in question runs along the northern boundary of Lot 1 and is noted as being 10ft wide. There are no existing pipelines within the easement.

The Easement was created to allow the discharge of stormwater drainage from Seaview Road, however upon the development of the neighbouring property, Lot 100 in DP 1166793, alternate stormwater drainage infrastructure was installed and new drainage easements created thus eliminating the necessity for the drainage easement over Lot 1.

It is recommended that Council approve the extinguishment of the Easement for Drainage through Lot 1 in DP538205 at the cost of the applicant.

RECOMMENDATION:

That

- 1. Council approves the extinguishment of the Easement for Drainage 10ft wide created in DP 29289 which burdens Lot 1 in DP 538205 running along the northern boundary, subject to the applicant meeting all survey, legal and conveyancing costs; and**
- 2. All documentation be executed under the Common Seal of Council.**

REPORT:

Council has received an application for the extinguishment of an Easement for Drainage affecting Lot 1 in DP 538205, Seaview Road, Banora Point, which benefits Tweed Shire Council. The Easement in question runs along the northern boundary of Lot 1 and is noted as being 10ft wide. There are no existing pipelines within the Easement.

The Easement was created to allow the discharge of stormwater drainage from Seaview Road, however upon the development of the neighbouring property, Lot 100 in DP 1166793, alternate stormwater drainage infrastructure was installed and new drainage easements created thus eliminating the necessity for the drainage easement over Lot 1.

Below is a copy of the DP 538205 showing the Easement for Drainage over Lot 1:

06 238502

OFFICE USE ONLY.

<p>Form 1</p> <p>PLAN OF Subdivision of Lot 38 Dep. Plan 29292</p> <p>Man./Shire/City: <u>Tweed</u></p> <p>Town or Locality: <u>Banara Point</u></p> <p>Parish: <u>Terranora</u></p> <p>County: <u>Rous</u> Scale: <u>50 Feet to One Inch.</u></p>	<p><u>D.P. 538205</u></p> <p>Registered: <u>13.0.9.1969</u></p> <p>C.A. No. <u>46/69</u> of <u>10.9.1969</u></p> <p>Title System: <u>Torrens</u></p> <p>Purpose: <u>Subdivision</u></p> <p>Ref. Map: <u>Tweed Sht. 12</u></p> <p>Last Plan: <u>D.P. 29292</u></p>
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N O O 2 A I A

Created by the registration of D.P. 29289

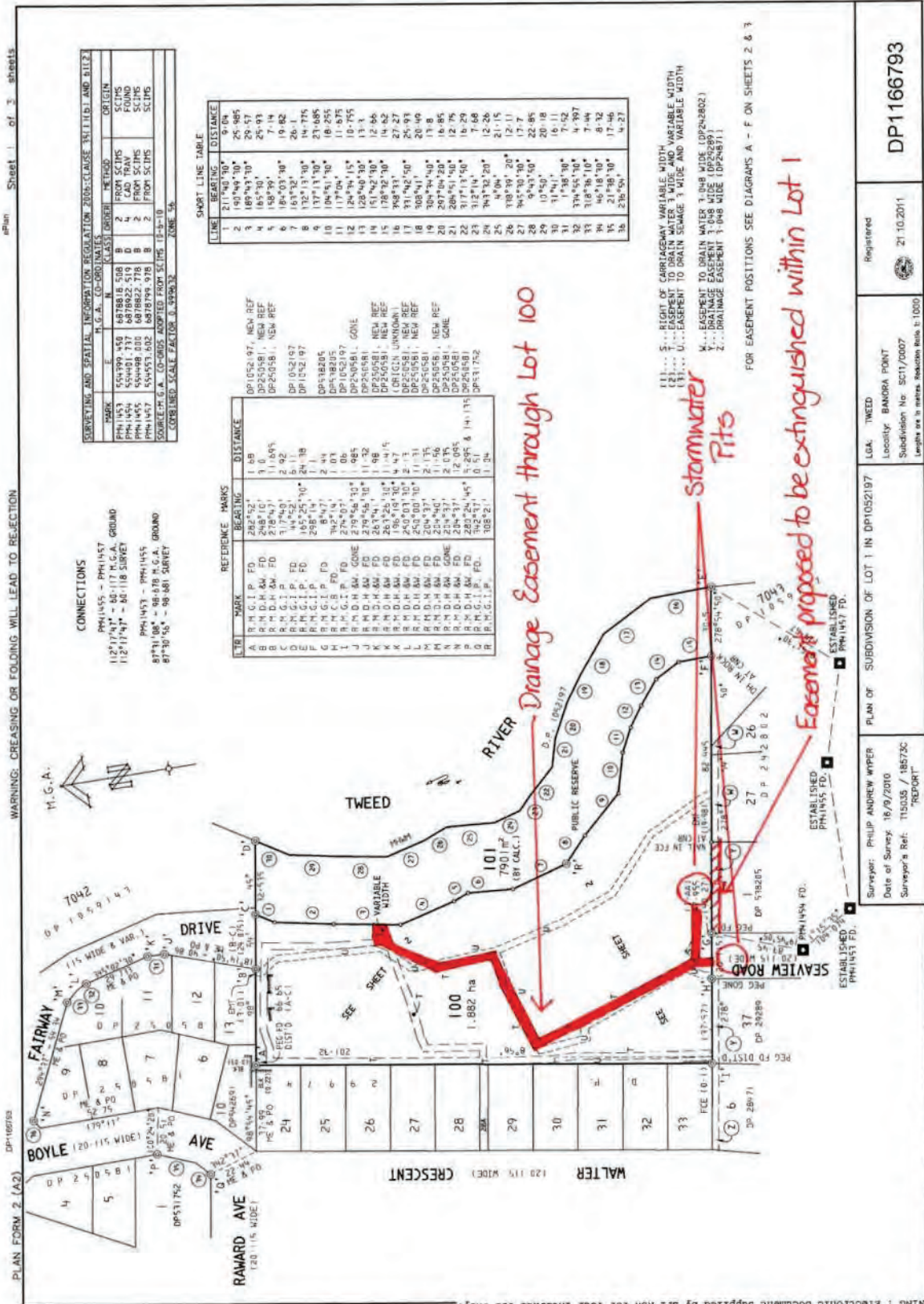
WARNING: This Drawing only to appear in this space.

WARNING: This Drawing only to appear in this space.

<p>Signatures, Seals and Statements of Intention to dedicate public roads or public reserves or create drainage reserves, easements or restrictions as to user.</p> <p style="text-align: center;"><i>[Signature]</i></p>	<p>I, <u>James Augustin Robert SHINDERS</u> of <u>P.O. Box 161, Marcellumbah 2664</u> a surveyor registered under the Surveyors Act, 1929, as amended, hereby certify that the survey represented in this plan is accurate and has been made <u>(1) under my immediate supervision</u> in accordance with the Survey Practice Regulations, 1932, and was completed on <u>13th August 1968</u>.</p> <p>Date/Line of Assent: _____ Signature: <u>[Signature]</u> Surveyor Registered under Surveyors Act, 1929, as amended.</p> <p>*A-B* *Strike out either (1) or (2) (insert date of survey).</p> <p>I hereby certify that _____ Council Clerk's Certificate.</p> <p>(a) the requirements of the Local Government Act, 1919 (other than the requirements for the registration of plans), and</p> <p>(b) the requirements of section 143 of the Metropolitan Water, Sewerage and Drainage Act, 1924, as amended, (Water District Water, Sewerage and Drainage Act, 1924) as amended.</p> <p>have been complied with by the applicant in relation to the proposed <u>subdivision</u> (insert "new road" or "subdivisions") set out herein.</p> <p>Subdivisor No. <u>46/69</u> Date <u>10/9/69</u> _____ Council Clerk.</p> <p>*This part of certificate to be deleted where the application is only for the opening of a new road or where the land to be subdivided is wholly outside the area of operations of the Metropolitan Water Sewerage and Drainage Board and the Hunter District Water Board.</p> <p><input type="checkbox"/> Delete if inapplicable.</p> <p style="text-align: right;">SURVEYOR'S REFERENCE. <u>1840/69.</u></p>
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205852 90

Below is a copy of DP1166793 which shows the newly created Easement for Drainage as shaded leading into stormwater pits and Easement within Lot 1, hatched, proposed to be extinguished:



OPTIONS:

1. Approve the extinguishment of the Easement at full cost to the applicant.
2. Decline the request which is not considered reasonable in this instance.

CONCLUSION:

It is recommended that Council approve the extinguishment of the Easement for Drainage through Lot 1 in DP538205 at the cost of the applicant.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Costs to be met by the applicant.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.2 Complete land acquisitions including valuations

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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35 [EO-CM] Kingscliff Foreshore Masterplan

SUBMITTED BY: Design



Civic Leadership



Supporting Community Life

SUMMARY OF REPORT:

In accordance with the Resolution of Council from its meeting on 15 May 2012 the concept plan for Marine Parade Kingscliff was placed on public exhibition. The resolution was as follows:

"RESOLVED that:

- 1. Council endorses the concept layout plan of the configuration of Marine Parade, Kingscliff and places it on public exhibition for a period of twenty-eighty (28 days).*
- 2. On completion of public exhibition a further report is to be presented to Council regarding any changes to the proposal arising from submissions."*

Council undertook an extensive community consultation process from 21 May 2012 to 22 June 2012, which included an online internet survey, presentations to the Kingscliff Ratepayers and Progress Association and the Kingscliff and District Chamber of Commerce, an information booth on Marine Parade Kingscliff as well as displays at Council's Offices, the Kingscliff Library and on Council's web page.

The feedback from Tweed Shire residents was over 70% in favour of the Concept Plan for Marine Parade progressing and much constructive feedback was received. It is recommended that the development of the Concept plans be undertaken in accordance with the recommended amendments listed in this report and that further Community Information sessions be held in the future.

RECOMMENDATION:

That Council:

1. **Adopts the Concept Plan as exhibited for Marine Parade, Kingscliff with the following amendments:**
 - a. **the traffic island to be enlarged near the Marine Parade-Turnock Street intersection to provide increased east to west pedestrian access.**
 - b. **the traffic island to be enlarged adjacent to the existing car park entry and formal pedestrian crossing (opposite Kingscliff Beach Hotel) to provide increased east to west pedestrian access and to better align the street crossing with Council easement from Pearl Street.**
 - c. **Parallel parking to remain outside the existing Amcal Chemist with one disabled parking space provided.**
 - d. **Provide Loading Bay south of pedestrian crossing near Holiday Park entry.**
 - e. **Remove the traffic islands shown in front of Hakkas restaurant. (Not required due to b above).**
2. **Proceeds to detailed design and environmental assessment of the various elements of the Concept Plan.**
3. **Submits a further report on project timing be presented once detailed design and environmental assessment have been completed.**
4. **Arranges a presentation to the Kingscliff and District Chamber of Commerce to enable Council officers to advise the Chamber of the results of the Community Consultation Program and timetable for design and implementation.**

REPORT:

Background

Public car parking in Kingscliff has been an issue within the local community for some time. Council has previously considered reports on this issue at its meetings on 21 November 2001 and 7 May 2003. At the 2003 meeting, an underground car park was recommended as the preferred option for providing public car parking at Kingscliff.

In accordance with that recommendation Developer Contribution Plan CP23 was amended and currently holds approximately \$600,000 for the provision of public car parking (including landscaping) in Kingscliff.

Concept Design

In order to address the concerns raised by the local community, whilst utilising the \$600,000 currently available in Contribution Plan 23, a concept design for the Marine Parade precinct between Seaview Street and Turnock Street has been developed by Council Officers in conjunction with the Kingscliff and District Chamber of Commerce. The intent of the design is to provide additional car parking whilst providing a safe and inviting environment in which to do business and engage with the local community. The major features of the plan that was put on exhibition included (see plan in attachment 1):

- making Marine Parade one way southbound from Turnock Street to Seaview Street.
- providing additional car parking spaces utilising the reduced carriageway width.
- realigning the road where possible to discourage speeding and complementing this with tree planting in the pedestrian walkways and islands.

Results of Community Consultation

The Marine Parade Concept Plan was publicly advertised in the Tweed Link on 22 May 2012. Council undertook an extensive community consultation process from 21 May 2012 to 22 June 2012, which included an online internet survey, presentations to the Kingscliff Ratepayers and Progress Association and the Kingscliff and District Chamber of Commerce, an information booth on Marine Parade Kingscliff, as well as, displays at Council's Offices, the Kingscliff Library and on Council's web page. During the consultation period the Concept Plan was mentioned in articles in local newspapers ten (10) times and was launched on ABC local radio with an interview with Mayor Longland.

The community responses received are as follows:

• On line survey	108
• Hard copy survey forms received at the Murwillumbah Civic Centre	7
• Feedback forms received at the Tweed Heads Civic Centre	0
• Letters received via Council's records	2
• Phone Calls	7
• Corporate email	2

The responses to the concept plan were generally positive. Comments and suggestions tended to relate to detailed design that has not yet commenced.

Discussion of Results

Approximately 70% of respondents supported the concept plan as displayed or with minor amendments.

The major issues identified from the consultation process that must be taken into account during the detailed design process are:

- Traffic modelling of the Pearl Street intersections with Seaview Street and Turnock Street is required to ensure they can cater for increased northbound traffic.
- The existing pedestrian crossing near the Kingscliff Beach Hotel should be retained near its current location, but in better alignment with the existing pedestrian linkage from Pearl Street which runs on the northern side of 98 Marine Parade.
- An additional east to west pedestrian linkage should be provided near the Turnock Street Marine Parade intersection.
- Traffic calming measures (speed bumps or raised platforms) should be incorporated into the roadworks if possible.
- Investigate whether more loading bays are required.
- Provide more motorbike and pushbike parking areas if possible.

Of those voting against the concept (approximately 30% of respondents) the major issues identified were:

- Increased traffic on Pearl Street and the existing roundabouts at Seaview Street and Turnock Street.
- North bound bicycle traffic would be forced to use Pearl Street or the eastern Marine Parade footpath also noting that a 60 metre section of footpath on the east side of Marine Parade would be reduced from 2.5 metres wide to 1.9 metres wide to cater for the angled parking
- Possible longer travel times for Ambulance and other emergency services to reach Marine Parade from the south.
- Money should be spent elsewhere in Kingscliff or Tweed Shire.
- There are only parking problems in Kingscliff during peak holiday periods.

Discussion of Issues Raised

- Traffic issues are dealt with in the following section.
- The existing bicycle path from the Cudgen Headland Surf Life Saving Club to north of the Kingscliff Beach Hotel is currently substandard in width and alignment and features six (6) right angled bends to manoeuvre around car parking areas and the Holiday Park. The long term solution will be the provision of a cycleway along the eastern side of the Holiday Park as part of the coastal protection measures for the Kingscliff Foreshore.
- The Travel distance for emergency services would be a maximum of 500 metres longer than existing.

- The funding for this project has been raised from developer contributions (CP23) and can only be spent on Car Parking in the Kingscliff CBD area.

Alternatives Raised

There were also a number of alternative solutions offered including:

- Turn Marine Parade into a pedestrian mall and exclude traffic.
- Provide parking only for disabled and to drop passengers off and encourage visitors to park north of the Bowling Club and walk into the CBD area.
- Utilise part of the reduced Holiday Park area to provide additional parking.

Other Issues

The proposed reduction in width of Marine Parade would preclude it from being used as part of the cycle leg of the Kingscliff Triathlon. The Triathlon currently occurs twice per year and a new cycle route would have to be developed.

Traffic Modelling

From the comments received during the exhibition period it was apparent that both those in favour and those against the concept were worried about the possible impacts on Pearl Street and particularly the existing roundabouts at Seaview Street and Turnock Street and how they might cope with increased northbound traffic that would have previously used Marine Parade. In order to address these concerns and to enable Council to consider these impacts when assessing the Marine Parade Concept Plan, preliminary traffic modelling of the proposal has been undertaken.

Pearl Street provides the primary north south route between Kingscliff and Salt/Casuarina to the south and Tweed Heads/Queensland to the north. In the area between Seaview Street and Turnock Street, Pearl Street is generally two lanes and is classified as an arterial road.

Traffic counters were placed in Marine Parade, Seaview Street, Sutherland Street, Pearl Street, Boomerang Street and Turnock Street for the period from Wednesday 9 May to Wednesday 16 May 2012.

An analysis of the raw data indicated that Pearl Street generally has two peak traffic periods during weekdays being 8am to 9am and 3pm to 4pm corresponding to the pickup and drop off of school children. On the weekends the peak traffic is contained within 11am to 2pm.

Marine Parade has a different traffic regime with peak traffic generally being generated between 11am and 2pm every day.

The impacts of the proposed one way traffic movement for Marine Parade were assessed using aaSIDRA software based on the weekend traffic volumes, which were generally higher than the weekday's. The three intersections that were analysed are listed below.

- Marine Parade/Turnock Street.
- Pearl Street/Turnock Street

- Pearl Street/Seaview Street/Sutherland Street/Boomerang Street

Manual traffic surveys were undertaken at these intersections at identified peak periods to record all the different traffic flow volumes at each intersection. This data was then increased to allow for the diverted northbound traffic for Marine Parade under the proposal.

The results of the analysis predicts that even with all northbound Marine Parade traffic directed through these intersections, they should still be able to perform at the highest level of service (LOS A) with minimum delays. LOS is the relationship between road and intersection traffic capacity and actual traffic volumes. LOS 'A' is the best with LOS 'E' being at full capacity.

It should be noted that the traffic assessment performed at this (concept) stage is not exhaustive. Further modelling and analysis will be undertaken to form part of a development application for the project should it proceed to detailed design stage.

Proposed Changes to the Concept Plan as a result of the Public Consultation

As a result of the public consultation the following amendments are recommended for the Concept Plan should it proceed to detailed design: (see Attachment 2)

1. The traffic island to be enlarged near Marine Parade-Turnock Street intersection to provide increased east to west pedestrian access.
2. The traffic island to be enlarged adjacent to existing car park entry and formal pedestrian crossing (opposite Kingscliff Beach Hotel) to provide increased east to west pedestrian access and to better align the street crossing with Council easement from Pearl Street.
3. Parallel parking to remain outside the existing Amcal Chemist and a disabled parking space provided.
4. Provide a loading bay south of pedestrian crossing near Holiday Park entry.
5. Remove traffic islands shown in front of Hakkas restaurant. (Not required due to 2).

Timeframe

The following timeframe for the implementation of the Concept Plan is envisaged:

- Close of Public Exhibition – 22 June 2012
- Comments assessed and report prepared for Council – 17 July 2012
- Detailed Design and Environmental Assessment – August to October 2012
- Development Consent Issued – December 2012
- Construction Commences - February 2013

Currently there is no impediment to meeting this timeframe.

Implementation

Providing the project is approved by Council, funding and construction from S94 Plan No. 23 is proposed in the 2012/2013 financial year. Detailed survey, design and planning approval would occur in the first half of 2012/2013 and construction scheduled in the latter half of the year as per the timeframe shown above.

The Kingscliff and District Chamber of Commerce representatives are keen to implement the project prior to Christmas 2012. However, the disruption that would result due to an incomplete project over the holiday period necessitates that construction be deferred to February/March 2013.

CONCLUSION

The Marine Parade Concept Plan (Turnock Street to Seaview Street) addresses many of the concerns that the community has regarding Marine Parade. Amendments have been proposed to address some of the concerns raised by the community during the consultation process.

Community consultation regarding the project indicates majority support for the project.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Implementation of the elements of the Plan will be subject to detailed design and planning approval. The Plan, if adopted, would be funded using Section 94 Contribution Plan 23, which has a current balance as at 1 May 2012 of \$645,736.29 for Kingscliff.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Involve/Collaborate-We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

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
 - 1.3.1.13 Provision of Design Services
 - 1.3.1.13.3 Undertake concept and/or detail civil and structural designs as requested by clients including all ancillary works and council reports if required
- 2 Supporting Community Life
 - 2.4 An integrated transport system that services local and regional needs
 - 2.4.1 Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities
 - 2.4.1.1 Provision of road design section services are maintained and best practice adopted including sustainability measures
 - 2.4.1.1.2 Prepare concept and detailed designs for Road Design and other infrastructure projects including schedules of quantities and cost estimates and third party certification if needed and works as executed plans and REFs and planning applications

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Plan Issue B - Kingscliff Parking Options for public consultation as exhibited (ECM 52774512).
 2. Plan Issue C - Kingscliff Parking Options proposed changes (ECM 52774518).
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36 [EO-CM] Compulsory Acquisitions of Land - Harrys Road, North Arm

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

In response to a Notice of Motion lodged by Councillor Youngblutt, it was resolved at the meeting held on 26 June 2012 that a report be made available at its next meeting in July, 2012 to discuss the compulsory acquisition of a property at North Arm.

This report provides an overview of the legislation empowering compulsory acquisitions, together with a discussion as to the statutory limitations imposed when considering compulsory acquisitions.

RECOMMENDATION:

That Council receives and notes this report regarding legislation empowering compulsory acquisition of land.

REPORT:

Overview of Council's Power to Compulsorily Acquire Land

The compulsory acquisition of land by Council is a power bestowed by two pieces of legislation, the *Local Government Act 1993* and the *Roads Act 1993*.

Section 177 of the *Roads Act* provides that a council may acquire land for any of the purposes of the Act, generally for the purposes of opening, widening or constructing a road or road work.

Of greater relevance for this report, is the power to acquire land under the *Local Government Act 1993*. The introduction to Chapter 8 of the Act states "*that this Chapter confers on councils certain functions which it is necessary or desirable for them to have in order to carry out their functions.*" The acquisition of land is considered an ancillary function.

Section 186(1) of the Act provides that a council may acquire land for the purpose of exercising any of its functions.

Chapter 5 of the Act describes and specifies a council's functions which are classified as follows:

- Service functions – Chapter 6
- Regulatory functions – Chapter 7
- Ancillary functions – Chapter 8
- Revenue functions – Chapter 15
- Administrative functions – Chapters 11, 12 and 13, and
- Enforcement functions – Chapters 16 and 17

To consider the compulsory acquisition of land, Council must establish the public purpose for which the land is required, being one of the functions listed in the Act.

Section 187 of the *Local Government Act* states that any acquisition must proceed in accordance with the requirements of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Application of these Powers in the Consideration of Acquiring the Property at North Arm Adjacent to the Quarries

In order to justify the compulsory acquisition of the property adjacent to the quarries at North Arm, Council must establish the function for which the land is required. As noted above, it must be to fulfil one of its functions.

The acquisition of the property adjacent to the quarries does not fulfil any of Council's functions, therefore, any application to do so would fail whether agreement was reached with the landowner or not.

The only way to obtain the land is to negotiate a private treaty agreement with the property owner.

OPTIONS:

1. Negotiate agreement with the property owner for a private treaty purchase; or
2. Do nothing.

CONCLUSION:

As Council cannot accord a public purpose for the acquisition, there is no justification to acquire the land by compulsory process, and any application to the Minister will fail. If Council intends to purchase the land, it must negotiate a private treaty agreement with the property owner.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

There is no provision within the 2012/2013 budget for the purchase of this land. Council would need to consider loan borrowings or reducing other services to fund any land acquisition.

c. Legal:

The empowering legislation for the compulsory acquisition of land does not extend to the compulsory acquisition of the land adjacent to the quarries at North Arm as it is not within any of Council's functions.

d. Communication/Engagement:

Not Applicable.

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
 - 1.3.1.16 Provision of property and legal services for internal clients
 - 1.3.1.16.1 Review property and legal services section resources to ensure client timeframes for projects are maintained and implement appropriate remedial measures if required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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37 [EO-CM] Classification of Land - Sewer Pump Station at Burringbar

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

At its meeting of 14 December 2010 Council resolved to purchase part of Lot 1 in DP 1026551 at Burringbar for the construction of a sewer pump station.

The land required for the sewer pump station, Lot 1, was created in DP 1171700 registered on 27 January 2012. The transfer of Lot 1 was registered on 9 May 2012 and a notice of intention to classify the land as operational land was published in the Tweed Link on 22 May 2012, with a submission period of 28 days.

No submissions were received and it is recommended that Council resolve to classify the land as operational land pursuant to section 25 of the Local Government Act, 1993.

RECOMMENDATION:

That Council approves the classification of Lot 1 in DP 1171700 located at Burringbar as operational land pursuant to section 25 of the Local Government Act, 1993.

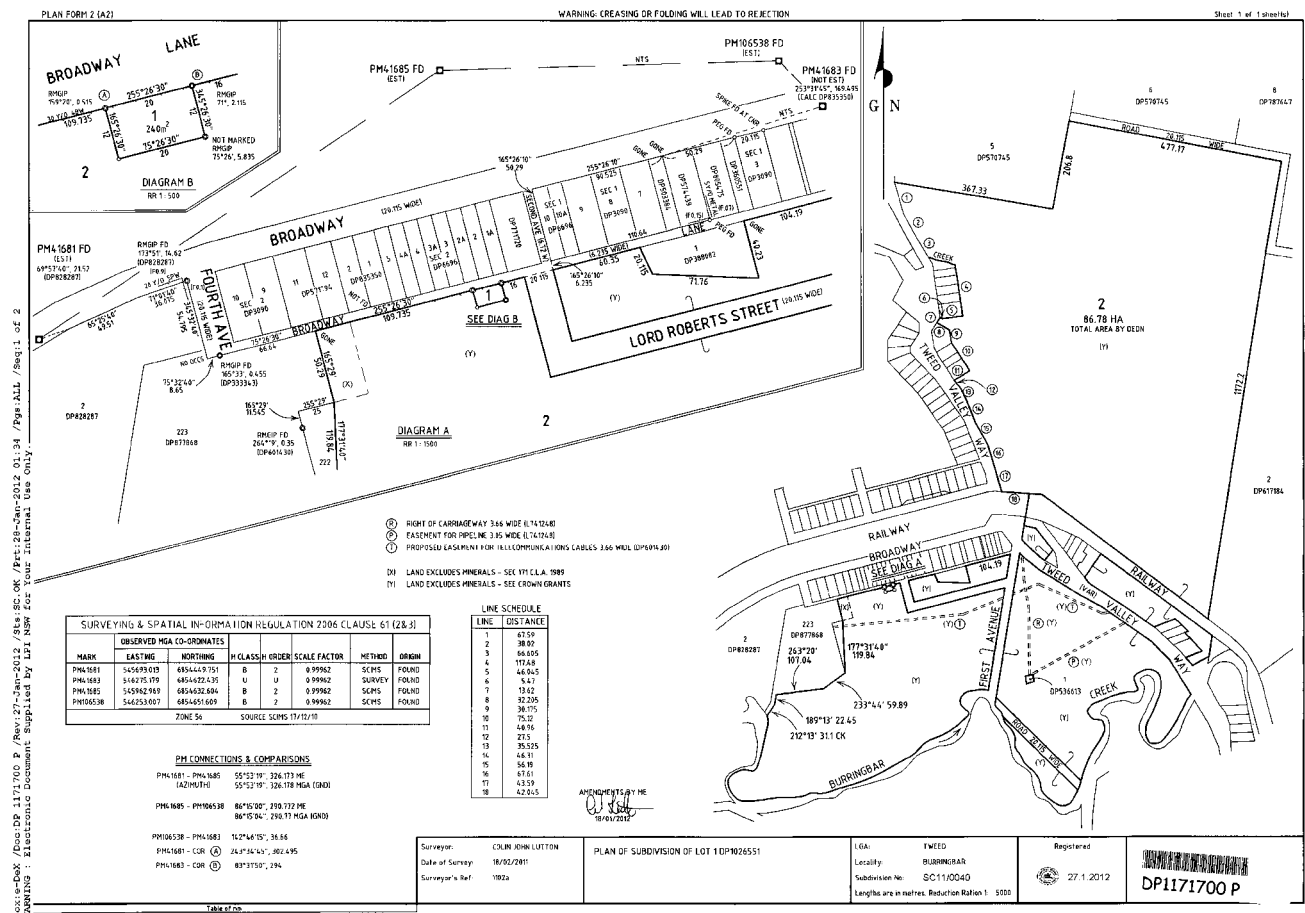
REPORT:

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No submissions were received and it is recommended that Council resolve to classify the land as operational land pursuant to section 25 of the Local Government Act, 1993.

DP 1171700 is shown below:



OPTIONS:

Not Applicable.

CONCLUSION:

Lot 1 DP 1171700 is recommended for classification as operational land pursuant to Section 25 of the Local Government Act, 1993 as all formal process requirements have been completed.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

No financial implications as the subject lot has been purchased in the 2010/2011 financial year.

c. Legal:

Council is required to classify all land vested in it, or acquired by Council, pursuant to section 25 of the Local Government Act, 1993.

d. Communication/Engagement:

Council advertised its intentions to classify the land in accordance with section 34 of the Local Government Act, 1993.

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
- 1.3.1.16 Provision of property and legal services for internal clients
- 1.3.1.16.2 Complete land acquisitions including valuations

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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38 [EO-CM] EC2012-025 Provision of Air Conditioning Services

SUBMITTED BY: Recreation Services



Civic Leadership

SUMMARY OF REPORT:

Tweed Shire Council is seeking to engage the services of a qualified and certified air conditioning service provider to continue the provision of effective and efficient servicing, troubleshooting and repairs to a variety of air-conditioning plant in Tweed Shire Council buildings and facilities spread throughout the Shire for a period of two (2) years with an option for a further two (2) years effective from the date of Council resolution. All works shall comply with relevant Australian Standards and Workplace Health and Safety requirements for the State of NSW.

Work will continue to be coordinated through Council's Essential Services Officer or his nominated delegate for this work.

Tender EC2012-025 for this work was advertised in accordance with Councils Procurement policy and attracted four respondents.

RECOMMENDATION:

That:

- 1. Council Award the contract EC2012-025 for the Provision of Air Conditioning Services to L.E.N. Enterprises Pty. Ltd effective from date of Council resolution.**
- 2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains:-**
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

The contract EC2012-025 for the provision of air conditioning services covers 35 Council facilities and includes 138 standalone units and 2 chilled water, ducted systems (Murwillumbah Civic Centre and Art Gallery). The contract allows for expansion as new facilities such as the Community Centre building at Knox Park come on line.

These services are an ongoing requirement to ensure compliance to relevant Australian Standards and Public Health requirements. The above contract is a renewal of service provision following the expiry of the current contract which has been running for the past four years.

Tenders were called in accordance with the requirements of Council's Procurement Policy and resulted in four responses. The evaluation of the tenders is based on two parts:

1. Cost contributing to 30% of the evaluation process.
2. Capacity and resources split into 7 parts and contributing to 70% of the evaluation process.

Critical consideration was placed on the ability of the contractors to service Council's Siemens controllers that manage important facilities such as the Art Gallery and Tweed Regional Aquatic Centre (TRAC) facility and the contractor's ability to respond to breakdown calls.

The Tenders were reviewed by a panel of three comprising of:

1. Recreational and Essential Services Officer (Panel Chairman).
2. Building and Recreational Assets Coordinator.
3. Contracts Engineer.

CONCLUSION:

The evaluation panel determined that the best value for money for provision of air conditioning service to Tweed Shire Council facilities is L.E.N. Enterprises Pty. Ltd.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

This contract is funded through current building maintenance and operational budget allocations.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.2 Council will seek the best value in delivering services
- 1.3.2.5 Procurement of works, goods and services by quotation and tendering.
Incorporate “value for money” criteria into Tender Evaluation Plans

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment A** - Tender Evaluation Report for Provision of Air Conditioning Services (ECM 52825591).
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39 [EO-CM] EC2012-115 Concrete Cycleway and Composite Fibre Boardwalk, Kennedy Drive

SUBMITTED BY: Contracts



Supporting Community Life

SUMMARY OF REPORT:

The Tender EC2012-115 Concrete Cycleway and Composite Fibre Boardwalk, Kennedy Drive was called to engage a suitably qualified and experienced organisation/s to provide construction of a 2.5m wide concrete cycleway and a 2.5m wide composite fibre boardwalk alongside Kennedy Drive (between the Ivory Tavern and Ray Pascoe Park).

Tenders were officially invited on 10 April 2012 in The Sydney Morning Herald. The tender was advertised as a Separable Portion Tender (Part A and Part B). This method of tendering gives Council the flexibility to award portions to separate tenderers and obtain the best value for money. Tender submissions closed at 4.00pm (local time) on 1 June 2012 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

There were 10 tender submissions recorded in the Tender Box opening. These were evaluated as per the Tender Evaluation Plan dated 31 May 2012.

RECOMMENDATION:

That:

- 1. The tender from Scape Shapes Landscaping Pty Ltd for EC2012-115 Concrete Cycleway and Composite Fibre Boardwalk, Kennedy Drive be accepted to the value of \$493,296.33 exclusive of GST**
- 2. The General Manager be given delegated authority to approve variations (up to a maximum of \$150,000) and those variations be reported to Council following completion of works.**
- 3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains:-**
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

Tender Background

The Tender EC2012-115 Concrete Cycleway and Composite Fibre Boardwalk, Kennedy Drive was called to engage a suitably qualified and experienced organisation/s to provide Construction of a 2.5m wide Concrete Cycleway and a 2.5m wide Composite Fibre Boardwalk alongside Kennedy Drive (between the Ivory Tavern and Ray Pascoe Park).

Tenders were officially invited on 10 April 2012 in The Sydney Morning Herald. The tender was advertised as a Separable Portion Tender (Part A and Part B). This method of tendering gives Council the flexibility to award portions to separate tenderers and obtain the best value for money. Tender Submissions closed at 4:00pm (local time) on 1 June 2012 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484.

Notice to Tenders (NTT)

There were 6 Notice to Tenders issued as follows:

NTT01 – Update to Schedule 1 - Quantities and Prices (16 April 2012)

NTT02 – Clarification of Concrete Thickness (17 April 2012)

NTT03 – Notice of Tender Extension (26 April 2012)

NTT04 – Addition of Elevated Composite Fibre Boardwalk (10 May 2012)

NTT05 – Issue of Revised Separable Portion Tender (17 May 2012)

NTT06 – Provision of Councils Geotechnical Report (23 May 2012)

Tenders Received

There were 10 tender submissions recorded at the Tender Box opening.

Tenderer
Multispan Australia Pty Ltd
Haighs Constructions
Designer Decks Pty Ltd
Hopedale Services Pty Ltd
Greenwood Landscape Management Pty Ltd
Lotus Key Pty Ltd
Scape Shapes Landscaping Pty Ltd
Northern NSW Labour Hire Pty Ltd
JVJ Constructions
Quickform Constructions

Evaluation Process

The tender evaluation was conducted as per the Tender Evaluation Plan dated 31 May 2012. Tenders were evaluated based on the criteria noted in the table below which were also listed in the Conditions of Tendering. Note that weightings were not made available to potential tenderers during the tender advertisement period.

Item	Criterion	Weighting %
	Tender Price (Total Normalised Score)	40
	Tender Conformity	5
	Time Performance (Tender Program)	5
	Quality Management System/Plan	15
	Environmental Management System/Plan	15
	WHS Management System/Plan	15
	Previous Contract Experience	5
	Total	100

CONCLUSION:

Scape Shapes Landscaping Pty Ltd achieved the highest overall assessment score (based on price and non price criteria) and is deemed as the most advantageous option for Council.

Recommendation

It is recommended that the tender from Scape Shapes Landscaping Pty Ltd for EC2012-115 Concrete Cycleway and Composite Fibre Boardwalk, Kennedy Drive be accepted to the value of \$542,625.96 including GST (\$493,296.33 exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Funding for the project is provided from within the Cycleway Program Budget (the Cycleway Program is funded 50/50 by Section 94 Contributions and Council Maintenance Allocation).

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2.4.3.1 Prepare and maintain forward programs for roads, footpaths and cycleways.
 - 2.4.3.1.1 Deliver cycleway infrastructure under approved 2011/12 capital works and s94 developer contribution plan budgets and works programs
 - 2.4.3.1.4 Deliver footpath infrastructure under approved 2011/12 capital works program and budget

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EC2012-115 Concrete Cycleway and Composite Fibre Boardwalk, Kennedy Drive (ECM 52923653).
 2. **Confidential Attachment** - EC2012-115 Concrete Cycleway and Composite Fibre Boardwalk, Kennedy Drive - Tender Evaluation Plan (ECM 52919548).
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40 [EO-CM] EC2011-012 Kirkwood Road Project Update

SUBMITTED BY: Contracts

FILE REFERENCE: EC2011-012



Supporting Community Life



Caring for the Environment

SUMMARY OF REPORT:

This report provides an update on progress of the Kirkwood Road Project and lists the pending and approved variations. It provides a summary of the financial status of the project.

RECOMMENDATION:

That:

1. Council accepts the approved and pending variations up to and including 18 May 2012 amounting to \$46,992.00 (inclusive of GST) for Contract EC2011-012 Kirkwood Road Project.
2. The General Manager is given delegated authority to approve any additional variations up to \$150,000 above the revised contract sum and those variations reported to Council.
3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret.

REPORT:

Construction Update

Tweed Shire Council (TSC) is now 3 months into the Kirkwood Road Project and works are proceeding well in between wet weather events. So far the Project has lost 7 days in April and 3 days in May due to wet weather. Extension of times granted in accordance with the contract total 47 Calendar Days. Consequently the revised completion date for the contract is 3 June 2013.

The Project has moved past the preliminary set up stages with all site sheds established at the site compound for the project offices at the end of Sunshine Avenue.

All areas have been cleared and grubbed for the project apart from the entry and off ramps to the Pacific Highway.

Earthworks have been completed on the exit ramp cutting and to the east of Sunshine Avenue. Almost 5,000 cubic metres of fill out of the anticipated 65,000 cubic metres required to complete the job has been excavated.

The western borrow pit has been cleared and construction of the haul road has been completed to Fraser Drive. The Contractor will be bitumen sealing some of the haul road to minimise dust to nearby residents and to reduce the effects that heavy rain will have on haul roads. Cultural heritage monitoring has been conducted throughout the clearing and removal of top soil from the site along the western ridge line and cut area on the south bound exit ramp. Identification of a possible cultural heritage site is confirmed and located on the top of the western borrow area. This area has always been documented as the area with the most interest to the local Aboriginal community. This western haul route to Fraser Drive has been a success for the project. The original concept alignment for the haul road was between the Palms Village Holiday Park and the Pacific Highway, and residents of the Park were in favour of the decision to use the Fraser Drive haul road as it has considerably reduced their exposure to the haul road.

Soft Soil Areas

The soft soil area design is nearing completion and the contractor will have commenced the construction of the drainage layer. The wick drain installation will be commencing in the soft soil areas in the coming weeks. The soft soil area has decreased in its size. The layers of structural geofabric have been increased to ensure that stability of the soft soil areas remain during the construction of the earthworks for the Eastern interchange. These additional layers provide an acceptable factor of design safety for the continuous construction. Without these additional layers the contractor would have significant delays in their work activities which may have significant consequences to the contract completion date.

Concrete Pavements

Roads & Maritime Services (RMS) has requested that the project investigate a concrete pavement tie-in to the Pacific Highway South Bound Entry Ramp. This revised design is being developed by RMS and will be forwarded to the Contractor as a variation price request. RMS will be responsible for any extra over costs that may occur due to the revised pavement design.

Services

Service relocations have been decreased due to the area of soft soils reducing in size. This has presented some savings in the contract. However these savings have been consumed with the installation of an additional 250 dia DICL Sewer Rising Main. The addition of this main will provide added flexibility within Tweed Shire Council's sewerage main infrastructure. All other works are progressing well with the contractor on track to have the sewer rising mains and effluent main diverted away from the soft soil areas by the end of July.

Innovation

With RMS's approval the Contractor and Council officers have implemented an innovation on the project by recycling the existing sound wall that is to be removed to make way for the temporary off ramp. This sound wall will be reused along the 2 metre high sound wall sections for Kirkwood Road between the roundabout Interchange and Sunshine Avenue. This proposed innovation will possibly present some minor savings to the project, but these savings are yet to be fully assessed.

Environmental

Works on the project have been challenging with the continuous rain causing difficulty for the contractor in providing appropriate sediment and erosion controls to maintain a satisfactory level of performance. With the onset of finer weather the contractor has now committed appropriate resources and personnel on site to ensure a better than standard sediment control outcome is achieved.

Environmental non conformance notices have been issued by Council Officers for 2 incidents. These have been dealt with through the Contract. These incidents caused stop work notices to be issued to the contractor.

The Contractor acted proactively and without delay in rectifying all issues regarding these non conformances.

Aboriginal Cultural Heritage Monitoring/Stability of Western Borrow Pit

Aboriginal cultural heritage monitoring has been partially completed and will conclude when top soil is respread across the western borrow area. During the initial investigation phase on the Western Borrow area a number of potential finds were discovered along with a site that the Local Aboriginal Community considers being of significance. Council officers are presently investigating ways of avoiding the area without compromising the existing approved alignment of the Kirkwood Road Western Link. The options are:

1. Steepening up batters to avoid the area in question.
2. A small realignment of the bridge approach on the western side.

Option 1 is preferred as it removes the need for possible amendments to the original Part V assessment for the project. The Interpretive Geotechnical report prepared by SMEC in 2011 indicated that geotechnical long term stability of the western cut was going to require engineered stabilisation works. These engineered solutions proposed are as follows:

1. Applying a layer of sprayed concrete over some areas to provide long term stability.

2. Installing rock anchors in other areas where sprayed concrete could not deliver the appropriate long term stability option.

Quality

The quality of workmanship on site is consistent with the specifications for the project.

Budget Summary

The summary of the estimated variations costs for the Kirkwood Road Project and effect on the overall project budget is presented in Attachment A. The project budget is \$16.9 million with \$10 million being contributed by Council and up to \$7 million being contributed by Roads & Maritime Services of NSW.

The total current expenditure is approximately \$2 million at the time of writing with a forecast contract value increasing to \$13.165 million. This increase in the contract value is not expected to put at risk the overall project budget.

Variations to the project are identified in Attachment A, which is a confidential attachment.

Council is requested to endorse the amended project budget.

Further reports will be forwarded to Council when further information becomes available.

OPTIONS:

Not Applicable.

CONCLUSION:

Inclusion of the pending and approved variations to the Kirkwood Road Project contract results in an estimated final cost that is within the project budget.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

The overall budget estimate for Kirkwood Road as reported in November 2011 has not changed with the forecast ultimate spend of \$16.9 million on target. Confidential Attachment A shows a brief summary of variations and revised anticipated contract value.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Council officers will be conducting four community engagement meetings during the life of the project. The purpose of these meetings is to give adjacent land owners an update on the construction status, advise of future work activities and to answer any questions regarding the project. Another objective of these meetings is to take on suggestions from the community that may improve the outcome of the project for the community.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.4 An integrated transport system that services local and regional needs
- 2.4.1 Provide a safe and efficient network of arterial roads connecting neighbourhoods to town centres, employment, shopping, health, commercial and education facilities
- 2.4.1.2 Provision of arterial roads as planned in Tweed Roads Contribution Plan
- 2.4.1.2.2 Completion of Kirkwood Rd east interchange

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EC2011-012 Kirkwood Road Project (ECM 53072002).
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REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

41 [TCS-CM] Making of Rates 2012/2013

SUBMITTED BY: Revenue and Recovery Unit



Civic Leadership

SUMMARY OF REPORT:

Council, at its meeting of 26 June 2012, resolved to adopt the Delivery Program 2011/2015, Operational Plan 2012/2013, the Resourcing Strategy and the Revenue Policy and Statement incorporating the Budget and Fees and Charges for 2012/2013 which includes an increase in general rates for 2012/2013 of 7.9% above that for 2011/2012.

In accordance with the provisions of the Local Government Act 1993 a rate or charge is made by resolution of Council, and each rate or charge is to be made for a specified year, being the year in which the rate or charge is made or the next year. Accordingly, a rate or charge must be made before 1 August in the year for which the rate or charge is made or before such later date in that year as the Minister may, if the Minister is of the opinion that there are special circumstances, allow.

The basis of this report is the formal Making of the Rate and Charges for 2012/2013.

RECOMMENDATION:

That:

1. Council makes the 2012/2013 rates and charges in accordance with the provisions of sections 493, 494, 495, 495A, 496, 498, 501, 502, 506, 508A, 541, 548 and 553 of the Local Government Act 1993:
 - (a) Ordinary Rates (section 494, 498, 508A)
 - (i) Residential Rate
A Residential Rate of .4693 cents in the dollar on the rateable land value of all applicable rateable land in the Tweed Shire Council area classified Residential with a minimum rate of nine hundred and forty dollars and twenty five cents (\$940.25) in respect of any separate parcel of rateable land.

(ii) Farmland Rate

A Farmland Rate of .3032 cents in the dollar on the rateable land value of all applicable rateable land in the Tweed Shire Council area classified Farmland with a minimum rate of nine hundred and forty dollars and twenty five cents (\$940.25) in respect of any separate parcel of rateable land.

(iii) Business Rate

A Business Rate of .5015 cents in the dollar on the rateable land value of all applicable rateable land in the Tweed Shire Council area classified Business with a minimum rate of one thousand and four dollars and eighty cents (\$1004.80) in respect of any separate parcel of rateable land.

(b) Annual Charges (Section 495, 495A, 496, 501, 502 and 553)

(i) Sewerage Annual Charge (Section 501)

A sewerage annual charge on the rateable land value of all applicable rateable land in the Tweed Shire Council area with an annual charge of six hundred and fifty dollars (\$650.00) in respect of any separate parcel of rateable land.

(ii) Water Annual Charge (Section 501)

Residential assessments – a service charge of \$128.00

Business assessments – a service charge based on meter size, being \$128.00, times the Flow Capacity Factor (as detailed in Table 1) and given the Multiplier Consumption Factor was reached (as detailed in Table 2)

A volumetric charge of \$2.05 per kilolitre for all consumption to 300KL.

A volumetric charge of \$3.10 per kilolitre for all consumption after 300KL.

Vacant assessments rated to water – a service charge of \$128.00

Properties will be levied the water service charge in accordance with the Local Government Act including the description of what land may be subject to the water service charge.

Table 1 - Flow Capacity Factors

Diameter of Service mm	Cross sectional area	Flow Capacity Factor
20	314	1.00
25	491	1.56
32	804	2.56
40	1,256	4.00
50	1,963	6.25
80	5,024	16.00
100	7,850	25.00
150	17,663	56.25
200	31,400	100.00
250	49,063	156.25
300	70,650	225.00

Table 2 - Consumption Factors

Consumption Scale		Consumption Factors										
KL from	KL to	Meter size (mm)										
		20	25	32	40	50	80	100	150	200	250	300
0	290	1.000	0.640	0.391	0.250	0.160	0.063	0.040	0.018	0.010	0.006	0.004
291	454	1.000	1.000	0.610	0.391	0.250	0.980	0.063	0.028	0.016	0.010	0.007
455	743	1.000	1.000	1.000	0.640	0.410	0.160	0.102	0.046	0.026	0.016	0.011
744	1,160	1.000	1.000	1.000	1.000	0.640	0.250	0.160	0.071	0.040	0.026	0.018
1,161	1,814	1.000	1.000	1.000	1.000	1.000	0.391	0.250	0.111	0.063	0.040	0.028
1,815	4,640	1.000	1.000	1.000	1.000	1.000	1.000	0.640	0.284	0.160	0.102	0.071
4,641	7,250	1.000	1.000	1.000	1.000	1.000	1.000	1.000	0.444	0.250	0.160	0.111
7,251	16,314	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	0.563	0.360	0.250
16,315	29,000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1000	0.640	0.444
29,001	45,314	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1000	1.000	0.694
Over 45,314		1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000

(v) Tweed Heads Streetscaping Special Rate (Section 495)

A Tweed Heads Streetscaping Special Rate of .001170 cents in the dollar on the rateable land value of applicable land in the Tweed Shire Council area. The following is a description of the applicable land:

- LOT 7 DP 167898
- LOT A DP 398092
- LOT 2 DP 525905
- LOT 8 SEC 2 DP 759009
- LOTS 2-6 DP 224382
- LOT 3 DP 110355
- LOT 1 DP 306057
- LOT A DP 313926
- LOT 1 SP 5287
- LOT 2 SP 5287
- LOT 3 SP 5287
- LOT 4 SP 528
- LOT 5 SP 528
- LOT 6 SP 5287
- LOT 2 DP 229412
- LOT 5 DP 549037
- LOT 6 DP 549037
- LOT 1 SP 10552
- LOT 2 SP 10552
- LOT 3 SP 10552
- LOT 4 SP 10552
- LOT 1 DP 534136

LOT 2 DP 101111
LOTS 3-4 DP 420750
LOTS 1-2 DP 420749
COR LOTS 32/35 DP 237678 SPL COR 73.15 X 50.8
LOT 64 DP 237806 16.99X29.26/36.58 SPL COR
LOT 2 DP 549328 14.5/12.14X36.58/36.65
LOT 1 DP 549328
LOT 61 DP 237806 12.19X36.58
LOT 60 DP 237806 12.19X36.58
LOTS 58/59 DP 237806
LOT 57 DP 237806 12.19X36.58
LOT 56 DP 237806
LOT 55 DP 237806 12.19X36.58
LOT 54 DP 237806
LOT 53 DP 237806
LOT 52 DP 237806
LOT 1 SP 14263
LOT 2 SP 14263
LOT 3 SP 14263
LOT 4 SP 14263
LOT 5 SP 14263
LOT 1 DP 525413
LOT 1 DP 553728
LOT 1 DP 777183 SUBJ TO E'MENTS
LOT 9 DP 964880 LOT 1 DP 303503
LOT A DP 332137 49.911 X 50.292
LOT B DP 332137 LOT 1 DP 962785 LOT 1 DP 962784 LOT 2 SEC 1DP 758279 DP 758279
LOT 100 DP 775892
LOT 3 DP 329933
LOT 1 DP 17554
LOT 2 DP 17554
LOT 3 DP 17554
LOT 4 DP 17554
LOT 5 DP 17554
LOT 6 DP 17554
LOT 7 DP 17554 29'9/30'XIRR90'10/93'9
COR LOTS 2 & 3 DP 519757
LOT 1 DP 222704
LOT 1 DP 609342
LOTS A & B DP 373378
LOTS 1-2 SEC 4 DP 4570
LOT 30 SEC 4 DP 4043 LOT 1 DP 329246 LOT 2 DP329247 LOT 3 DP 329248 LOT 4 DP
329249
LOT 6 SEC 4 DP 4570 LOT A DP 341926 & LOT 28 SEC 4 DP 4043
LOT 10 SEC 4 DP 4570
LOT 11 SEC 4 DP 4570 15.16/15.09 X 35.08/34.62
LOTS 15 SEC 4 DP 4570 LOT 16 SEC 4 DP 4043
LOT 1 SP 14262
LOT 2 SP 14262
LOT 3 SP 14262
LOT 4 SP 14262
LOT 5 SP 14262
LOT 6 SP 14262
LOT 7 SP 14262
LOT 8 SP 14262
LOT 9 SP 14262
LOT 10 SP 14262
LOT 1 SP 32143
LOT 2 SP 32143
LOT 3 SP 32143
LOT 4 SP 32143
LOT 1 SEC 5 DP 759009 LOT 23 DP 776673

LOT 672 DP 755740 LOT 3 DP 520173 LOT 1 DP 245697 LOTS 2-3 DP 561138 LOT 1 DP 820693
LOT 19 SEC 4 DP 4043 LOTS 12/14 SEC 4 DP 4570
LOT 1 DP 866236
LOT 1 DP 1007168
LOT 2 DP 1007168
LOT 1 SP 57664
LOT 2 SP 57664
LOT 3 SP 57664
LOT 4 SP 57664
LOT 5 SP 57664
LOT 6 SP 57664
LOT 7 SP 57664
LOT 8 SP 57664
LOT 9 SP 57664
LOT 10 SP 57664
LOT 11 SP 57664
LOT 12 SP 57664
LOT 13 SP 57664
LOT 14 SP 57664
LOT 15 SP 57664
LOT 16 SP 57664
LOT 17 SP 57664
LOT 18 SP 57664
LOT 100 DP 1021860
LOT 1 SP 70355
LOT 2 SP 70355
Lot 6 DP 1096714
Lot 3 DP 1086912

(vi) Koala Beach Special Rate (Section 495)

A Koala Beach Special Rate of .0696 cents in the dollar on the rateable land value of applicable land in the Tweed Shire Council area. The following is a description of the applicable land:

LOT 1 DP 86409
LOT 2 DP 864093
LOT 3 DP 864093
LOT 4 DP 864093
LOT 5 DP 864093
LOT 6 DP 864093
LOT 7 DP 864093
LOT 8 DP 864093
LOT 9 DP 864093
LOT 10 DP 864093
LOT 11 DP 864093
LOT 12 DP 864093
LOT 13 DP 864093
LOT 16 DP 864093
LOT 17 DP 864093
LOT 18 DP 864093
LOT 19 DP 864093
LOT 20 DP 864093
LOT 21 DP 864093
LOT 30 DP 864094
LOT 31 DP 864094
LOT 32 DP 864094
LOT 33 DP 864094
LOT 34 DP 864094
LOT 35 DP 864094
LOT 36 DP 864094

LOT 37 DP 864094
LOT 38 DP 864094
LOT 39 DP 864094
LOT 40 DP 864094
LOT 41 DP 864094
LOT 42 DP 864094
LOT 43 DP 864094
LOT 44 DP 864094
LOT 45 DP 864094
LOT 46 DP 864094
LOT 47 DP 864094
LOT 48 DP 864094
LOT 49 DP 864094
LOT 50 DP 864094
LOT 51 DP 864094
LOT 52 DP 864094
LOT 53 DP 864094
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LOT 56 DP 864094
LOT 57 DP 864094
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LOT 64 DP 864094
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LOT 70 DP 864094
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LOT 72 DP 864094
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LOT 75 DP 864094
LOT 76 DP 864094
LOT 77 DP 864094
LOT 78 DP 864094
LOT 79 DP 864094
LOT 80 DP 864094
LOT 81 DP 864094
LOT 82 DP 864094
LOT 83 DP 864094
LOT 84 DP 864094
LOT 85 DP 864094
LOT 86 DP 864094
LOT 87 DP 864094
LOT 88 DP 864094
LOT 91 DP 864094
LOT 92 DP 864095
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LOT 95 DP 864095
LOT 96 DP 864095
LOT 97 DP 864095
LOT 98 DP 864095
LOT 99 DP 864095
LOT 100 DP 864095

LOT 101 DP 864095
LOT 14 DP 870694
LOT 15 DP 870694
LOT 22 DP 870695
LOT 23 DP 870695
LOT 24 DP 870695
LOT 25 DP 870695
LOT 26 DP 870695
LOT 27 DP 870695
LOT 28 DP 870695
LOT 29 DP 870695
LOT 213 DP 1033384
LOT 214 DP 1033384
LOT 215 DP 1033384
LOT 216 DP 1033384
LOT 217 DP 1033384
LOT 218 DP 1033384
LOT 219 DP 1033384
LOT 220 DP 1033384
LOT 221 DP 1033384
LOT 222 DP 1033384
LOT 223 DP 1033384
LOT 224 DP 1033384
LOT 225 DP 1033384
LOT 226 DP 1033384
LOT 227 DP 1033384
LOT 228 DP 1033384
LOT 229 DP 1033384
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LOT 231 DP 1033384
LOT 232 DP 1033384
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LOT 238 DP 1033384
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LOT 451 DP 1040725
LOT 452 DP 1040725
LOT 453 DP 1040725
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LOT 455 DP 1040725
LOT 456 DP 1040725
LOT 457 DP 1040725
LOT 458 DP 1040725
LOT 459 DP 1040725
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LOT 461 DP 1040725
Lot 301 DP 1049060
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Lot 339 DP 1052080
Lot 370 DP 1052082
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Lot 424 DP 1052083
Lot 425 DP 1052083
Lot 426 DP 1052083
Lot 90 DP 864094 Lot 212 DP 1033384
Lot 89 DP 864094 Lot 200 DP 1033384
Lot 501 DP 1068516
Lot 502 DP 1068516
Lot 503 DP 1068516
Lot 504 DP 1068516
Lot 505 DP 1068516
Lot 506 DP 1068516
Lot 507 DP 1068516
Lot 508 DP 1068516
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Lot 739 DP 1076973
Lot 919 DP 1077493
Lot 610 DP 1077500
Lot 611 DP 1077500
Lot 612 DP 1077500
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Lot 630 DP 1077500
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Lot 633 DP 1077500
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Lot 638 DP 1077500
Lot 661 DP 1078611
Lot 662 DP 1078611
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Lot 666 DP 1078611
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Lot 674 DP 1078611
Lot 675 DP 1078611
Lot 676 DP 1078611
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Lot 680 DP 1078611
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Lot 700 DP 1078611

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Lot 709 DP 1078611
Lot 710 DP 1078611
Lot 711 DP 1078611
Lot 712 DP 1078611
Lot 713 DP 1078611
Lot 714 DP 1078611
Lot 715 DP 1078611
Lot 716 DP 1078611
Lot 717 DP 1078611
Lot 718 DP 1078611
Lot 719 DP 1078611
Lot 720 DP 1078611
Lot 721 DP 1078611
Lot 722 DP 1078611
Lot 723 DP 1078611
Lot 724 DP 1078611
Lot 725 DP 1078611
Lot 726 DP 1078611
Lot 727 DP 1078611
Lot 728 DP 1078611
Lot 729 DP 1078611
Lot 730 DP 1078611
Lot 731 DP 1078611
Lot 732 DP 1078611
Lot 733 DP 1078611
Lot 734 DP 1078611
Lot 735 DP 1078611
Lot 736 DP 1078611
Lot 737 DP 1078611
Lot 1 SP 78678
Lot 2 SP 78678

(vii) Burringbar-Mooball Sewerage Annual Charge (Section 501)

A Burringbar - Mooball Sewerage Annual Charge for all rateable land which will be serviced by the Burringbar/Mooball Sewerage Scheme of the Tweed. An annual sewerage charge of three hundred and fifty dollars (\$350.00) in respect of any separate parcel of rateable land within the Mooball/Burringbar area. The following is a description of the applicable land:

PT LOT 1 SEC 1 DP 3090
LOT 6 DP 5114
LOT 5 DP 5114
Lots 3 & 4 DP 5114 Lot 1 DP 126083 Lot 11 DP 1093305
LOT 3 SEC 1 DP 3090
LOT 2 DP 360551
LOT 1 DP 388082
LOT 3 DP 574439
LOT 1 DP 503384
LOT 7 SEC 1 DP 3090
LOT 8 SEC 1 DP 3090
LOT 10-10A SEC 1 DP 6696

LOT 1 DP 771720
LOT 1A SEC 2 DP 6696
LOTS 2-2A SEC 2 DP 6696
LOTS 3-3A SEC 2 DP 6696
LOTS 4-4A SEC 2 DP 6696
LOT 5 SEC 2 DP 6696
LOT 12 DP 571794
LOT 10 SEC 2 DP 3090
LOT A DP 380818
LOT B DP 380818 16.76 X 50.29
LOT 1 DP 377857
LOT 2 DP 377857 20.12 X 50.29
LOT 3 DP 377857 20.12 X 50.29
LOTS 4/5 DP 379207
LOT 6 DP 261790
LOT 7 DP 261790
LOT 8 DP 261790 23.14 X 73.56
LOT 9 DP 261790
LOT 10 DP 261790
LOT 14 DP 261790
LOT 16 DP 261790
LOT 17 DP 261790 18.6 X 39.5
LOT 18 DP 261790
LOT 19 DP 261790
LOT 20 DP 261790
LOT 4 SEC 2 DP 2853
LOT 2 DP 261790
LOT 3 DP 261790
LOT 5 DP 261790
LOT 7 DP 617837
LOT 6 DP 617837
LOT 1 DP 517616
LOT 5 DP 563017
LOT 2 DP 701606
LOT 1 DP 701606
LOT 3 DP 542839
LOT 1 DP 801130
LOTS A-D DP 6624
LOT E DP 6624
LOT I DP 6624
LOTS J & K DP 6624
LOT B DP 408782
LOT A DP 403665
LOT 1 DP 383810
LOTS 1-3 DP 124446
LOT 1 DP 124445
LOT 2 DP 124445
LOT 1 DP 124444
LOT 2 DP 124444
LOT 16 SEC 1 DP 2853
LOT 17 SEC 1 DP 2853
LOT 11 DP 866170
LOT 4 DP 607681
LOT 3 DP 607681
LOT 1 DP 972819
LOT 6 DP 381443
LOT 1 DP 378287
LOT 1 DP 379905
LOT 1 DP 231691
LOT 2 DP 231691
LOT 2 DP 5726
LOT 3 DP 5726

LOT 14 DP 631001
LOT 15 DP 631001
LOTS 6/7 DP 5726
LOTS 8/9 DP 5726
LOTS 10-11 DP 5726
LOTS 12-13 DP 5726
LOTS 14-15 DP 5726
LOT 1 DP 124443 LOT 4 DP 877090
LOT 5 DP 877090
LOT 1 SEC 3 DP 2853
LOTS 24/26 DP 597517
LOT 27 DP 597517
LOT 8 SEC 3 DP 2853
LOT 1 DP 332658
LOT A DP 363236
LOT B DP 363236
LOT 10 SEC 1 DP 17414
LOT 9 SEC 1 DP 17414
LOT 8 SEC 1 DP 17414
LOT 7 SEC 1 DP 17414
LOT 6 SEC 1 DP 17414
LOT 5 SEC 1 DP 17414
LOT 4 SEC 1 DP 17414
LOT 3 SEC 1 DP 17414
LOTS 1-2 DP 316479
LOT 1 DP 329318 LOT 1 DP 393596 LOT 1 DP 123205
LOT 3 DP 329318
LOT 4 SEC 2 DP 17414
LOT C DP 370478
LOTS D/E DP 370478
LOT A DP 420797 & LOT F DP 370478
LOTS A-B DP 403876 LOT 2 DP 316482 LOT 3 DP 659959
LOT 1 DP 129581
LOT 1 DP 369445
LOT B DP 365259
LOT A DP 354678
LOTS 1-2 DP 26048
PH MOOBALL LOT 3 DP 26048
LOT 1 DP 231846 SUBJ TO R O W
LOT 2 DP 534493
LOT 3 DP 621019
LOT 2 SEC 3 DP 3090
LOT 3 SEC 3 DP 3090
LOT 4 SEC 3 DP 3090
LOT 5 SEC 3 DP 3090
LOTS 6/7 SEC 3 DP 3090
LOT 1 DP 134112 & LOT 1 DP 444022
LOT 23 DP 658471 & LOT 1 DP 441094
LOT 2 DP 603957
LOT 1 DP 603957
COR LOT 21 DP 5726
COR LOT 1 SEC 4 DP 3090
LOT 2 SEC 4 DP 3090
LOT 3 SEC 4 DP 3090
LOT 4 SEC 4 DP 3090
LOT 6 SEC 4 DP 3090
LOT 7 SEC 4 DP 3090
LOT 15 SEC 1 DP 2853
LOT 1 DP 705526
LOT 16 DP 712033
LOT 9 SEC 3 DP 2853
LOT 1 DP 780313

LOT 1 DP 812763
LOT D DP 366531
LOT 14 DP 716554
LOT 15 DP 716554
LOT 1 DP 1026551 SRA LEASE 209214 EP45014
LOT 12 DP 866170
LOT 1 DP 107628
LOTS 8/9 DP 383174
LOT 1 DP 805475
LOT 2 DP 812763
LOT 14 SEC 1 DP 2853
LOT 1 DP 828287
LOT 1 DP 835350
LOT 2 DP 835350
LOT 3 DP 828280
LOT 3 DP 124444
LOT 9 SEC 1 DP 2853
LOT 25 DP 871153
LOT 2 DP 872622
LOT 1 DP 124646
Lots A & B DP 366531
LOT C DP 366351
Lot 101 DP 1074149
Lots 102 & 103 DP 1074149
Lot 5 DP 1104494
Lot 6 DP 1104494
Lot 20 DP 1107578
Lot 21 DP 1107578

(viii) Dobbys Crescent Sewerage Annual Charge (Section 501)

A Dobbys Crescent Sewerage Annual Charge for all rateable land which will be serviced by the Dobbys Crescent Sewerage Scheme of the Tweed. An annual sewerage charge of four hundred and fifty dollars (\$450.00) in respect of any separate parcel of rateable land within the Dobbys Crescent area. The following is a description of the applicable land:

LOT 2 SEC 1 DP 30148
LOT 3 SEC 1 DP 30148
LOT 4 SEC 1 DP 30148
LOT 1 DP 781535
LOT 2 DP 781535
LOT 7 SEC 1 DP 30148
LOT 28 DP 212092
LOT 24 DP 212092
LOT 18 DP 212092
LOT 17 DP 212092
LOT 15 DP 212092
LOT 14 DP 212092
LOT 13 DP 212092
LOT 12 DP 212092
LOT 11 DP 212092
LOT 10 SEC 2 DP 30148
LOT 9 SEC 2 DP 30148
LOT 8 SEC 2 DP 30148
LOT 4 SEC 2 DP 30148
LOT 3 SEC 2 DP 30148 21.34X40.23
LOT 1 SEC 2 DP 30148 LOT 1 DP 781539
LOT 5 DP 588767
LOT 3 DP 587870
LOT 1 DP 781536

LOT 2 DP 609870
LOT 1 DP 609870
LOT 3 DP 211196
LOT 19 DP 212092
LOT 20 DP 212092
LOT 21 DP 212092
LOT 23 DP 212092
LOT 25 DP 212092
LOT 6 SEC 2 DP 30148
LOT 7 SEC 2 DP 30148
LOT 32 DP 1013881
Lot 1 DP 1069663

- (x) **Domestic Waste Management Annual Charge (Section 496)**
A Domestic Waste Management Annual Charge for all land within the declared domestic waste scavenging area, maps of which are available from Council's Waste Management Unit . An annual charge of fifty four dollars and thirty cents (\$54.30) in respect of any applicable land within the declared domestic waste scavenging area.
- (xi) **Domestic Waste Service Annual Charge (Section 496)**
A Domestic Waste Service Annual Charge for all land within the declared domestic waste scavenging area for the removal of the approved contents of the standard 140 litre mobile waste bin each week, maps of which are available from Council's Waste Management Unit. An annual charge of one hundred and forty four dollars and fifty five cents (\$144.55) in respect of any applicable serviced land within the declared domestic waste scavenging area.
- An Alternate 80 litre mobile bin will be available to residents who have low waste generation. An annual charge of one hundred and three dollars and ninety five cents (\$103.95) in respect of any applicable serviced land within the declared domestic waste scavenging area.
- An Alternate 240 litre mobile bin will be available to residents who have high waste generation. An annual charge of one hundred and ninety two dollars and eighty cents (\$192.80) in respect of any applicable serviced land within the declared domestic waste scavenging area.
- (xii) **Landfill Management Charge (Section 501)**
A Landfill Management Annual Charge for all rateable land within the boundary of the Tweed Shire. An annual charge of thirty five dollars (\$35.00) in respect of all rateable land within the boundary of the Tweed Shire.
- (xiii) **Green Organics Collection Charge (Section 496)**
An additional annual charge of fifty four dollars (\$54.00) is applicable to all landowners who have requested a fortnightly green organics collection service.

(xiv) Waste Minimisation and Recycling Annual Charge (Section 496)

A Waste Minimisation and Recycling Annual Charge for all land within the declared domestic waste scavenging area, maps of which are available from Council's Waste Management Unit . An annual charge of sixty one dollars and fifty cents (\$61.50) in respect of any applicable land within the declared domestic waste scavenging area.

- 2. In accordance with section 566(3) of the Local Government Act 1993 that the maximum rate of interest payable on overdue rates and charges be 10% pa.**

REPORT:

Council, at its meeting of 26 June 2012, resolved to adopt the Delivery Program 2011/2015, Operational Plan 2012/2013, the Resourcing Strategy and the Revenue Policy and Statement incorporating the Budget and Fees and Charges for 2012/2013 which includes an increase in general rates for 2012/2013 of 7.9% above that for 2011/2012. Council is now required to make the rate for 2012/2013.

Rate Pegging

The NSW Government introduced rate pegging in 1987. Rate pegging limits the amount that Council can increase its rate revenue from one year to the next by a specific figure determined by the Minister for Local Government.

Approved Rate Variation 2006

The Minister for Local Government in 2006 approved Council increasing its general rate income for two years only based on Council's application to fund the 7 Year Infrastructure and Services Plan as follows:

- 2006/2007 is 7.60% above that for 2005/2006
- 2007/2008 is 8.00% above that for 2006/2007

Approved Rate Variation 2007

Council sought Ministerial approval for increases to general income for the periods 2008/2009 to 2012/2013 inclusive for projects proposed in the original 7 Year Infrastructure and Services Plan.

On 15 August 2007 the Minister for Local Government approved Council increasing its general income as follows:

- 2008/2009 is 9.50% above that for 2007/2008
- 2009/2010 is 9.50% above that for 2008/2009
- 2010/2011 is 8.50% above that for 2009/2010
- 2011/2012 is 7.50% above that for 2010/2011
- 2012/2013 is 7.50% above that for 2011/2012

2012/2013 is the final year of the Seven Year Infrastructure and Services Plan.

Independent Pricing and Regulatory Tribunal Approved Variation

The Instrument by the Independent Pricing and Regulatory Tribunal (IPART) in accordance with Section 508A(1) and (9) of the Local Government Act 1993 for an amendment to the 2012/2013 approved variation to general income to 7.90%, which includes a component of 0.4% attributed to the Carbon Tax was adopted at the Council meeting of 26 June 2012 and therefore Council will be applying 7.90% increase to the 2012/2013 Rates and Charge Structure. A copy of the IPART Special Variation Instrument is included as attachment 1 to this report.

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

Rates Levied in accordance with the Local Government Act 1993, Sections:

- 493 Categories of ordinary rates and categories of land
- 494 Ordinary rates must be made and levied annually
- 495 Making and levying of special rates
- 495A Strata lots and company titles taken to be separate parcels of land for annual charges
- 496 Making and levying of annual charges for domestic waste management services
- 498 The ad valorem amount
- 501 For what services can a Council impose an annual charge?
- 502 Charges for actual use
- 506 Variation of general income
- 508A Special variation over a period of years
- 541 Differing amounts for a charge
- 548 Minimum amounts
- 553 Time at which land becomes subject to special rate or charge
- 566 Accrual of interest on overdue rates and charges

b. Budget/Long Term Financial Plan:

Rate Income Generated as per Revenue Policy and Estimated Budget. The current numbers of rateable properties as at 1 July 2012 for ordinary rates are:

Residential	35,468
Business	1,795
Farmland	1,537
Total	38,800

The expected impact on the minimum rates is as follows:

	Residential	Farmland	Business
Ordinary rate	\$940.25	\$940.25	\$1004.80
Sewerage charge	\$650.00	\$650.00	\$650.00
Water Access Charge	\$128.00	\$128.00	\$128.00
Garbage Service Charge 140l	\$260.35	\$260.35	\$347.00 *
Landfill Management Charge	\$35.00	\$35.00	\$35.00
Total	\$2013.60	\$2013.60	\$2164.80

Increase in minimum rates:

Increase from 2011/2012	\$155.40	\$155.40	\$140.68
Cents per week	\$2.99	\$2.99	\$2.71
Percentage increase	8.36%	8.36%	6.95%

The rates in the dollar presented in this report, differs slightly to the advertised amounts in the 2012/2013 Draft Revenue Policy and Statement. The reasons are changes in property status, the revaluation process, supplementary valuation additions and non-availability of catch-up from previous years.

- * The Garbage Service Charge of \$347 represents the minimum cost for a non domestic waste service.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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
- 1.3.1.1 Implement Revenue Policy
- 1.3.1.1.1 Issue of rates and other charge notices in accordance with the Local Government Act 1993 (NSW)

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. IPART - Special variation instrument (ECM 50878713).
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42 [TCS-CM] Tweed Kenya Mentoring Program 2010 - 2015

SUBMITTED BY: Director



Supporting Community Life

SUMMARY OF REPORT:

This report provides an update on activities undertaken by the Tweed Kenya Mentoring Program over the past year. It recommends Council continues to support the program and it provides an updated Operational Plan for the period 2012-2015.

Council received and adopted the 2010-2015 Tweed Kenya Mentoring Program Operational Plan in March 2010. At this meeting, Council resolved to maintain the annual financial commitment to the program and endorse the Operational Plan aims and objectives.

Since adoption of the 2010-2015 plan significant changes have occurred within the program, including the relocation of program manager, Olita Ogonjo to Australia to take up employment. As the projects delivered by the program mature, experience has been gained and operations adapted to ensure resources are allocated in the most effective way. This has resulted in the scope of program activities becoming more focused geographically, but expanding beyond drinking water into sanitation, hygiene and health.

A highlight of achievements in the period was the fourth Safe Water project, resulting in rehabilitation of Gona Dam and important community health and welfare initiatives. A full report on the fourth Safe Water Project prepared by Nigel Dobson, the volunteer project coordinator and the draft 2012-2015 Operation Plan are included as attachments 1 and 2 to this report.

This report recommends that Council continue to support the Tweed Kenya Mentoring Program based on the existing model of matching Council staff's voluntary financial contributions. It is estimated that in 2012-2013 this will be in the order of \$15,000 to \$20,000.

RECOMMENDATION:

That:

1. Council adopts the Tweed Kenya Mentoring Program Operational Plan 2012-2015, and continues to match staff financial contributions to the program.

- 2. Council writes to Olita Ogonjo, formally acknowledging his integral role in the success of the Tweed Kenya Mentoring Program and his important contribution to the Tweed community, Tweed Shire Council and the communities in Kenya.**
- 3. Receives and notes the final report documenting outcomes and expenditure associated with the fourth Safe Water Project delivered in February 2012 at Gona Dam, Obambo Kadenge.**
- 4. The draft Tweed Kenya Mentoring Program Operational Plan 2012-2015 be forwarded to the International Riverfoundation for comment and endorsement.**

REPORT:

The Tweed Kenya Mentoring Program (TKMP) was initiated and formally adopted by Council in 2004. Originating from a chance meeting between Olita Ogonjo from Kenya and Mike Rayner, Council's then Director of Engineering, the project has been an evolutionary process, continually focused on water, environment and a commitment to friendship and learning between the two participating communities.

This report is an annual update for Council and the community to illustrate the activities and achievements of the 2011-2012 financial year. It also recommends that Council endorse a revised 2012-2015 Operational Plan (attachment 2), and reconfirm support for the programs ongoing sponsorship.

Update

The last twelve months has been a challenging period for the two sides of the TKMP relationship.

Recently Olita Ogonjo has moved to Australia to take up a position with a Brisbane based consulting firm, following completion of his Masters in Integrated Water Management. The role of program manager in Kenya has been assumed by David Opondo, who has now been with TKMP for three years. While remaining committed to and engaged with the project, Olita's unique skill set and vast experience is no longer available to TKMP personnel and the communities that it serves in Kenya. There would be no TKMP without Olita's many years of commitment and sacrifice and there are some very tangible and valuable outcomes resulting from his work. It would be appropriate for Council to acknowledge Olita's contribution to TKMP, an effort that has enriched the lives of many people within Kenya, Council and the Tweed community.

All people involved in TKMP, from the streets of Nairobi to the soccer fields of Murwillumbah, were deeply affected by the tragic passing of Sam Mwangi Macharia in December 2011. Sam's positivity and extraordinary life will always remain an inspiration to those who met him.

The undoubted highlight of TKMP's recent activity was the successful rehabilitation of Gona Dam, planned and supervised by Council's Senior Construction Engineer, Nigel Dobson. Significant funding for the work was received from Alec and Mary Peden of Brisbane, who are important ongoing supporters of TKMP. This work was completed with input from the recipient community and local TKMP personnel, and enhanced the links between TKMP and staff from the Kenyan Government Water Authority.



Figure 1. The rehabilitated Gona Dam, recently filled

Prior to works, Gona Dam contained so much silt that it would dry up regularly, forcing local women and children to walk many additional kilometres per day in search of water. The dam's condition caused failure of TKMP's first SkyJuice water treatment plant, however following rehabilitation of the dam, this facility was recommissioned by local TKMP personnel, using filters donated by SkyJuice Foundation. It is significant that local personnel now have the capacity to install and maintain the water filtration equipment, and a reflection of the refined program objectives, which focus on sustaining and adding value to the three existing communities in which water projects have been delivered. Nigel Dobson is commended for his achievements, which included great innovation and tenacity in completing with the work, despite extreme challenges. A detailed report is included as attachment 1.



Figure 2. David Opondo, TKMP Program Manager installing SkyJuice water filters

Safe Water Four in February 2012 involved a larger, more integrated set of community health initiatives than previous projects, and has resulted in TKMP linking with another Murwillumbah based organisation called Kenya Health. It is hoped that TKMP and Kenya Health can develop an ongoing partnership approach to some aspects of project delivery, particularly in the promotion of women's health issues, hygiene and sanitation.

TKMP Objectives

Since inception, TKMP has maintained a presence in Nairobi, working with youth groups on issues relating to environmental management and using sport as a tool to engage and inform young people. Due to the relocation of Olita Ogonjo, the growing need to maintain existing Safe Water projects and the opportunity of strengthening project outcomes with health and sanitation initiatives, it has been determined that ongoing operations must be concentrated on the rural villages in the Siaya district of western Kenya.

Activities will continue to include water, youth and environment, and expanded to increase attention to health, hygiene and sanitation. It is intended to add a female community health worker to the local team so that the key aim of involving local women can be achieved more effectively.

TKMP activities fall into the themes of:

- Governance
- Siaya WASH (Water, Sanitation and Hygiene) Project
- Environmental Education and Advocacy
- Youth Engagement
- Cultural and Technical Exchange

The full suite of TKMP objectives is detailed in the draft 2012-2015 Operational Plan (attachment 2)

TKMP Governance

TKMP will continue to run as a volunteer managed initiative of Council, funded by a combination of staff contributions, matching Council support and external sponsorship.

A small group of Council staff who have an interest in TKMP meet quarterly to review quarterly reports from the Kenyan team, and approve transfer of funds to Kenya. This team communicate with local staff and remain in close contact with Olita Ogonjo who is a key project advisor.

Program funds are held in trust by the International Riverfoundation and transferred quarterly through GNet, TKMP's host organisation in Kenya, following the receipt and approval of quarterly progress reports and expenditure statements.

The International Riverfoundation is a not for profit company limited by guarantee, registered as a deductible gift recipient, and therefore all contributions to the program are tax deductible.

Tweed Shire Council receives written reports from the Kenya desk quarterly. These contain detailed records of activities and expenditure. Reports are provided to the International Riverfoundation and reviewed by the TKMP working group in Tweed.

OPTIONS:

Nil.

CONCLUSION:

It is recommended that Council endorses the revised 2012-2015 Operational Plan (attachment 2), and reconfirm support for the programs ongoing sponsorship.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

This report recommends that Council continue to support the Tweed Kenya Mentoring Program based on the existing model of matching Council staff's voluntary financial contributions. It is estimated that in 2012-2013 this will be in the order of \$15,000 to \$20,000. The 2012-2013 adopted budget provides for \$21,218.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.3 Provide opportunities for residents to enjoy access to the arts, festivals, sporting activities, recreation, community and cultural facilities
- 2.1.3.5 Provide accessible cultural development programs

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Safe Water 4 Final Report (ECM 52829839).
 2. Tweed Kenya Mentoring Program Draft Operational Plan 2012 to 2015 (ECM 52926864).
-

43 [TCS-CM] 2012/2013 Loan Borrowing Program

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

It is Council practice to call quotations for the supply of loan funds from various financial institutions. The annual loan borrowing requirements for the 2012/13 budget totalling \$6,660,360 are outlined in the body of this report.

RECOMMENDATION:

That:

- 1. The General Manager and Manager Financial Services be authorised to negotiate acceptance of the loan quotations.**
- 2. Relevant loan documentation be completed under the Common Seal of Council.**

REPORT:

It is Council's practice to call quotations for the supply of loan funds from various financial institutions.

In order to distribute the cost of long term facilities over the period which the facilities benefits will be enjoyed, it is usual for Council to finance part of these works from borrowings. This ensures that both current and future ratepayers share the cost of the facility equally.

The 2012/2013 Operational Plan and Budget include new loan requirements of \$6,660,360 as follows:

New Loans

Purpose	Term	\$
Public Toilets	20	100,000
West Kingscliff Drainage	20	2,335,440
Drainage	20	1,098,920
Bridges	20	776,000
Coastline Management Plan	20	1,750,000
Kingscliff Amenities Hall	20	500,000
Flood Mitigation	20	100,000
		<hr/>
		6,660,360

CONCLUSION:

The General Manager and Manager Financial Services be authorised to negotiate acceptance of the loan quotations for 2012/2013 totalling \$6,660,360 and relevant loan documentation be completed under the Common Seal of Council.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The loan funds are included in the Budget and Long Term Financial Plan. Council applied for interest free subsidy under the State Government Local Infrastructure Renewal Scheme (LIRS) for the two (2) drainage loans, but has not yet been advised of the outcome.

c. Legal:

Under Section 55.1(f) of the Local Government Act 1993, Council is **not** required to call tenders for the Provision of Banking, Borrowing, or Investment Services.

Loan borrowings were adopted by Council in the 2012/13 Budget and any further requests will be included in subsequent quarterly budget reviews.

Quotations for the loan borrowing program will be invited from all major banks in due course, depending upon finding requirements for the various loan purposes.

The Manager Financial Services as the Responsible Accounting Officer has the following delegation:

FI017 Loans - accept from lending institutions

"To accept loans from lending institutions within the Council approved loan program and arrange the necessary mortgage deed and documentation."

d. Communication/Engagement:

Council's Audit Committee was provided with a copy of the 2012/13 Budget and associated borrowings.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.3 Financial requirements and the community's capacity to pay will be taken into account when meeting the community's desired levels of service
- 1.2.3.1 Financial Services and legislative financial reporting
- 1.2.3.1.1 Prepare and maintain a balanced budget throughout the financial year.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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44 [TCS-CM] Investment Policy Version 1.6

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

Council is required to review the Investment Policy annually and report any amendments to Council for adoption.

Amendments to the Investment Policy text are indicated by bold, underline and strikethrough.

It is recommended that Council update its Investment Policy in accordance with the amendments.

RECOMMENDATION:

That Council:

- 1. In accordance with Section 161(2) of the Local Government Act 1993 considers that the amendments to the Investment (of Surplus Funds) Policy Version 1.5 are not substantial and therefore no public exhibition of the policy is required.**
- 2. Adopts the amended Investment Policy (Version 1.6) in accordance with Section 161(1)(a) of the Local Government Act 1993.**

REPORT:

Council is required to review the Investment Policy annually and report any amendments to Council for adoption.

The 2012 review has resulted in several proposed amendments. A summary of these amendments are:

- Amend Policy title to "Investment Policy" - there is no need for the "of Surplus Funds" in the title. Surplus funds gives the impression the funds are surplus or in addition to Council's required income and could wrongly give the impression Council is over rating or over charging. Funds are invested as monies are collected to be used for the purpose in which they were collected. The expenditure can be in future years (ie. S94)
- Insert "Ensure sufficient liquidity to fund all reasonably anticipated cash flow requirements" - as a policy objective.
- Updating of dates, removal of redundant headings and renumbering.
- Further clarification on the Investment Strategy review and responsibilities.
- Remove reference to managed funds as an authorised investment and remove Local Government Financial Services as an authorised deposit taking institution - as these have been removed from the Minister's Investment Order.

Deleted text is indicated by bold, underline and strikethrough.



Policy

Investment ~~(of Surplus Funds)~~

Version 1.56

Adopted by Council at its meeting on Tuesday ~~19 April 2011~~ 17 July 2012

Minute No: 270

Division: Technology and Corporate Services
Section: Financial Services
File Reference: N/A
Historical Reference: V1.4 adopted 17 August 2010, Reviewed 7 July 2010; V1.3 Adopted 16 June 2009; V1.2 Adopted 11 March 2008; V1.1 Adopted 13 November 2007; V1.0 Adopted 19 October 2005

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Investment ~~(of Surplus Funds)~~

1) Policy Objective

To provide a framework to ~~help assist~~ Council optimise its return on investment of surplus funds in a prudent and measurable manner. Specifically:

- Achieve or exceed budgeted investment revenue while preserving Council's capital.
- Establishment of Risk Management Guidelines based upon credit rating, limited exposure to individual institutions and term to maturity limits.
- Use of an appropriate benchmark for investment performance measurement.
- Ensure there is sufficient liquidity to fund all reasonably anticipated cash flow requirements.
- The use of investment types which comply with Legislative Requirements including the revised Investment Order dated ~~31 July 2008~~ 12 January 2011.

2) Legislative Requirements

- Local Government Act 1993, Section 4 12 and 625.
- Local Government Act 1993 – Order (of the Minister) pursuant to section 625 of the Local Government Act 1993.
- The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A (2), 14C (1) and (2).
- Local Government (General) Regulation 2005 – Clause 212.
- Local Government Code of Accounting Practice and Financial Reporting.
- Australian Accounting Standards.
- Department of Local Government Circulars.
- Refer to Schedule 3 for extracts of legislation.

3) Risk Management Guidelines

Investments obtained are to comply with six key criteria relating to:

- i) **Preservation of Capital:** the requirement for preventing losses in an investment portfolio's total value, inclusive of both principal and income.

- ii) **Diversification/Credit Risk Guidelines:** limit overall credit exposure of the portfolio.
- iii) **Market Risk:** the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices.
- iv) **Counterparty Credit Framework:** limit exposure to individual counterparties/institutions.
- v) **Maturity Framework:** limits based upon maturity of securities.
- vi) **Leveraging Risk:** the magnification of an investor's risk and return that occurs when the investor takes on financial leverage through an investment product.

4) Diversification/Credit Risk Guidelines

To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any particular credit rating category (refer to Schedule 2 for rating definitions):

Overall Portfolio Credit Limits			
Long-Term Credit Ratings	Short-Term Credit Ratings	Direct Investments Maximum	Managed Funds Maximum
AAA Category	A-1+	100%	100%
AA Category	A-1	100%	100%
A Category or below	A-2	60%	80%
BBB Category or below	A-3	20%	-
Unrated	Unrated	10%	10%

Note: Percentage limits are based upon Council's average core portfolio balance

5) ~~Authorised Investments~~

Counterparty Credit Framework

Exposure to an individual counterparty/institution will be restricted by their credit rating so that single entity exposure is limited, as detailed in the table below:

Individual Counterparty Limits			
Long-Term Credit Ratings	Short-Term Credit Ratings	Direct Investments Maximum	Managed Funds Maximum
AAA Category	A-1+	25%	50%
AA Category	A-1	20%	45%
A Category or below	A-2	15%	40%
BBB Category or below	A-3	10%	-
Unrated	Unrated	5%	10%

- Investments with counterparties below A Category (Long Term) and below A-1 (Short Term) are to be restricted to **Authorised Deposit Taking Institutions** (ADIs = banks, building societies and credit unions) regulated by, and subject to the prudential standards of, the Australian Prudential Regulation Authority (APRA).

- ~~Investments with the non-rated LGFS and~~ NSW T-Corp will be regarded in terms of the respective investments' "shadow rating" as advised by that institution.
- The short-term credit rating limit will apply in the case of discrepancies between short and long-term ratings.
- In the event that a credit rating of a security or of the company/body issuing the security falls below the required minimum, as set out in the Minister's Order, Council will make all necessary arrangements to withdraw deposits as soon as practical.
- Percentage limits are based upon Council's average core portfolio balance.
- All investments must be denominated in Australian dollars.

56) Delegation of Authority

Authority for implementation of the Investment Policy is delegated by Council to the General Manager in accordance with the Local Government Act 1993.

The General Manager may in turn delegate the day-to-day management of Council's investments to the Responsible Accounting Officer or senior staff, subject to regular reviews.

Officer's delegated authority to manage Council's investments shall be recorded and required to acknowledge they have received a copy of this policy and understand their obligations in this role.

67) Prudent Person Standard

Council's investments will be managed with the care, diligence and skill that a prudent person would exercise. As trustees of public monies, officers are to manage Council's investment portfolio, to safeguard the portfolio in accordance with the spirit of this Investment Policy and not for speculative purposes.

79) Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

89) Term to Maturity Framework

The Investment portfolio is to be invested within the following maturity constraints:

Overall Portfolio Term to Maturity Limits	
Portfolio % <1 year	100% max; 40% min
Portfolio % >1 year	60%
Portfolio % >3 years	35%
Portfolio % =5 years	25%

- To provide adequate liquidity all tradeable securities purchased will have, subject to market conditions, the ability to be liquidated within five working days.
- Percentage limits are based upon Council's average core portfolio balance.
- The term to maturity of any of Council's investments may range from "at call" to five (5) years at final legal maturity.

940) Performance Benchmark

The performance benchmark for Tweed Shire Council's investment portfolio is the industry standard UBS 90 day Bank Bill Index.

1044) Measurement

As Council continues to hold grandfathered investments such as Managed Funds and Bonds the investment returns for the portfolio are to be regularly reviewed by an independent market sources by assessing the market value of the portfolio. The market value is to be assessed at least once a month to coincide with monthly reporting.

1142) Investment Strategy

An Investment Strategy will be formulated annually by the Financial Accountant or Investment Advisor in conjunction with the investment policy. ~~The Strategy will be reviewed annually and quarterly and approved by the Manager Financial Services.~~ The Strategy will outline:

- Council's cash flow expectations for a specified period i.e. one year
- Optimal target allocation of investment types, credit rating exposure, and term to maturity exposure
- Appropriateness of overall investment types for Council's portfolio
- Determine the investment portfolio level for the forthcoming year
- Council will seek independent investment advice where necessary when preparing an investment policy. Advisors must have no actual or potential conflict of interest in relation to investment products being recommended.
- Advisors are required to provide written confirmation that they do not have any actual or potential conflicts of interest in relation to investment they recommending or reviewing. Manufacturers and distributors of investment products are excluded from acting as investment advisors to Council.
- The Investment Strategy will fully comply with legislative requirements and Council's investment policy.

1243) Approved Investments

- Commonwealth/State/Territory Government security eg bonds
- Interest bearing deposits issued by an authorised deposit taking institution (ADI)
- Debentures issued by NSW Local Government
- ~~• Land mortgages (<60% of land value)~~
- ~~• Deposits with Local Government Investment Services Pty Limited~~
- Deposits with NSW Treasury &/or Investments in TCorp's Hour Glass Facility
- Investments grandfathered under the previous Ministerial Investment Order

1344) Prohibited Investments

- Derivative based instruments
- Principal only investments or securities that provide potentially nil or negative cash flow;
- Stand alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind
- The use of leveraging (borrowing) for investment
- Subordinated debt instruments
- Any investment that does not comply with the General Products Check List (Schedule 6)

1445) Legal Title

When Council invests in financial instruments it is important that the financial instrument clearly shows it is held in the name of Council. i.e. Safe custody arrangement for bonds.

1546) Reporting

There is a legislative requirement (clause 212 LGGR) for Council to report to Council each month regarding the investment portfolio. The report must detail amounts and types of investments currently held and investment portfolio performance compared to benchmark.

Council is also required to account for investments in the annual financial statements.

1647) Review of Investment Policy

- The policy will be reviewed annually and submitted to Council if any amendments.
- Good corporate governance requires Council to arrange a review of its investments by an independent external entity (ie. External Auditors) to verify that:
 - i) new investment types/products comply with Council's investment policy
 - ii) the valuation of investments against set benchmarks are least monthly
 - iii) investments have been placed in accordance with Council's investment policy

Schedules

Schedule 1 – Investment (Financial) Instrument Descriptions

Schedule 2 – Standard's and Poor's Ratings Description

Schedule 3 – Copies of Relevant Legislation

Schedule 4 – Summary of new Ministerial Investment Order changes

Schedule 5 – New Ministerial Investment Order dated ~~48 August 2008~~ 12 January 2011

Schedule 6 – General Products Check List

Schedule 1 - Investment (Financial) Instrument Description

11am call deposits

Cash invested on an overnight basis. Funds can be recalled or re-invested before 11am on the following business day.

Term Deposit

Funds invested with a financial institution at a predetermined rate that applies to the duration of the deposit. The principal is held on deposit for a fixed term with interest payable at maturity. It is not a tradeable security and the investor is penalised when funds are prepaid.

Bank Bill

Bank-accepted bills are bills of exchange drawn by a company or individual (borrower) usually for periods between 30 and 180 days. The bill is accepted by the bank, which in turn accepts the liability for payment at maturity. It is a short-term investment issued at a discount to the face value and is of a very high credit standing, consequently trades at the lowest yields of all commercially issued bills.

Negotiable Certificate of Deposit (NCD)

These are short-term bearer securities issued by banks for up to 180-days. They are sold at a discount to face value and are highly liquid discount securities; representing the bank's debt, therefore trade at similar yields to bank bills. Creditworthiness of the bank will determine where the bank's NCD trades, relative to the BBSW.

Promissory Note (PN) / Commercial Paper (CP)

A negotiable instrument evidencing an unsecured obligation (promise) the issuer has to repay a certain amount of money at a future date, usually for up to six months. CP is a highly liquid discount security that is traded on a yield to maturity basis. To be marketable, a credit rating must be obtained from a ratings agency e.g. Standard & Poor's. Major issuers include industrial corporations, securitised vehicles and finance companies. It has a higher risk of default than a bank and hence trades at a higher yield.

Floating Rate Note (FRN)

The FRN is a longer-term debt security issued for a fixed period of time but has a variable (floating) coupon on a monthly or quarterly basis. The coupon reflects current interest rates, which is determined as a margin over the BBSW rate set. FRN's appeal to investors who are reluctant to commit funds to fixed interest investments for longer periods in times of fluctuating interest rates. Typical issuers are banks, corporates, financial institutions and securitised vehicles.

Residential Mortgage Backed Securities (RMBS)

RMBSs are specific type of securitised asset (investment products that convert an income stream of multiple receivables into a security paying regular coupon payments). RMBSs are backed by a pool of residential mortgages. These securities are structured into different classes with varying security characteristics. The majority of RMBS are "pass-through's" where the cash flows (principal and interest) received from the underlying mortgages that make up the pool are passed directly through to the holders of the RMBS.

Asset Backed Securities (ABS)

Another form of securitised asset backed by assets other than residential mortgages. Such alternative assets include automobile loan receivables, commercial mortgages, equipment lease receivables, and credit card receivables. ABS can be either fixed or floating rate securities.

Fixed Interest Securities (Bonds)

Securities issued by Commonwealth, State or corporate institutions that pay a fixed rate of interest (coupon) and mature at a fixed point in time. The interest (coupon) is paid at regular intervals (semi-annually, but can be paid monthly, quarterly, or annually). These securities are generally issued for a period of greater than one year.

Collateralised Debt Obligations (CDO)

While nearly every CDO structure can be slightly different, a "plain vanilla" structure typically has 75 – 150 underlying entities (a range of global companies diversified by industry sector) with credit ratings ranging from BBB to AAA. The CDO itself is then split into various "tranches" each with different amounts of subordination (i.e. collateral) which results in the higher subordinated tranches receiving higher credit ratings from the rating agencies. When an underlying entity has a credit event a portion of the subordination is eroded. CDOs are highly leveraged instruments which can have large fluctuations in their mark-to-market valuations, and very possibly their credit rating, when an underlying entity has encountered a "credit event", such as bankruptcy. Depending on the particular structure, the security can typically sustain between 6 - 8 credit events before the investor's capital is in jeopardy.

Pooled Managed Funds

- **Sector Specific Funds**

These funds invest in one particular asset sector. ~~Council's Cash Plus and Cash Enhanced Fund are examples of Sector Specific Funds as they~~ The Funds predominately invest in a range of short dated cash-type securities with the aim of outperforming the UBS 90 day Bank Bill Index benchmark. They are designed to enhance returns on short-term holdings as an alternative to short-dated bank bill and term deposit portfolios. They provide easy access to holdings and can be redeemed within 24 to 48 hours.

- **Diversified Funds**

These funds invest in a pre-determined range of asset classes including cash, fixed interest, property, and Australian & international shares. The weighting among the various asset classes will differ depending upon the type of diversified fund chosen, e.g. Conservative Funds (TCorp's Medium Term Growth) have a higher weighting in cash and fixed interest than Balanced Funds (TCorp's Long Term Growth) that have higher weightings in growth assets such as property and shares.

Schedule 2 - Standard and Poor's Ratings Description

Credit Ratings

Standard & Poor's (S&P) is a professional organisation that provides analytical services. An S&P rating is an opinion of the general creditworthiness of an obligor with respect to particular debt security or other financial obligation — based on relevant risk factors.

Credit ratings are based, in varying degrees, on the following considerations:

- Likelihood of payment.
- Nature and provisions of the obligation.
- Protection afforded by, and relative position of, the obligation in the event of bankruptcy, reorganisation or other laws affecting creditors' rights.

The issue rating definitions are expressed in terms of default risk.

Short-Term Obligation Ratings are:

A-1

This is the highest short-term category used by S&P. The obligor's capacity to meet its financial commitment on the obligation is strong. Within this category, certain obligations are designated with a plus sign (+). This indicates that the obligor's capacity to meet its financial commitment on these obligations is extremely strong.

A-2

A short-term obligation rated A-2 is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher rating categories. However, the obligor's capacity to meet its financial commitment on the obligation is satisfactory.

A-3

A short-term obligation rated A-3 exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the obligor to meet its financial commitment on the obligation.

Long-Term Ratings are:

AAA

An obligation/obligor rated AAA has the highest rating assigned by S&P. The obligor's capacity to meet its financial commitment on the obligation is extremely strong.

AA

An obligation/obligor rated AA differs from the highest rated obligations only in a small degree. The obligor's capacity to meet its financial commitment on the obligations is very strong.

A

An obligation/obligor rated A is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations/obligor in higher rated categories. However, the obligor's capacity to meet its financial commitment on the obligation is still strong.

BBB

An obligation/obligor rated BBB exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity to the obligor to meet its financial commitment on the obligation.

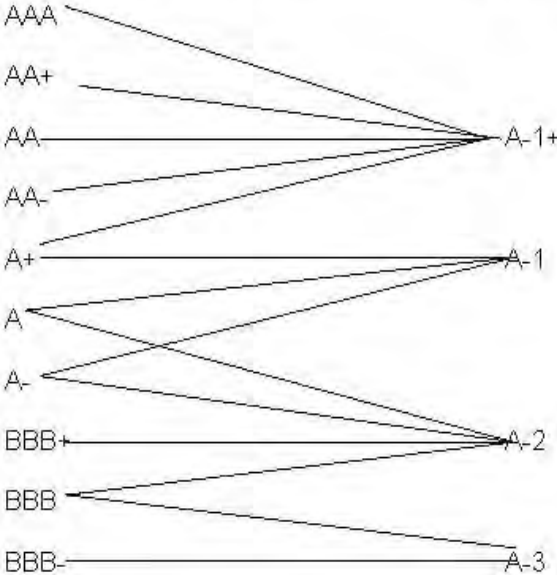
Plus (+) or Minus (-): The ratings from "AA" to "BBB" may be modified by the addition of a plus or minus sign to show relative standing within the major rating categories.

CreditWatch highlights an emerging situation, which may materially affect the profile of a rated corporation and can be designed as positive, developing or negative. Following a full review the rating may either be affirmed or changed in the direction indicated.

A Rating Outlook assesses the potential direction of an issuer's long-term debt rating over the intermediate-to-long term. In determining a Rating Outlook, consideration is given to possible changes in the economic and/or fundamental business conditions. An outlook is not necessarily a precursor of a ratings change or future CreditWatch action. A "Rating Outlook – Positive" indicates that rating may be raised. "Negative" means a rating may be lowered. "Stable" indicates that ratings are not likely to change. "Developing" means ratings may be raised or lowered.

S & P Ratings Correlations

The standard correlation of short-term ratings with long-term ratings is shown below:



Schedule 3 - Excerpts of Legislative Requirements

LOCAL GOVERNMENT ACT 1993 - SECT 412 & 625

Section 412 Accounting Records

- (1) A council must keep such accounting records as are necessary to correctly record and explain its financial transactions and its financial position.
- (2) In particular, a council must keep its accounting records in a manner and form that facilitate:
 - (a) the preparation of financial reports that present fairly its financial position and the results of its operations, and
 - (b) the convenient and proper auditing of those reports.

Section 625 How May Councils Invest?

- (1) A council may invest money that is not, for the time being, required by the council for any other purpose.
- (2) Money may be invested only in a form of investment notified by order of the Minister published in the Gazette.
- (3) An order of the Minister notifying a form of investment for the purposes of this section must not be made without the approval of the Treasurer.
- (4) The acquisition, in accordance with section 358, of a controlling interest in a corporation is not an investment for the purposes of this section.

Investment Guidelines

- Councils must comply with clause 212 of the Local Government (General) Regulation 2005 that provides for reporting on council investments by the responsible accounting officer.
- The Code of Accounting Practice and Financial Reporting require councils to maintain a separate record of money it has invested under section 625 of the Act. The record must specify:
 - (a) the source and the amount of money invested; and
 - (b) particulars of the security or form of investment in which the money is invested; and
 - (c) If appropriate, the rate of interest to be paid, and the amount of money that the council has earned, in respect to the money invested.
- A council or entity acting on its behalf should exercise the care, diligence and skill that a prudent person would exercise in investing council funds. A prudent person is expected to act with considerable duty of care, not as an average person would act, but as a wise, cautious and judicious person would. (Ref: Trustee Amendment (Discretionary Investments) Act 1997 section 14 A (2)).
- A council should develop an investment strategy as part of its overall financial plan. The strategy should, as a minimum consider the desirability of diversifying investments and the nature and risks associated with the investments. (For guidance see: Trustee Amendment (Discretionary Investments) Act 1997 section 14 c (1) "matters to which trustee is to have regard when exercising power of investment").
- A council should at least once in each year, review the performance (individually and as a whole) of council investments and review its investment strategy.
- An investment adviser or investment dealer acting on behalf of a council should be licensed by the Australian Securities and Investment Commission. Ref: www.asic.gov.au
- Where a council invests in banks, building societies and credit unions it should know that these institutions are regulated as authorised deposit taking institutions by the Australian Prudential Regulation Authority (APRA) under the Banking Act 1959 Ref. www.apra.gov.au Note, however, that whilst APRA has power to require financial institutions to observe prudential standards (such as appropriate capitalisation, liquidity and governance) and to intercede if it believes that depositors', policyholders' or members' interests are at risk, it provides no guarantee of the performance of the financial institution.
- Credit ratings are a guide or standard for an investor, which indicate the ability of a debt issuer or debt issue to meet the obligations of repayment of interest and principal. Credit rating agencies such as Moody's and Standard and Poor's make these independent assessments based on a certain set of market and non-market

information. Ratings in no way guarantee the investment or protect an investor against loss. Prescribed ratings should not be misinterpreted by councils as an implicit guarantee of investments or entities that have such ratings. Even given this challenge, ratings provide the best independent information available.

- In the event that a credit rating of a security or the credit rating of the company or body issuing the security falls below the required minimum, as set out in the Minister's Order, a council must make all the necessary arrangements to withdraw the deposit as soon as practicable.
- Note that in choosing a NSW Treasury Corporation hour-glass investment the choice of the facility should be based on the nature of the underlying commitments for which the council is holding funds. For example, funds required in the short term must be invested with a short-term profile rather than with exposure to more volatile asset classes such as property and shares.

The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14a (2), 14c (1) and (2)

14A (2) Duties of trustee in respect of power of investment

A trustee must, in exercising a power of investment:

- (a) if the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons, or
- (b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

14C Matters to which trustee is to have regard when exercising power of investment

- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, if any, have regard to the following matters:
 - (a) the purposes of the trust and the needs and circumstances of the beneficiaries,
 - (b) the desirability of diversifying trust investments,
 - (c) the nature of, and the risk associated with, existing trust investments and other trust property,
 - (d) the need to maintain the real value of the capital or income of the trust,
 - (e) the risk of capital or income loss or depreciation,
 - (f) the potential for capital appreciation,
 - (g) the likely income return and the timing of income return,
 - (h) the length of the term of the proposed investment,
 - (i) the probable duration of the trust,
 - (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment,
 - (k) the aggregate value of the trust estate,

- (l) the effect of the proposed investment in relation to the tax liability of the trust,
 - (m) the likelihood of inflation affecting the value of the proposed investment or other trust property,
 - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment,
 - (o) the results of a review of existing trust investments in accordance with section 14A (4).
- (2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:
- (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice,
 - (b) pay out of trust funds the reasonable costs of obtaining the advice.

Local Government (General) Regulation 2005 - Clause 212

212 Reports on council investments

- (1) The responsible accounting officer of a council:
- (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
 - i) if only one ordinary meeting of the council is held in a month, at that meeting, or
 - ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.
- (2) The report must be made up to the last day of the month immediately preceding the meeting.

Note. Section 625 of the Act says how a council may invest its surplus funds

Schedule 4:

Important changes to the revised Ministerial investment Order (refer Schedule 5) dated 31 July, 2008:

1. Principal and investment income are to be included in the definition of investment instruments. Listed after Item (g) in the new Ministerial Order.
2. Credit ratings are no longer the sole determinant of an investment's suitability. Removal of investments and specific credit ratings listed under items (k) and (l) of the previous Ministerial Order dated 15 July 2005. i.e. Item (k) allowed investment in "any securities which are issued by a body or company with a Moody's Investors Service Inc. credit rating of Aaa Aa1 Aa2 A1 or A2 or a Standard and Poor's Investors Service Inc. credit rating of AAA AA+ AA AA- A+ A A1+ or A1 or a Fitch Rating credit rating of AAA AA+ AA AA- A+ or A." Item (l) included "any securities which are given a moody's Investors Service Inc credit rating of Aaa Aa1 Aa2 Aa3 A1 A2 or Prime-1 or a Standard and Poor's Investors Service Inc. credit rating of AAA AA+ AA AA- A+ or A.
3. Removal of item (g) in the previous Ministerial Order, which identified purchase of land as a form of investment. This removal does not preclude Council from acquiring land for the purpose of exercising any of its functions under s186(1) of the Local government Act 1993.
4. Amendment of item (a) of the Order to include "any public funds or securities issued or guaranteed by the Commonwealth, any State or Territory of the Commonwealth"
5. Restricting mortgage of land to first mortgages over the land with a Loan to Value ratio of no greater than 60%. Item (c.) of the new Ministerial Order.
6. Item (d) of the new Ministerial Order prohibits investment in subordinated obligations.
7. Investment in managed funds other than the NSW treasury Corporation Hour-glass investment facility or Local Government Financial Service is prohibited.
8. Transitional (grandfathering) arrangements allow Council to retain certain existing, non-complying investments until maturity

Schedule 5:



Circular No. 11-01
Date 17 February 2011
Doc ID. A232163

Contact Finance Policy Section
02 4428 4100
dlg@dlg.nsw.gov.au

REVISED MINISTERIAL INVESTMENT ORDER

A revised Investment Order pursuant to section 625 of the *Local Government Act 1993* has been issued. The Minister for Local Government signed the revised Order on 12 January 2011 and it was published in the NSW Government Gazette on 11 February 2011. It replaces the Order dated 31 July 2008. The revised Order is attached to this circular.

Changes to the Investment Order include:

- the removal of the ability to invest in the mortgage of land (part (c) of the Investment Order dated 31 July 2008)
- the removal of the ability to make a deposit with the Local Government Financial Services Pty Ltd (part (f) of the order dated 31 July 2008)
- the addition of "Key Considerations" in the revised Investment Order, which includes a comment that a council's General Manager, or any other staff, with delegated authority by a council to invest in funds on behalf of the council must do so in accordance with the council's adopted investment policy.

Councils are reminded that on 25 May 2010 the Division of Local Government issued Investment Policy Guidelines (Circular to Councils 10-11 refers). It is expected that all councils will by now have adopted an Investment Policy in accordance with the Guidelines.

Ross Woodward
Chief Executive, Local Government
A Division of the Department of Premier and Cabinet

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LOCAL GOVERNMENT ACT 1993 – INVESTMENT ORDER

(Relating to investments by councils)

I, the Hon. Barbara Perry MP, Minister for Local Government, in pursuance of section 625(2) of the *Local Government Act 1993* and with the approval of the Treasurer, do, by this my Order, notify for the purposes of section 625 of that Act that a council or county council may only invest money (on the basis that all investments must be denominated in Australian Dollars) in the following forms of investment:

- (a) any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- (b) any debentures or securities issued by a council (within the meaning of the *Local Government Act 1993* (NSW));
- (c) interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cwth)), but excluding subordinated debt obligations;
- (d) any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- (e) a deposit with the New South Wales Treasury Corporation or investments in an Hour-Glass investment facility of the New South Wales Treasury Corporation;

All investment instruments (excluding short term discount instruments) referred to above include both principal and investment income.

Transitional Arrangements

- (i) Subject to paragraph (ii) nothing in this Order affects any investment made before the date of this Order which was made in compliance with the previous Ministerial Orders, and such investments are taken to be in compliance with this Order.
- (ii) Paragraph (i) only applies to those investments made before the date of this Order and does not apply to any restructuring or switching of investments or any re-investment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

Key Considerations

An investment is not in a form of investment notified by this order unless it also complies with an investment policy of council adopted by a resolution of council.

All councils should by resolution adopt an investment policy that is consistent with this Order and any guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet, from time to time.

The General Manager, or any other staff member, with delegated authority by a council to invest funds on behalf of a council must do so in accordance with the council's adopted investment policy.

Councils have a fiduciary responsibility when investing. Councils should exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

When exercising the power of investment councils should consider, but not be limited by, the risk of capital or income loss or depreciation, the likely income return and the timing of income return, the length of the term of the proposed investment, the liquidity and marketability of the proposed investment, the likelihood of inflation affecting the value of the proposed investment and the costs (including commissions, fees, charges and duties payable) of making the proposed investment.

Dated this 12th day of January 2011


Hon BARBARA PERRY MP
Minister for Local Government

Schedule 6: General Products Check List

- 1) Have you found out how the funds will be invested, how will they generate returns and how will these be paid to the Council? (Could you describe to others how this product works?)
Yes No
 - 2) Are you clear on the conditions associated with this type of investment and the level of risk?
Yes No
 - 3) Does the investment meet Council's financial objective and comply with Council's investment policy?
Yes No
 - 4) Are Council's product issuers licensed by the Australian Security and investment Commission?
Yes No
 - 5) Do you know if/how the investment may be affected by a major shift in the economy and market sentiment?
Yes No
 - 6) Could the investment be liquidated in a timely manner without loss or penalty? i.e. can Council quickly get its money back out of this product if it needs to? Are there any fees to get out early?
- Note: If you answered "No" to any of the above questions, do your research and consult your financial advisor. If necessary, review your investment decision.

OPTIONS:

Adopts the amended Investment Policy (Version 1.6) in accordance with Section 161(1)(a) of the Local Government Act 1993.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Investment Policy Version 1.6.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

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
- 1.3.1.35 Council funds are invested in accordance with legislation requirements and Council Policy
- 1.3.1.35.1 Council funds are invested to provide maximum returns whilst having due regard to risk

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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45 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 30 June 2012

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Cl. 212 of the Local Government (General) Regulations and Council policies. Council had **\$159,935,995** invested as at **30 June 2012** and the accrued net return on these funds was **\$690,690** or **5.18%** annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 30 June 2012 totalling \$159,935,995 be received and noted.

REPORT:

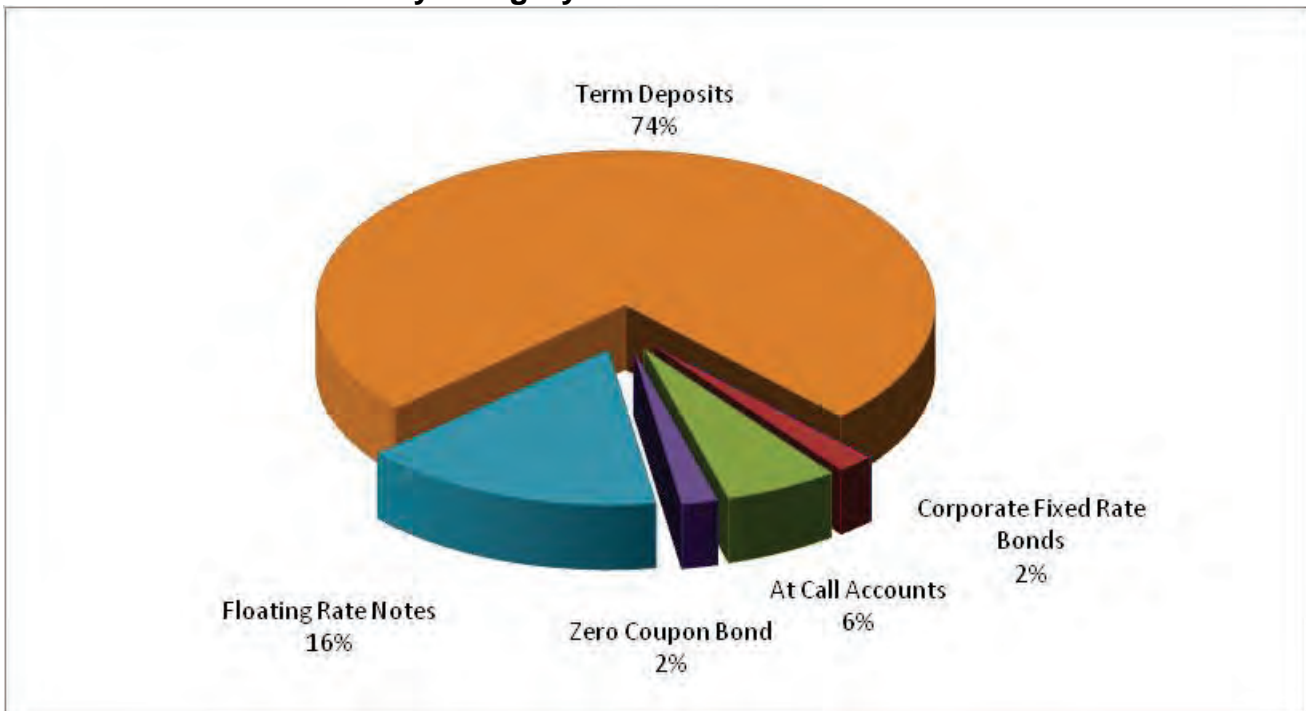
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

1. Restricted Funds as at 1 July 2011

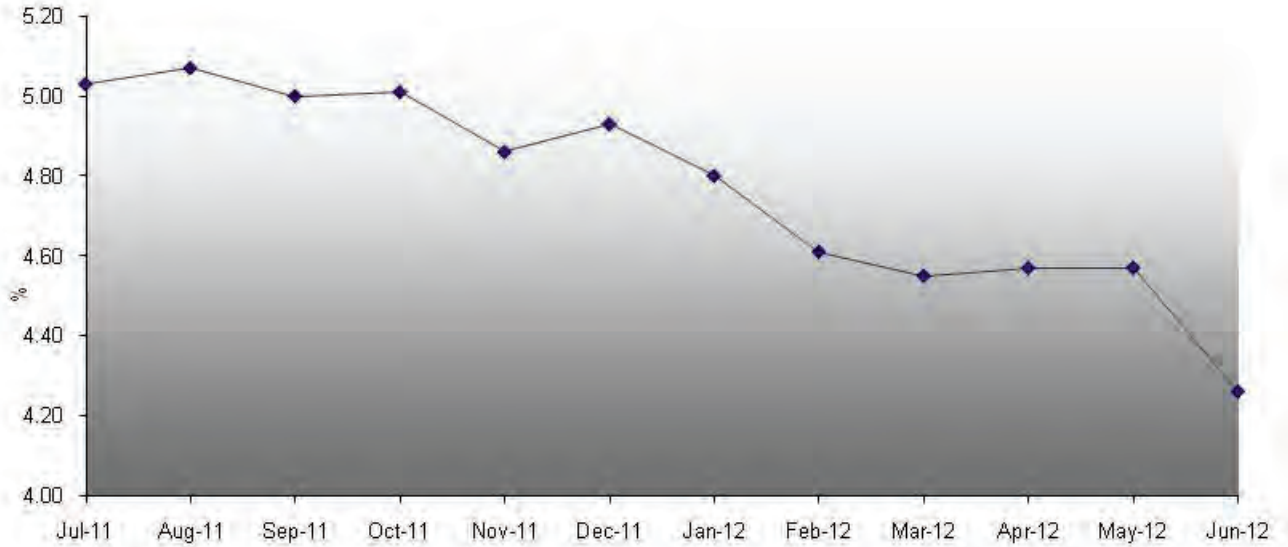
Description	(\$'000)			
	General Fund	Water Fund	Sewer Fund	Total
Externally Restricted	2,864	10,137	61,173	74,174
Crown Caravan Parks	12,430			12,430
Developer Contributions	27,770	15,770		43,540
Domestic Waste Management	8,373			8,373
Grants	3,395			3,395
Internally Restricted	16,613			16,613
Employee Leave Entitlements	2,199			2,199
Grants	3,404			3,404
Unexpended Loans	6,488			6,488
Total	83,536	25,907	61,173	170,616

Note: Restricted Funds Summary next update September 2012

2. Investment Portfolio by Category



3. Investment Rates - 90 Day Bank Bill Rate



4. Direct Securities

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date
AMP Bank	2,000,000.00	1,994,754.00	4.61	FRN	06/06/2014
ANZ Bank	1,000,000.00	1,054,190.00	8.65	Fixed Rate Bond	22/04/2013
Bank of Queensland	2,000,000.00	2,001,660.00	4.90	FRN	06/06/2013
CBA	1,000,000.00	997,850.00	5.06	FRN	02/08/2016
CBA	2,000,000.00	1,995,700.00	5.06	FRN	02/08/2016
CBA Retail Bond	1,000,000.00	987,800.00	5.26	FRN	24/12/2015
CBA Retail Bond	498,250.00	493,900.00	5.26	FRN	24/12/2015
CBA Retail Bond	492,500.00	493,900.00	5.26	FRN	24/12/2015
CBA/Merrill Lynch Zero Coupon Bond	4,000,000.00	3,046,480.00	7.28	Fixed Rate Bond	22/01/2018
Heritage Bank	1,325,000.00	1,363,425.00	7.25	Fixed Rate Bond	20/06/2017
Macquarie Bank	1,000,000.00	1,002,671.00	5.43	FRN	13/03/2014
National Australia Bank	1,000,000.00	1,008,500.00	4.78	FRN	19/12/2014
National Australia Bank	1,000,000.00	1,005,280.00	5.01	FRN	05/11/2015
National Australia Bank	2,000,000.00	1,982,560.00	4.71	FRN	21/06/2016
Rabobank	1,000,000.00	996,800.00	5.23	FRN	20/04/2015
Rabobank	1,000,000.00	985,930.00	5.24	FRN	27/07/2016
Rabobank	1,000,000.00	985,930.00	5.24	FRN	27/07/2016
Suncorp Metway	2,000,000.00	2,004,840.00	4.75	FRN	06/12/2016
Suncorp Metway	2,000,000.00	2,003,060.00	4.63	FRN	26/05/2014
Suncorp Metway	2,000,000.00	2,021,020.00	5.66	FRN	23/04/2015
Westpac Bank	2,000,000.00	2,004,915.38	4.81	FRN	09/11/2015
Westpac Bank	1,000,000.00	1,004,830.00	5.15	FRN	20/02/2017
Total	32,315,750.00	31,435,995.38	5.42		

ABS = Asset Backed Security
 Bond = Fixed Rate Bond
 CDO = Collateralised Debt Obligation
 FRN = Floating Rate Note

5. Term Deposits

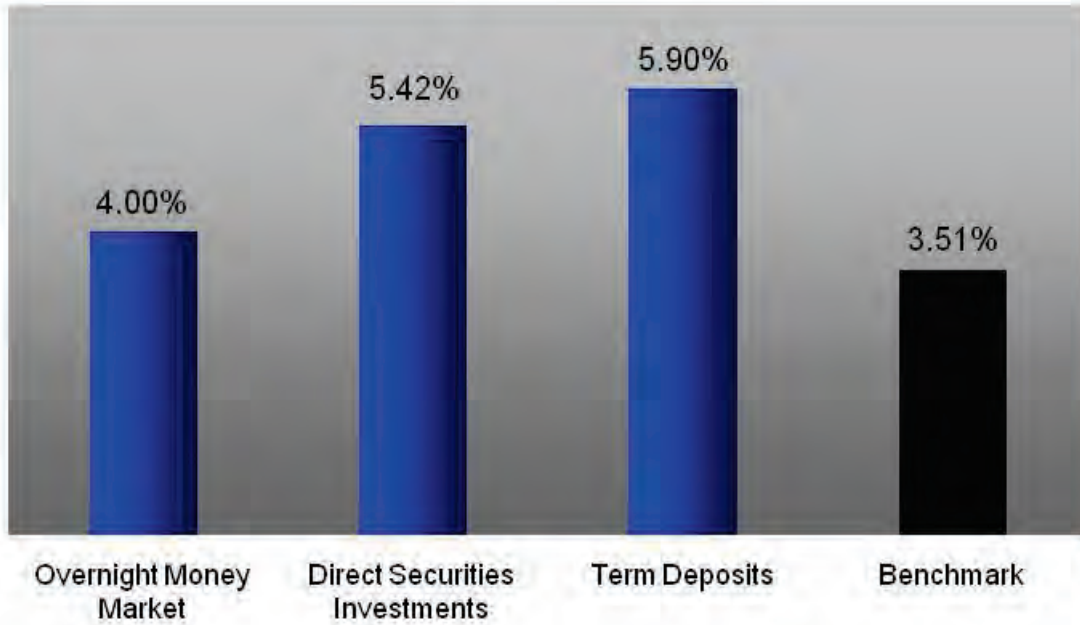
TERM DEPOSITS SORTED BY MATURITY AS AT 30/06/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
28-Feb-12	03-Jul-12	Westpac	2,000,000.00	126	5.900
04-Apr-11	09-Jul-12	BOQ (matures Apr 2014)	2,000,000.00	90	5.820
10-Jan-12	10-Jul-12	Suncorp Metway	3,000,000.00	182	6.050
11-Apr-12	11-Jul-12	Westpac (Jan 2016)	8,000,000.00	91	5.492
13-Mar-12	17-Jul-12	ING (RIMSEC)	1,000,000.00	126	6.020
17-Jan-12	17-Jul-12	Wide Bay CU	1,000,000.00	182	6.000
22-Jul-10	18-Jul-12	Suncorp Metway	2,000,000.00	727	6.720
21-Jul-11	24-Jul-12	NAB	5,000,000.00	369	6.320
27-Jul-12	27-Jul-12	NAB (matures Jul 2012)	5,000,000.00	91	5.250
08-Feb-12	07-Aug-12	AMP	1,000,000.00	181	6.000
05-Aug-11	07-Aug-12	(RIMSEC) MEB	1,000,000.00	368	6.300
14-Feb-12	07-Aug-12	Suncorp Metway Adelaide	4,000,000.00	175	6.000
06-Aug-10	07-Aug-12	Bendigo Bank AMP	2,000,000.00	732	6.600
08-Feb-12	08-Aug-12	(RIMSEC)	1,000,000.00	182	6.000
14-May-12	13-Aug-12	BOQ (matures Nov 2013)	2,000,000.00	91	5.280
14-Feb-12	13-Aug-12	ING (RIMSEC)	1,000,000.00	181	6.000
14-Feb-12	13-Aug-12	ING (RIMSEC)	1,000,000.00	181	6.000
09-Aug-11	14-Aug-12	AMP Bank (CURVE)	1,000,000.00	371	6.100
14-Feb-12	14-Aug-12	ING (Curve)	2,000,000.00	182	6.000
14-May-12	14-Aug-12	Westpac (Nov 2014)	2,000,000.00	92	5.110
19-Jun-12	23-Oct-12	BOQ (matures Oct 2012)	4,000,000.00	126	5.250
16-May-12	16-Aug-12	NAB (Aug 2012)	1,000,000.00	90	5.630
22-May-12	20-Aug-12	Suncorp	3,000,000.00	182	5.400
18-May-12	20-Aug-12	Westpac (Feb 2016)	2,000,000.00	94	4.848
22-May-12	21-Aug-12	Heritage Bank	2,000,000.00	91	5.500
21-Feb-12	21-Aug-12	ING (Curve)	1,000,000.00	182	6.050
23-May-12	21-Aug-12	ME Bank	1,000,000.00	90	5.380
28-May-12	27-Aug-12	NAB (RBS) (Aug 2015)	2,000,000.00	91	4.733
28-Feb-12	28-Aug-12	ING (RIMSEC)	2,000,000.00	182	6.040
23-Feb-12	28-Aug-12	Suncorp Metway	1,000,000.00	187	6.020
31-May-12	31-Aug-12	IMB (Dec 2013)	2,000,000.00	92	4.683
04-Jun-12	03-Sep-12	NAB (Sept 2012)	5,000,000.00	91	4.480
30-May-12	04-Sep-12	ING	1,000,000.00	97	4.583

TERM DEPOSITS SORTED BY MATURITY AS AT 30/06/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
		(RIMSEC) (matures Sept 2012)			
08-Jun-12	10-Sep-12	Investec Bank (RIMSEC) (matures Jun 2014)	1,000,000.00	94	5.493
30-May-12	11-Sep-12	Bankwest	2,000,000.00	104	5.300
07-Jun-12	11-Sep-12	ING (RIMSEC) Sept 2012)	2,000,000.00	96	4.645
13-Mar-12	11-Sep-12	Rural Bank (Curve)	2,000,000.00	182	5.950
17-Feb-12	18-Sep-12	BOQ	2,000,000.00	214	6.000
13-Mar-12	18-Sep-12	MEB	1,000,000.00	189	6.000
17-May-12	16-Oct-12	BOQ	4,000,000.00	152	5.450
21-Mar-12	24-Oct-12	ING (RIMSEC)	2,000,000.00	217	6.100
30-May-12	27-Nov-12	Rural Bank (Curve)	2,000,000.00	181	5.340
01-Jun-12	04-Dec-12	NAB	2,000,000.00	186	5.230
08-Dec-10	11-Dec-12	NAB	2,000,000.00	733	6.950
04-Mar-11	05-Mar-13	Westpac Adelaide	2,000,000.00	735	6.350
22-Mar-11	19-Mar-13	Bendigo Bank	1,000,000.00	728	6.500
22-Mar-11	26-Mar-13	NAB	1,000,000.00	735	6.380
17-May-11	21-May-13	Investec Bank	1,000,000.00	735	7.100
22-May-12	28-May-13	Bendigo Bank	2,000,000.00	369	5.350
21-Jul-10	23-Jul-13	Suncorp Metway (RBS) NAB (RBS) (matures Aug 2015)	1,000,000.00	1097	7.300
11-Aug-10	11-Aug-13	BOQ	2,000,000.00	1095	6.000
12-Aug-10	13-Aug-13	BOQ	2,000,000.00	1096	7.050
01-Sep-10	02-Sep-13	NAB	4,000,000.00	1098	6.520
30-Aug-11	03-Sep-13	AMP Bank (CURVE)	500,000.00	735	6.000
30-Aug-11	10-Sep-13	AMP Bank (CURVE)	500,000.00	742	6.000
22-Mar-11	25-Mar-14	BOQ	1,000,000.00	1099	6.750
07-Feb-12	10-Feb-15	RaboDirect (Curve)	1,000,000.00	1098	6.000
22-Mar-11	22-Mar-16	RaboDirect RIMSEC (Mar 2016)	1,000,000.00	1827	7.150
07-Apr-11	07-Apr-16	Westpac (matures Apr 2016)	2,000,000.00	1825	7.000
11-Nov-11	22-Nov-16	RaboDirect (Curve)	1,000,000.00	1835	6.400
			119,000,000.00		5.898

6. Performance by Category

Category	Face Value	Market Value	Average Return	Above/(Below) 30 day BBSW Benchmark
Overnight Money Market	\$9,500,000.00	\$9,500,000.00	4.00%	0.49%
Direct Securities Investments	\$32,315,750.00	\$31,435,995.38	5.42%	1.91%
Term Deposits	\$119,000,000.00	\$119,000,000.00	5.90%	2.39%
Benchmark	\$160,815,750.00	\$159,935,995.38	3.51%	Benchmark 30 Day UBS Bank Bill Index

7. Performance by Category Compared with Benchmark



8. Total Portfolio Income Year to Date



9. Investment Policy Diversification and Credit Risk

Total Portfolio Credit Limits Compared to Policy Limits					
Long-Term Credit Ratings	Investment Policy Limit	Actual Portfolio	Short-Term Credit Ratings	Investment Policy Limit	Actual Portfolio
AAA Category	100%	1.24%	A-1+	100%	22.70%
AA Category	100%	26.12%	A-1	100%	19.90%
A Category or below	60%	5.60%	A-2	60%	14.30%
BBB Category or below	20%	5.60%	A-3	0%	0.00%
Unrated	10%	2.67%	Unrated	10%	1.87%

10. Term to Maturity

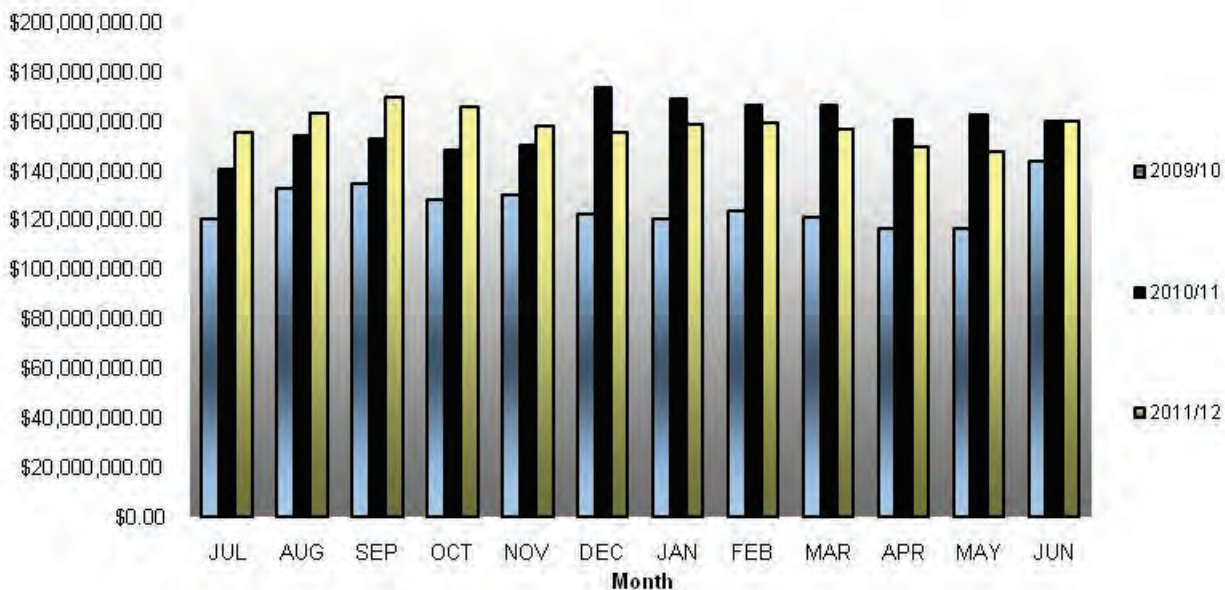
Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	58.75%	Maximum 100% Minimum 40% of portfolio
Between 365 days and 2 years	13.06%	Maximum 60%
Between 2 years and 5 years	25.70%	Maximum 35%
Between 5 years and 7 years	2.49%	Grandfathered investment. Outside current policy limit
Total	100.00%	

11. Investment Alternatives Explained

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
At Call Cash	At Call	Immediate to a few months	Highly liquid - same day access to funds with no impact on capital	Not a capital growth asset
			Highly secure as a bank deposit	Underperforms other asset classes in the long term
Bank Bill	1 - 180 days	Less than 1 year	Highly liquid - same day access to funds, usually with no or minimal impact on capital	Not a growth asset
			Highly secure (bank risk)	Underperforms other asset classes in the long term
				May incur a small loss for early redemption
Term Deposit	Up to 5 years	Less than 2 years	Liquid - same day access to funds	Will incur a small capital loss for early termination
			Highly secure as a bank deposit	Underperforms growth assets in the longer term

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
Floating rate Note Bond	1 - 5 years	Greater than 2 years	Increased yield over bank bills	Not a growth asset
			Can accrue capital gain if sold ahead of maturity and market interest rates have fallen	Can incur capital losses if sold ahead of maturity and market interest rates have risen
			Coupon interest rate resets quarterly based on 90 day bank bill swap rate	Credit exposure to company issuing the paper
			Relatively liquid	May not be bank guaranteed
			Less administration than bank bills	Underperforms other asset classes in the long term
Fixed Rate Bond	1 - 5 years	Greater than 3 years	Can accrue capital gain if sold before maturity and market interest rates have fallen	Can incur capital losses if sold before maturity and market interest rates have risen
			Fixed return - semi annual coupons	Credit exposure to company issuing paper
			Generally liquid	
			Can be government or corporate issuer	

12. Monthly Comparison of Total Funds Invested



13. Section 94 Contributions Monthly Balances & Receipts Report - Period Ending 30 June 2012

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	Banora Point West/Tweed Heads South Open Space	4,073,071	-
02	Banora Point Western Drainage	518,193	-
03	Banora Point West/ Tweed Heads South Community Facilities	37,676	-
04	Tweed Road Contribution Plan	11,767,254	202,787
05	Local Area Open Space	855,437	6,768
06	Street Tree Planting in Residential Areas	154,269	-
07	West Kingscliff Opens Space & Drainage	483,193	-
10	Cobaki Lakes Open Space & Community Facilities	(786)	-
11	Shire Wide Library Facilities	1,513,023	4,752
12	Bus Shelters	51,637	-
13	Eviron Cemetery	(38,826)	720
14	Mebbin Springs Subdivision - Rural Road Upgrading	77,996	-
15	Community Facilities	354,203	1,325
16	Emergency Facilities - Surf Lifesaving	327,214	678
18	Council Administration & Technical Support	1,221,290	11,460
19	Kings Beach/Casuarina/Kings Forest	721,073	-
20	Seabreeze Estate - Open Space	651	-
21	Terranora Village Estate - Open Space & Community Facilities	26,703	-
22	Shirewide Cycleways	357,436	2,706
23	Shirewide Carparking	1,966,335	-
25	Salt Development - Open Space & Car Parking	874,093	-
26	Shirewide/Regional Open Space	2,759,199	28,188
27	Tweed Heads Masterplan Local Open Space & Streetscaping	59,451	-
28	Seaside City	21,201	-
90	Footpaths & Cycleway	-	-
91	DCP14	93,341	-
92	Public Reserve Contributions	114,660	-
95	Bilambil Heights	456,442	-
Total		28,845,429	259,384

14. Economic Commentary

Australian Cash Rate

The Reserve Bank of Australia (RBA) left the official cash rate at 3.50% pa at its 3 July meeting. The Board judged that, with inflation expected to be consistent with the target and growth close to trend, but with a more subdued international outlook than was the case a few months ago, the stance of monetary policy remained appropriate.

The RBA noted previously that Europe would remain a potential source of adverse shocks. Europe's economic and financial prospects have again been clouded by weakening growth,

heightened political uncertainty and concerns about fiscal sustainability and the strength of some banks.

Economists continue to expect further rate cuts by the RBA this year as sovereign debt issues in Europe continue to affect global trade, particularly with China and global confidence in general.

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with Division of Local Government guidelines with 80% of the portfolio held in term deposits or cash at call. Term deposit and bond rates have fallen considerably but continue to provide above benchmark returns while minimizing capital risk.

All investment categories including cash at call out-performed the UBS 30 day bank bill benchmark this month. Overall, the investment portfolio has returned an average 1.43% pa above the 30 day UBS bank bill index for the last 12 month period.

Source: Oakvale Capital Limited & Governor of the RBA

15. Investment Summary as at 30 June 2012

GENERAL FUND

CORPORATE FIXED RATE BONDS	6,105,510.00	
FLOATING RATE NOTES	25,330,485.38	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSIT - LOAN 104 OFFSET	0.00	
TERM DEPOSITS	47,000,000.00	
CALL ACCOUNT	9,500,000.00	87,935,995.38

WATER FUND

TERM DEPOSITS	22,000,000.00	
FUND MANAGERS	0.00	22,000,000.00

SEWERAGE FUND

TERM DEPOSITS	50,000,000.00	
FUND MANAGERS	0.00	50,000,000.00

TOTAL INVESTMENTS		159,935,995.38
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It should be noted that the General Fund investments of **\$87million** are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

All Water and Sewerage Fund investments can only be expended in accordance with Government regulation and Council resolution.

Statutory Statement - Local Government (General) Regulation 2005 Clause 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



**Chief Financial Officer
(Responsible Accounting Officer)**

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Investment (of Surplus Funds) Version 1.5.

b. Budget/Long Term Financial Plan:

In accordance with Budget Projections.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

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
- 1.3.1.35 Council funds are invested in accordance with legislation requirements and Council Policy
- 1.3.1.35.1 Council funds are invested to provide maximum returns whilst having due regard to risk

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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46 [TCS-CM] Property Sale - 113 Wollumbin Street, Murwillumbah

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

The sale of 113 Wollumbin Street, Murwillumbah was settled on 29 August 2011.

The 2011/12 Original General Fund Budget and subsequent approved Budget Reviews have resulted in the following allocation of the sale proceeds:

Murwillumbah Museum	\$1,300,000
Murwillumbah Community Centre	\$150,000
Repayment to Land Development Reserve - for sewer relocation	\$106,869
Transfer to Land Development Reserve - for public car parking	\$109,470
	\$1,666,339

During the end of financial year asset sale transactions it has been identified that Lots 1 to 3 in DP 772254 were owned by the Sewer Fund and therefore cannot be used for the General Fund purposes as allocated in the 2011/12 budget. This leaves a General Fund budget shortfall of \$1,114,425.

The Gray Street Depot Land at Tweed Heads is owned by the Sewer Fund as the land is part of the old Tweed Heads Sewerage Treatment Works; however the buildings within the depot have been constructed from the General Fund. It would be advantageous if the land and buildings were all owned by the same Fund, especially should at any point in time the Water and Sewer functions of Council were to become a separate authority.

It is proposed that Council transfers the General Fund buildings at the Gray Street Depot to the Sewer Fund for the valuation as at 30 June 2011 undertaken by Australian Pacific Valuers (APV) of \$1,274,478. The transfer will result in small surplus which is recommended to be transferred to the Land Development Fund.

RECOMMENDATION:

That:

- 1. Council transfers the General Fund Building Assets situated at the Gray Street Depot, Tweed Heads to the Sewer Fund for a value of \$1,274,478.**

2. **The resulting net proceeds to the General Fund be utilised as previously voted in the 2011/12 budget with the balance transferred to the Land Development Reserve.**

REPORT:

Council at its meeting of 21 April 2009 resolved to sell 113 Wollumbin Street, Murwillumbah.

"That Council:-

1. *Agrees to enter into a Contract for Sale of Land, as detailed in the body of this report for 107 to 113 Wollumbin Street comprised in Lots 1 to 3 in DP 772254 and Lot 4 in DP 772202;*
2. *A portion of the sale price be set aside for the provision of public car parking in the Murwillumbah CBD; and*
3. *Executes all documentation under the Common Seal of Council."*

The sale of this property was settled on 29 August 2011 with the following outcome:

Wollumbin Street - Conveyance and selling expenses	\$50,000
Sale of Wollumbin Street - Sale of Land Proceeds	<u>\$(1,700,818)</u>
Net Sale Proceeds	\$(1,650,818)

The 2011/12 Original General Fund Budget and subsequent approved Budget Reviews projected the following allocation of the sale proceeds:-

Murwillumbah Museum	\$1,300,000
Murwillumbah Community Centre	\$150,000
Repayment to Land Development Reserve - for sewer relocation	\$106,869
Transfer to Land Development Reserve - for public car parking	<u>\$109,470</u>
	\$1,666,339

During the end of financial year asset sale transactions it has been identified that Lots 1 to 3 in DP 772254 were owned by the Sewer Fund and therefore cannot be used for the General Fund purposes as allocated in the 2011/12 budget. This leaves a General Fund budget shortfall of \$1,114,425. The apportionment of the sale proceeds are:-

Sewer Fund	\$(1,098,904)
General Fund	<u>\$(551,914)</u>
Net Sale Proceeds	\$(1,650,818)

This results in a General Fund Budget shortfall of \$1,114,425.

OPTIONS:

The Gray Street Depot Land at Tweed Heads is owned by the Sewer Fund as the land is part of the old Tweed Heads Sewerage Treatment Works; however the buildings within the depot have been constructed from the General Fund. It would be advantageous if the land and buildings were all owned by the same Fund, especially should at any point in time the Water and Sewer functions of Council were to become a separate authority.

External valuations undertaken by Australian Pacific Valuers (APV) of these buildings at 30 June 2011 were as follows:

	Cost	Depreciation	Written Down Value
Administration Office	\$299,813	\$41,632	\$258,181
Plant Storage Shed	\$950,768	\$20,874	\$929,894
Storage Shed	\$25,798	\$1,996	\$23,802
Storage Shed - Water	\$62,268	\$9,635	\$52,633
Storage Shed, Colourbond	\$29,316	\$11,316	\$9,967
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	\$1,367,964	\$85,453	\$1,274,478

It is proposed that Council transfers the General Fund Buildings to the Sewer Fund at the above valuations which have been determined independently of Council.

The General Fund will pay an annual lease equivalent to the maintenance cost of the buildings to the Sewer Fund. This measure will ensure the Sewer Fund assets are maintained by the General Fund in recognition of some use of the buildings.

CONCLUSION:

The General Fund 2011/12 budget has a \$1,114.425 shortfall that requires appropriate rectification. The transfer of the General Fund buildings at Gray Street, Tweed Heads will fund the shortfall and consolidate the assets at that site.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

As discussed in the report

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.3 Financial requirements and the community's capacity to pay will be taken into account when meeting the community's desired levels of service
- 1.2.3.1 Financial Services and legislative financial reporting
- 1.2.3.1.3 Provide financial information to the organisation to ensure budget control

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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47 [TCS-CM] EC2012-142 Provision of Apprentices and Trainees utilising Group Training Services

SUBMITTED BY: Human Resources



Civic Leadership

SUMMARY OF REPORT:

The current contract covering the provision of Group Training Services to Council expires 31 August 2012. As a consequence, Council has to establish a new contract, for the provision of quality apprentices and trainees through a Group Training Provider. The period of the contract is to be for two (2) years with the option of a two (2) year extension and will cover the placement of both field based and office based positions.

The tender process sought responses from Group Training Organisations to provide apprentices and trainees in a variety of vocations including, but not limited to the following:

- Business Administration
- Transport and Distribution
- Information Technology (records management)
- Carpentry
- Electrical
- Engineering fabrication (fitter welders)
- Engineering mechanical (pump fitters)
- Heavy vehicle mechanics (diesel mechanic)
- Horticulture
- Sign Writing
- Arboriculture
- Civil construction

The contract is for the provision of an end to end service covering advertising and recruitment, through payment of salaries, management of training, mentoring support and supervision.

Council presently hosts 19 apprentices and trainees at various stages of their training cross a broad range of trades and is anticipating similar numbers going forward.

RECOMMENDATION:

That:

- 1. Council awards Tender EC2012-142 for Provision of Apprentices and Trainees utilising Group Training Services to Skilled Group Training for a two (2) year period, effective 2 September 2012, with the option of a two (2) year extension.**

- 2. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and (d) of the Local Government Act 1993, because it contains:-**
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.**
 - (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret.**

REPORT:

The work to be performed under this tender comprises the provision of all services and the performance of whatever kind necessary for the provision of Apprentices and Trainees utilising Group Training Services.

Annual spend on Apprentices/Trainees from 2010 to 2012:

Year	Spend per annum (incl. GST)	
2010/2011	\$523,247.91	15 apprentices 1 Trainee
2011/2012	\$834,042.05	18 apprentices 1 Trainee

Future spend will be determined by the number of apprentices and trainees engaged by Council, as well as their age, stage of apprenticeship and classification, with Council offering no Guarantee of work under this Contract.

TENDERS RECEIVED

Following the close of tenders a total of four submissions were received.

Submissions received are as follows:

1. Novaskill
2. Northern Rivers Group Training
3. Skilled Group
4. Australian Training Company

TENDER EVALUATION

The Tender Evaluation was conducted by representatives from Council's Human Resources Unit, Recreations Services Unit and Engineering and Operations.

Tenders were evaluated based on the criteria listed in Clause 2.2 contained within the Conditions of Tendering. The panel were unanimous in the preferred supplier, with Skilled Group receiving the highest rating.

Item	Criterion	Weighting %
1	Tender Price (Assessed Tender Cost)	45
2	Recruitment Services (Key Site & Company Personnel Experience)	15
3	Support Services (Contract Experience)	15
4	Financial Services (Time Performance)	10
5	WHS and Risk Management	10
6	Environmental & Quality Systems	5
	Total	100

Submissions were assessed by the Tender Schedules submitted by the Tenderers to ascertain a preferred supplier list offering the best competency and economical advantage, for various aspects of services as required. Tender Schedules included:

- Schedule of Rates
- Schedule of Tenderers Team and Experience
- Schedule of Quality Management
- Schedule of Workplace Health and Safety Management
- Schedule of Environmental Management

For each criterion, scores were awarded to tenderers on a descending scale, i.e. the most merit attracting the highest score, the lesser merit attracting a lesser score and equal merit will attract an equal score. A consensus in scoring was reached by the Panel Members for the most preferred and least preferred supplier.

The panel were unanimous in the preferred supplier.

OPTIONS

Not Applicable.

CONCLUSION:

That Council award Tender EC2012-142 Provision of Apprentices and Trainees utilising Group Training Services to Skilled Group Training for a two (2) year period, effective 2 September 2012, with the option of a two (2) year extension.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3.

b. Budget/Long Term Financial Plan:

Provision of expenditure to engage Group Training Services is included in the normal operational budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

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
- 1.3.1.34 Strengthen Council's position as an Employer of Choice

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - Tender Evaluation Report for the Tender EC2012-142 Provision of Apprentices and Trainees utilising Group Training Services (ECM 52925754).
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48 [TCS-CM] EC2011-203 Records Storage Facility, Honeyeater Circuit, Murwillumbah

SUBMITTED BY: Director/Contracts



Civic Leadership

SUMMARY OF REPORT:

On 13 December 2011 Council resolved to accept the negotiated contract price from Tinlen Pty Ltd to perform the construction of the records storage facility located at Lot 503 Honeyeater Circuit Murwillumbah for the Lump Sum amount of \$934,290.00 exclusive of GST.

The accepted negotiated contract price had removed a number of construction items from the original submitted tender price to bring the negotiated price within the then available project budget. These items are still required to be completed at some time in the future. The removed items were not actual savings but in fact delayed expenditure to be completed either by Council staff or when funds become available or as the need arises.

Funds have become available through savings in the IT/Records operational budget, savings in the Museum's operational budget whilst that facility is closed and unexpended Museum loan funds to complete these works at the construction phase rather than retro fitting at a later time.

Based on approved and pending variations to date the revised contract sum for EC2011-203 is \$1,091,700.90 exclusive of GST.

RECOMMENDATION:

That:

- 1. Council accepts the approved and pending variations as at 30 June 2012 amounting to \$157,410.90 (exclusive of GST) for Contract EC2011-203 Records Storage Facility Honeyeater Circuit Murwillumbah.**
- 2. The General Manager is given delegated authority to approve any additional variations up to \$150,000 above the revised contract sum and those variations reported to Council following completion of the works.**

REPORT:

On 13 December 2011 Council resolved to accept the negotiated contract price from Tinlen Pty Ltd to perform the construction of the records storage facility located at lot 503 Honeyeater Circuit Murwillumbah for the Lump Sum amount of \$934,290.00 Exclusive of GST.

The accepted negotiated contract price had removed a number of construction items from the original submitted tender price to bring the negotiated price within the then available project budget. These items are still required to be completed at some time in the future. The removed items were not actual savings but in fact delayed expenditure to be completed either by Council staff or when funds become available or as the need arises.

Following the awarding of contract and the completion of approximately fifty percent of the construction works a number of variations to the contract have been approved and are pending approvals due to funds being made available to complete some of the deleted items at the negotiation stage. These funds have become available through savings in the IT/Records operational budget, savings in the Museum's operational budget whilst that facility is closed and unexpended Museum loan funds. It also proved to be better value for money to have these works being done during the construction stage rather than having the works retro fitted at a later stage by Council staff. Details of the variations approved and pending approval are provided below for the information of Council, as follows:

No	Variation Description	Amount (Excl. GST)	Status
1	Building layout changes		
	<ul style="list-style-type: none"> • for compliance with Building regulations incorporating new fire doors additional fire hose reels, structural changes to concrete panel walls for future roller door 	\$10,810.00	
	<ul style="list-style-type: none"> • Additional structural change in concrete slab to incorporate future loading of proposed mezzanines over office spaces and construction of a new communications office space. 	\$11,002.00	
	<ul style="list-style-type: none"> • Provision of additional Electrical, Data and hydraulic requirements to proposed changes to office spaces 	\$8,960.00	
	Variation No.1 Total	\$30,772.00	Approved
2	Metal cladding to all external doors for thermal properties for future Air conditioning of storage units		
	Variation No.2 Total	\$3,888.00	Approved
3	Cast ferrules in concrete panels for future office mezzanine construction connection points		
	Variation No.3 Total	\$4,840.00	Approved
4	Additional works units 2 & 3 construction of		
	<ul style="list-style-type: none"> • Unit 2 office, mezzanine, stairwell and fit out • Unit 3 office, mezzanine, stairwell and fit out 	\$58,997.27 \$54,933.63	
	Variation No.4 Total	\$113,930.90	Pending
5	Unit 1 Kitchenette fit out incorporating all necessary plumbing, fittings, fixtures, cabinetry works and installation.		
	Variation No.5 Total	\$3,980.00	Pending

The revised contract sum for EC2011-203 now totals \$1,091,700.90 exclusive of GST, based on the approved variations totalling \$39,500.00 and pending variations totalling 117,910.90.

OPTIONS:

Not Applicable.

CONCLUSION:

A review of the variations is considered to be fair and reasonable for the works as varied which are considered necessary for Council to occupy the units in an operational capacity and as additional funding has been made available for the variations it is recommended that:

1. That Council accepts the approved and pending variations as at 30 June 2012 amounting to \$157,410.90 (exclusive of GST) for Contract EC2011-203 Records Storage Facility Honeyeater Circuit Murwillumbah.
2. The General Manager is given delegated authority to approve any additional variations up to \$150,000 above the revised contract sum and those variations reported to Council following completion of the works.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The above variations are to be funded by:

	Land Development Reserve	IT/Records Budget	Museum Maintenance	Museum Loan	Totals
Unit 1	11,866.00				11,866.00
Unit 2	14,927.00	58,997.27			73,924.27
Unit 3			16,687.00	54,933.63	71,620.63
	26,793.00	58,997.27	16,687.00	54,933.63	157,410.90

Contract Variation 1, 2 and 3 were included in the March 2012 Quarterly Budget Review.

Operational costs of the new records facility have been included in the Long Term Financial Plan

Additional items that need to be considered in the final project costs that will be carried out by Council are:

- Fencing and electric gate
- AC to office spaces
- landscaping as per DA requirements

Funds have become available through savings in the IT/Records operational budget, savings in the Museum's operational budget whilst that facility is closed and unexpended

Museum loan funds to complete these works at the construction phase rather than retro fitting at a later time.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.2 Council will seek the best value in delivering services
- 1.3.2.2 Acquire and operate appropriate storage and retrieval facilities for Council records that are compliant with the State Records Act 1998
- 1.3.2.2.1 Construct and move to a permanent records and museum storage facility

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

49 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 1 June 2012

Venue:

Tweed Byron Local Aboriginal Land Council, 21/25 Ourimbah Road, Tweed Heads

Time:

9.30am

Present:

Aunty Joyce Summers (Canowindra representative), Glenda Nalder (Tweed Wollumbin Aboriginal Education Consultative Group representative), Cr Dot Holdom (Tweed Shire Council representative), Des Williams, (Tweed Byron Local Aboriginal Land Council representative), Garth Lena (Minyunbul Community representative), Leweena Williams (Tweed Aboriginal Corporation for Sport representative) from 9.30am-1.47pm

Ex-officio:

Linda Cooper (Minutes) (Tweed Shire Council), Fred Gesha (Tweed Shire Council), Anne McLean (Tweed Shire Council)

Guest Observers (in order of arrival):

Cr Barry Longland, Mayor of Tweed Shire from 9.30am-11.17am, David Oxenham (Tweed Shire Council) from 9.30am-12.03pm, David Keenan (Tweed Shire Council) from 10.29am-12.01pm, Ian Fox (Converge) from 10.51am-11.37am, Tim Gall (Converge) from 10.51am-11.37am, Rob Appo (Converge) from 10.51am-11.37am, Phil Fogarty (NSW Government Department of Primary Industries, Catchments & Lands) from 12.30pm-1.47pm, Tim Robins (Everick) from 1.44pm-2.57pm

Apologies:

Jackie McDonald (Tweed Wollumbin Aboriginal Education Consultative Group representative), Desrae Rotumah (Tweed Aboriginal Co-operative Society Limited representative)

Chair: Garth Lena

Moved: Des Williams

Seconded: Cr Dot Holdom

RESOLVED that the Chair was declared vacant and nominations were called. Garth Lena was nominated and was unanimously elected to Chair the meeting.

Garth Lena opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Cr Dot Holdom

Seconded: Aunty Joyce Summers

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held Friday 4 May 2012 be accepted as a true and accurate record of the proceedings of that meeting.

Outstanding Matters Report

O1 "Between River and Sea" Historical Images of Kingscliff
Deferred.

O2 Memorandum of Understanding ("MOU")
Deferred to July Aboriginal Advisory Committee (AAC) Meeting.

O3 Terms of Reference
Deferred to July AAC Meeting.

O4 Terms of Reference
Deferred to July AAC Meeting.

O5 Aboriginal Community Member Representation to Museum Advisory Committee
Deferred to July AAC Meeting.

O6 Pacific Highway, Banora Point Upgrade
Glenda Nalder advised that this should be completed soon and the item can be closed.

O7 Pacific Highway, Banora Point Upgrade
Glenda Nalder advised that this should be completed soon and the item can be closed.

O8 Telecommunications / Mobile Phone Towers
Deferred.

O9 Reconciliation Week
Deferred.

O10 Aboriginal Statement
This will be included in the Draft Memorandum of Understanding (MOU). This will be discussed at the July AAC Meeting.

O11 Bush Regeneration teams
This will be discussed at the July AAC Meeting.

O12 LPMA Projects
Phil Fogarty is attending later today to discuss these projects.

O13 Green Teams Alliance
David Oxenham advised that Stewart Brawley from Council is looking at what the real cost of maintenance at Jack Evans Boat Harbour is going to be and if there are opportunities to add other projects. This item can be placed on hold.

O14 Care Agreement Application for Kirkwood Road Project
Des Williams did not attend the Tweed Aboriginal Co-operative Society Limited (TACSL) meeting. This item can be discussed at the July AAC Meeting when Desrae Rotumah will be in attendance.

O15 Royal Terranora Resort at Marana Street, Bilambil Heights
Tim Robins will discuss this item later today.

O16 Hundred Hills development at Murwillumbah
Tim Robins will discuss this item later today.

O17 River Heights Tourist Park at Kirkwood Road, Tweed Heads South
Tim Robins will discuss this item later today.

O18 Kirkwood Road Project
Jason Young needs to be invited to a future AAC Meeting.

O19 Designated Aboriginal Positions
A meeting has been arranged between Council and Department of Education, Employment and Workplace Relations (DEEWR) representatives for 12 June. David Oxenham advised that there is a determined trainee role in Engineering and Operations. The current incumbent is Aboriginal but this position was not a designated Aboriginal position. The position is now designated as an ATSI trainee position through Skilled.

Glenda Nalder suggested that employment pathways should be considered and a meeting should involve Human Resources to discuss employment pathways for those trainees once the traineeship ends. David Oxenham advised that there is no guarantee for employment for trainees and apprentices; however there are many job vacancies that arise at Council which they can apply for.

Glenda feels that it is important to note it is desirable to have the pathways connection in the MOU. It is a competitive appointment process but part of affirmative action is that those people who have done traineeships may have some greater status in terms of meeting criteria.

Des Williams said that a traineeship could not only skill the participant but it could skill them to go further. Glenda advised that this needs to connect with Council's Human Resources and Equal Employment Opportunity Policy. Anne McLean advised that this will form part of the discussion at the meeting between Council and DEEWR on 12 June.

O20 Aboriginal Development Officer
David Oxenham suggested that Fred Gesha, Anne McLean and himself should attend the Councillors Workshop on Tuesday 5 June from 3.30pm onwards.

O21 Tweed City Shopping Centre Due Diligence Assessment
Tim Robins will discuss this item later today.

O22 Churaki Stone Sculpture
No update.

O23 ProWake
This will be discussed at the Council Meeting in June.

O24 Charles Street Primary School, Pottsville
Tim Robins will discuss this item later today.

O25 Charles Street Primary School, Pottsville
Tim Robins will discuss this item later today.

O26 Employment and training opportunities at Cobaki Lakes and Kings Forest developments
Anne McLean advised that Terry Watson from DEEWR needs someone from the community to approach him.

O27 Council's Tender Specifications with regards to Aboriginal employment
This item relates to the way that Council runs major contracts. Council will discuss how to make the process easier for local Aboriginal people to get work when the contracts are let when they meet with DEEWR on 12 June.

Glenda Nalder advised that the Aboriginal Compact requires Council to put a Clause in tender documents requiring affirmative action for Aboriginal employment.

O28 Tweed Shire Council's Employment Strategy
The meeting is taking place on 12 June.

O29 Aboriginal Statement
This item will be discussed at the July AAC Meeting.

O30 Memorandum of Understanding (MOU)
This went through the Executive Management Team (EMT). Minutes have not gone to Council yet. The words will be endorsed by Council before it goes into caretaker mode. This was entered as a Resolution as opposed to a Recommendation in April's AAC Minutes. This needs to go to Council as a Recommendation.

RECOMMENDATION:

Moved: Des Williams

Seconded: Cr Dot Holdom

That Council recognises the Aboriginal Advisory Committee as being the peak advisor to Council on indigenous matters and that this is included in the Memorandum of Understanding.

O31 Memorandum of Understanding (MOU)
This item will be discussed at the July AAC Meeting.

O32 Memorandum of Understanding (MOU) and Reconciliation Action Plan (RAP)
Anne McLean advised that she will designate several hours to discuss this topic at the July AAC meeting.

Moved: Cr Dot Holdom

Seconded: Aunty Joyce Summers

RESOLVED that the number of guests at the July Aboriginal Advisory Committee Meeting is limited.

Moved: Cr Dot Holdom

Seconded: Aunty Joyce Summers

RESOLVED that Tim Robins from Everick supplies Aboriginal Advisory Committee with information a month in advance of the Aboriginal Advisory Committee meeting that he is attending.

Action: Anne McLean is to email Tim Robins from Everick and request that he supplies AAC with information a month in advance of the AAC meeting that he is attending.

O33 Mandatory Code of Meeting Practice and cultural awareness training for newly elected and returning councillors

This Recommendation went through to Council and was discussed at the Council meeting in May. This item can now be closed.

O34 Wooyung

Tim Robins will discuss this item later today.

O35 Mooball Residential Rezoning

Tim Robins will discuss this item later today.

O36 Cobaki Lakes

Tim Robins will discuss this item later today.

O37 Cobaki Lakes

Tim Robins will discuss this item later today.

O38 Cobaki Lakes

Tim Robins will discuss this item later today.

O39 Cobaki Lakes

Tim Robins will discuss this item later today.

O40 Limpinwood Telstra Tower Cultural Heritage Assessment

Ian Fox will discuss this item later today.

O41 Limpinwood Telstra Tower Cultural Heritage Assessment

Ian Fox will discuss this item later today.

O42 NAIDOC Week

This will go to the Council meeting in June as a Recommendation.

O43 NAIDOC Week

Fred Gesha advised that he is regularly meeting with Desrae Rotumah and Leweena Williams. Fred circulated a draft calendar of events to AAC Members.

O44 "NAIDOC Week School Initiative Competitions"

Fred Gesha advised that he is following up Colin Appo to discuss the Koori Kids Initiative. This item can be closed.

RECOMMENDATION:

Moved: Cr Dot Holdom

Seconded: Garth Lena

That Council contributes \$450 from the Aboriginal Development Fund towards children's activities on an annual basis.

O45 New viaduct at Banora Point

David Oxenham advised that Roads and Maritime Services (RMS) normally hand over the maintenance to a contractor to operate.

Moved: Cr Dot Holdom

Seconded: Leweena Williams

RESOLVED that included in the letter that Council writes to Roads and Maritime Services it requests that Roads and Maritime Services looks at indigenous employment taking an active part.

O46 Aboriginal Cultural Heritage Management Plan (ACHMP) Memorandum of Understanding (MOU)

Ian Fox will discuss this item later today.

O47 Local Government Aboriginal Network Conference

David Oxenham has approved that Fred Gesha and one representative from AAC can attend the Local Government Aboriginal Network Conference to be held in Grafton from 15 to 17 August 2012.

Cr Holdom recommends that Fred attends with Garth Lena and a female representative from the AAC. Aunty Joyce Summers advised that she does not wish to attend the conference. Leweena Williams advised that she will attend if Jackie McDonald does not wish to go. David advised that the recommendation will be supported by Council. Should it be supported, Council will pay for the conference fees, accommodation, three standard meals per day and transport.

RECOMMENDATION:

Moved: Cr Dot Holdom

Seconded: Des Williams

That Council funds approximately \$4000 for Fred Gesha, Garth Lena plus a female representative (either Jackie McDonald or Leweena Williams) to represent Council and the Aboriginal Advisory Committee at the NSW Local Government Aboriginal Network Conference to be held in Grafton from 15 to 17 August 2012.

Action: Invite Jackie McDonald to attend the NSW Local Government Aboriginal Network Conference to be held in Grafton from 15 to 17 August 2012. If Jackie does not wish to attend, Leweena Williams will attend.

O48 ATSI Issues Paper Update

Fred Gesha advised that this is an open tender process. There are not many Aboriginal consultancies in the local area. AAC felt it is more appropriate for an indigenous consultancy to be used. Glenda Nalder suggested that the tender selection process is made transparent and that members of AAC sit on the selection committee.

RECOMMENDATION:

Moved: Cr Dot Holdom

Seconded: Des Williams

That a member of the Aboriginal Advisory Committee sits on the tender panel for the ATSI Issues Paper Project and that Aboriginal consultants be sourced to make up the tenderers.

Action: AAC members are to consider Aboriginal people with facilitation and consultancy skills to update the 2001 Issues Paper.

Action: Fred Gesha is to send AAC members the original ATSI Issues Paper which was written in March 2001 and included as support documentation for the Tweed Shire Council Social Plan 2005-2009.

Outstanding Matters Report Suspended for Agenda Item

David Keenan attended at 10.29am.

Agenda Items

A1 Introduction of David Keenan, General Manager, Tweed Shire Council
David Keenan thanked AAC for the invitation to attend the meeting and provided a brief summary of his previous involvement with Aboriginal communities.

Des Williams advised that AAC had a good relationship with the previous General Manager (Mike Rayner) and would like to continue this with David Keenan. Garth Lena welcomed David Keenan into the community.

Outstanding Matters Report Resumed

O49 Heritage Walls, Banora Point

The document that Jackie McDonald has amended was circulated.

Moved: Des Williams

Seconded: Aunty Joyce Summers

RESOLVED to accept Jackie McDonald's amendments to the text and add the sentence beneath the first bullet point under the heading of "History": "80 to 90 percent of all coastal middens contain Aboriginal skeletal remains, for example Oxley Cove."

O50 Grant Funding

Fred Gesha circulated a list of funding bodies.

Action: Fred Gesha is to email the list of funding bodies to AAC Members.

Ian Fox, Tim Gall and Rob Appo attended at 10.51am.

Agenda Items Resumed

A2 Ian Fox, Tim Gall and Rob Appo (Converge)

(a) Aboriginal Cultural Heritage Management Plan (ACHMP) Memorandum of Understanding (MOU) [Also Outstanding Matter 46]

Tim distributed copies of the MOU. Public notification of the project will be issued via Tweed Link over the next month.

Ian asked if AAC want any Clauses reworded. Ian also asked for nominations from the community who could help with the project. Ian noted that Converge will be flexible, will accept more than one nominee and can be flexible with preferred dates for site visits. He also noted that female nominees may be required for women's sites. Des Williams advised that Jackie McDonald would want her son Jason to be involved. Tim advised that the cultural mapping will occur over a period of nine months. Des advised that he will assist, along with Warren Phillips. Garth Lena suggested that his father may be interested in assisting.

Action: Ian Fox is to meet with Jackie McDonald and Garth Lena to discuss the MOU.

Ian asked if the AAC is in general agreement about the content of the draft MOU. Tim advised that the document needs final review from Council through the Councillors and General Manager. Tim wanted to check that AAC are comfortable with this draft before it is presented to Council.

Aunty Joyce Summers referred to "Clause 16(c) Dispute Resolution" referring to use of Aboriginal lore and custom. Tim suggested Converge can change the Clause by saying that "if the dispute is about Aboriginal culture, the matter will be referred to the AAC."

Barry Longland left the meeting at 11.17am.

Action: Converge will change Clause 16(c) of the Draft MOU after discussing it with Jackie McDonald, Aunty Joyce Summers, Des Williams and Garth Lena.

Des advised that in the past some people have been hesitant to reveal the location of sites to Office of Environment and Heritage (OEH). Council should be aware that Aboriginal people need to be consulted as well as OEH.

(b) Draft Limpinwood Telstra Report

Ian advised that Optus had approached Council to install a tower at Boxall Road, Limpinwood. Council declined the request and suggested co-location with the Telstra tower. The co-location required data cables to be run that triggered additional investigation. Ian advised that field surveys have now been done. A draft report has been completed. There is now a 28 day period for those involved who are registered to review the draft. Ian has given a copy to the Tweed Byron Local Aboriginal Land Council (TBLALC) and Jackie McDonald. Des said that no artefacts were found. It is open grazing ground.

Ian said that a known pathway is adjacent to the site and it goes from Tweed up through the Border Ranges to Beaudesert. However, no artefacts were found and Converge's Draft Report reflects that.

Des advised that when the trench is dug for cabling it needs to be monitored.

Ian advised that at the completion of 28 days he will be in touch with Jackie and TBLALC. Ian will discuss this at the next AAC meeting and finalise the report.

(c) Lot 10 Phillip Street, Chinderah [New Item]

Converge have been requested to do a Cultural Heritage Assessment for this site for a proposed new development for ten cabins. Ian asked if AAC are happy for Converge to work with TBLALC, undertake the assessment and Converge will put a notification in the paper. There will be an opportunity for people to register. This area is within 200m to 300m of registered sites on Aboriginal Heritage Information Management System (AHIMS).

Garth nominated a cultural monitor. Des noted that Jackie will have an interest as she has family ties to the site. Ian will speak to Jackie to ask if she wishes to nominate. Des spoke from TBLALC's perspective and advised that monitoring should be done. Des will nominate.

Tim Gall left the meeting at 11.37am.

Ian Fox left the meeting at 11.37am.

Rob Appo left the meeting at 11.37am.

A3 How Council Manages Fill - David Oxenham (Tweed Shire Council)

David Oxenham advised that regulatory process is that the fill has to be taken from an approved source.

Council do not undertake any monitoring of imported fill on site. The advice received is that it would be onerous task if it was a requirement. Council obtains fill from all kinds of sources from New South Wales and Queensland and this includes sand, hard rock from quarries and gravels. The fill is always from an approved site, which means it has gone through a process of cultural heritage assessment when it is taken.

Community Cultural Development Advisory Committee [New Item]

Glenda asked when a Cultural Development Officer will be appointed and when will the Committee meet again. David Oxenham advised that the Community Services Manager and Cultural Development Officer positions remain vacant and that is the reason why the Committee has not met.

New positions will reinvigorate the Committee which may tie in with the timing of the reformation of all Council Committees.

The Community Services Manager's position will be filled first followed by the Cultural Development Officer's position.

ProWake [New Item]

Cr Dot Holdom related the sequence of events in relation to this matter.

On 21 February 2012 Development Application (DA) approval was refused.

On 20 March 2012 a motion to defer the matter to the April Council meeting and a full workshop to better understand the development was lost.

On 20 March 2012 DA refusal was rescinded.

On 20 March 2012 a motion to support the development in principal and bring forward a report to the April meeting was deferred.

On 20 March 2012 a motion to arrange a meeting between the applicant and relevant Tweed Shire Council Officers to discuss the development was successful.

David Keenan left the meeting at 12.01pm.

David Oxenham left the meeting at 12.03pm.

Phil Fogarty attended at 12.30pm.

A4 Phil Fogarty (NSW Government Department of Primary Industries, Catchments & Lands)

(a) Tweed Precinct and (b) Flagstaff Hill

Phil Fogarty advised that Crown Lands still exists under the NSW Government Department of Primary Industries, Catchments & Lands (Lands). A review of the Crown Lands Act and Aboriginal Land Rights Act will take place. Phil's job as Project Manager Regional Projects remains and is tasked with achieving the highest and best use of sites in his Crown Lands portfolio. Lands maintain a strong interest in Flagstaff Hill, Coral Street and Duranbah Beach. They have worked with Council on the urban design on the northern foreshore at Jack Evans Boat Harbour, the old surf clubhouse at Duranbah beach and the triangle of land on Flagstaff Hill. There is no action being carried out at this point other than refining the urban design with a view of public consultation and exhibition.

Glenda asked about Native Title rights and discussed Jack Evans Boat Harbour and Tweed Heads Town Centre planning projects. During 2006 or 2007 Phil came to an AAC meeting. Glenda advised in that meeting Phil presented a map that showed areas of land with different zonings and where Native Title had been extinguished. Phil advised he sent that map to Jackie McDonald. Glenda asked if Phil could resend it. Phil will provide a map of land status which is a matter for the public record. Phil advised that Jackie had asked for their research on historic land status that addresses the extinguishment of Native Title but Lands do not hand that information over as it is essentially legal information, for example Lands' opinion.

Action: Phil Fogarty is to send a map of land status to AAC.

Phil advised that If Lands want to use land for a certain purpose they need to determine if Native Title has been extinguished or not. He noted there are two Aboriginal Land Claims in relation to the Flagstaff Hill area at the moment. One is for the space at Flagstaff Hill to which Council propose to build a Museum. There is also a separate land claim for parts of Coral Street. Part of Phil's job is the research and planning necessary to contemplate development. At this point in regard to the land claim, he has asked Council in their response to clarify matters, for example lawful use and occupation before he can write up a report and recommendation to the Minister. Lands will most likely recommend refusal of both claims for the museum site on Flagstaff Hill and the claim for Coral Street. Documentation will be provided to support the refusal.

The Local Environmental Plan shows Coral Street zoned as residential. Master planning for the area has been ongoing for ten years. This reaffirms public interest. Aunty Joyce asked if something is zoned for public use does this extinguish Native Title.

Des suggested it may take a while before the claims go to the Land and Environment Court. Phil advised that within the Department they tend to respond to claims that they feel are a priority. The Attorney General decides whether to adopt a recommendation or not. The State Land Council can appeal it. It would then go to the Land and Environment Court.

Phil said that the Aboriginal community is always a key stakeholder with regards to public use. Any DA would require a Cultural Heritage Assessment carried out. Tweed Shire Council has been talking to AAC about their views and aspirations for the Museum site and development on foreshores. As far as Phil can see, moving down the development pathway embraces Aboriginal interests.

Des asked if there have been any changes to the Act or procedures. Phil advised that Part 3a has changed. This is mostly procedural but there is some statutory grace. Council have done good work in Jack Evans Boat Harbour and in their commitment for Goorimahbah. They are waiting for the next stage. Logically that theme should be carried on around Tweed Heads through public art and interpretive material to be weaved in to the development proposal. Council want to see the old surf clubhouse building at Duranbah Beach used as a function centre. It is managed by Council in Trust under the Crown Lands Act. Council want to use Coral Street parkland as an all-access regional parkland.

Phil deals with Native Title before a land claim. Lands is satisfied that Native Title is extinguished on some parts of Flagstaff Hill because of the use and occupation of the site over many years which are documented. They are also satisfied that Native Title is extinguished on Coral Street due to previous use and leases. Lands are satisfied that Native Title has been extinguished at Jack Evans Boat Harbour due to acquisition by Public Works for quarrying when the break walls were built and later dedication of the site for public use.

All uses documented over time serve and paint a picture of white people's use. Following the Native Title Act Lands do not believe that Native Title is extinguished on Flagstaff Hill at the proposed museum site so Lands have advised Council to follow the Native Title Act. One option could be to enter into an Indigenous Land Use Agreement.

(c) Marina Proposal at Boyds Bay, Tweed Heads

This proposal is still active. A preferred developer has been identified and documentation is ready to be signed. The northern boundary of the development abuts part of the Gold Coast Native Title Group's claim area. Lands sought the Crown's solicitor's advice. The advice was that the only pathway for Lands would be to acquire Native Title interest if wanting to proceed with the project. Therefore, Lands must follow procedural fairness as set out under the Native Title Act. The Minister's approval was granted to proceed to acquire Native Title and all interests in the land. A Notice was placed yesterday and appeared in The Land and Tweed Border Mail and a letter was sent to Native Title Services. The Notice sets out the process on how a person may lodge a claim and the period of time for doing so is three months. AAC members suggested that future Notices should also be put into indigenous publications such as The Tracker and Koori Mail.

Phil advised the marina will have up to 200 bays.

Aunty Joyce advised she is concerned about the environmental impact on Ukerebagh Island as it is a breeding ground. Using the sand islands it is possible to walk to the island at low tide. Des said there are midden sites on the island. Aunty Joyce advised it is heritage listed. Phil advised that detail is yet to be brought on the table until Lands move through and satisfy Native Title issues. If a claim is lodged and registered within three months it will trigger a process. Glenda confirmed that a claim has been lodged. Leweenaa is sure it has been registered.

Phil advised if the development proceeds the developer will be required to consult as part of the Development Assessment process. All environmental and cultural heritage matters will be identified during this process.

Aunty Joyce asked what the area is proposed for reclamation. Phil advised the intention is to reclaim the land along the foreshore and step out the marina from there.

Phil tabled a map and confirmed that dredging would be involved. Phil advised that fill will come from a land base facility.

(d) Camp Wollumbin

Lands is a Trustee for the Camp Wollumbin Reserve Trust. There is a visioning process taking place in Cabarita/Bogangar and the general community has an interest in Camp Wollumbin. It is important that the interests of the Aboriginal community are understood.

Cr Holdom advised that when Phil met AAC a year ago he flagged that there are possibilities at Camp Wollumbin. Phil discussed the consultation which has happened at Cabarita and the aspirations of the local community. The group have not approached Lands, however their aspirations are consistent with Phil's views of community usage. A consultation process is needed. Lands have previously done an analysis of strengths and weaknesses of the site. The main weakness is access. Access to the lake can only be as a pedestrian through the nature reserve. Access off road is a key issue. Council will not permit any use until safe entry can be established. Lands is not prepared to run an Expression of Interest for the site until all the constraints are clearly articulated.

Cr Holdom noted another major constraint is the bush fire hazard. Phil said that the minimum requirement would be a 45m buffer from the tree line to the central hall.

Glenda advised that there are implications for Native Title over that site. Phil said he has not examined in details but expects earlier leases (for example the scout hall) will extinguish Native Title. Des asked about the Land Claims Act. Phil said there is no claim over land.

In terms of the site development Phil noted there is an opportunity to engage with Aboriginal People. Lands may look at creating a Trust or appointing Council as a Trustee to work with the Aboriginal community on the site. Alternatively, the development Proponent could be an Aboriginal body/identity/group such as TBLALC.

Tim Robins attended at 1.44pm.

Phil Fogarty left the meeting at 1.47pm.

Leweena Williams left the meeting at 1.47pm.

Action: Fred Gesha will distribute Minutes from the community consultation meeting that Sylvia Roylance attended in Cabarita.

A5 Tim Robins (Everick)

(a) Royal Terranora Resort, Bilambil Heights (also Outstanding Matter 15)

Tim showed an aerial map. The report has been finalised including the comments of the AAC. Kyle Slabb assisted in the survey. This item can now be closed.

(b) Hundred Hills Development, Murwillumbah (also Outstanding Matter 16)

Tim showed an aerial map. A survey was done with Joel Slabb and Adrian. Nothing was found. Ground surface visibility was good. There is a steep slope on the ridgeline. Adrian thought the only area of potential would be the top of the ridgeline. There were big camps further down the slope but no evidence of artefacts. The top of the hill is going to be knocked off. Des asked if they can do test pits. Tim said it takes six months of consultation and numerous reports. Everick do not feel that work is warranted as there has been no evidence of sites. The DA has not been lodged yet and probably will not happen for at least another year. This item will stay open. Tim needs to make a recommendation.

Tim advised that the likelihood of monitors finding artefacts is remote. Des said it is easy to monitor a site if the excavation work team works in unison with the monitors. In lots of cases it has been successful. Two stone axes were found in Kirkwood Road. The AAC agreed workers should receive a cultural heritage induction for this site before work commences.

Action: Tim is to circulate an updated report to AAC including their comments.

(c) River Heights Tourist Park, Tweed Heads South (also Outstanding Matter 17)

The proposal is to knock off the top of a hill. This area would have been open woodland. It is a similar environment to what was found in Kirkwood Road. Everick expect to find artefacts. Des said that two artefacts have already been found at Kirkwood Road. Tim noted Everick's advice has been that more work is needed there as they are currently unable to see the ground surface. The developer is seeking to obtain a permit to clear obnoxious weeds. This area was bare 15 years ago. Everick's position is that they would like to see it cleared. The developer wants to lodge a DA and find out what other issues are on site. The developer has asked Everick to write a letter to Council and submit it with the DA that states the position of heritage assessment. Tim showed AAC the letter and explained that the letter includes a general statement about the importance of Aboriginal Cultural Heritage. Tim asked if AAC are happy with the letter. Des advised that he does not want the hill to be knocked off as that is where the stone axes were found. Tim will recommend that the grass is cut and Des inspects the site.

Des brought up an incident that occurred on the Kirkwood Road Project. Site monitors had told an excavator operator to stop excavating as they could see an artefact but he refused. When the operator got called away from his machine the site monitors found the artefacts.

Action: Anne McLean will discuss the Kirkwood Road incident with David Hannah and request that David discusses this with Tweed Byron Local Aboriginal Land Council.

(d) Tweed City Shopping Centre Due Diligence Assessment (also Outstanding Matter 21)

Tim showed an aerial map. Everick have told the Proponent that they are monitoring the site. Plans have not been finalised. Extra land has been acquired. The DA has not been submitted yet and Everick are not aware of plans for the site. Tim asked if AAC want to give feedback to developers

Des pointed to the map and showed an area of land that is closest to the Minjungbal Museum site that has been minimally disturbed, as indicated by the remains of a bora ring. Des indicated it will be worthwhile to pit and sieve that portion of the site with cultural monitors on hand. Other areas have been filled and are much higher.

Des said that the West corner block may require investigation if extensive earthworks are planned. Tim said he recommends pre-empting test pitting could be done.

Moved: Des Williams

Seconded: Cr Dot Holdom

RESOLVED that pre-empting test pitting is undertaken on the proposed portion of the Tweed City Shopping Centre extension site as identified by AAC.

(e) Charles Street Primary School, Pottsville (also Outstanding Matters 24 and 25)

Tim noted the lower portion of the site will be covered with 1-2m of fill put on it. Des advised that excavation work was done on the swamp site, with approximately 1m of soil taken out. Anne asked if the report has been prepared and if AAC's recommendations are in the report for the developer. Tim understands it is in with Council.

Des recommended that a monitor is placed on site for any excavation works. Tim was under the impression that a monitor was not required. Anne advised no, the Minutes reflect that a monitor is required and there must be a cultural induction to enable workers to identify relics. Tim will draw up a plan where the cultural monitor will need to be situated.

Des advised that Aboriginal occupation was there when sea levels differed. There could be artefacts under the level of where it is now. Tim will do an amendment to the report. Des reiterated that it was always AAC's intention to have monitors on site.

Action: Tim will circulate an amended report to AAC.

(f) Mooball Residential Rezoning (also Outstanding Matter 35)

Tim advised that Des and Adrian visited during the week. Des advised they inspected the whole site. It contains very thick grass. One particular area lends itself to a location for a campsite. There were two other campsites just outside the study area. Adrian and Des feel that a number of test pits should be dug on the campsite area. Des advised that test pits will then give a good indication on whether monitors are required when the full excavation takes place.

RESOLUTION:

Moved: Des Williams

Seconded: Aunty Joyce Summers

That test pits are dug and soil is tested for Aboriginal artefacts on one particular campsite in the Mooball Residential Rezoning area. Findings from the test pit would then indicate whether cultural monitors are needed on site for the full excavation.

Des noted the importance of Aboriginal Cultural Heritage assessments. Tim acknowledged that the community has the right to know but advised there is always negotiation. Developers ask Everick why the site survey needs to be done and Tim needs to pass on AAC's opinions. Tim asked if he can pass on the view that because we do not practice the same legislation as 40 years ago, the focus is on discovery of historical objects in accordance with legislative requirements, over and above cost considerations.

(g) Cobaki Lakes (also Outstanding Matters 36 and 38)

Des advised with that with regards to the artefacts being stored in a Community Centre at Cobaki Lakes, a part of the artefacts or, if not all of those artefacts, need to be stored at Minjungbal Museum or they will conflict with what is at the Museum. Tim asked if that is the general consensus from AAC. Tim asked again if all artefacts would go to the Museum. Des said that some artefacts need to be left in situ as close to their finding place as possible. In 50 to 100 years if all artefacts are taken away no one will know there were artefacts there in the first place. Des is talking about the collection of different types of artefacts, for example pounder, grinder, flakes going to the Museum and not the whole lot.

Tim will prepare correspondence to all stakeholders putting forward that as an option as he understands it is a sensitive topic.

Tim confirmed a keeping place will be required on site, for example the Community Centre with a selection to go to the Museum. Tim asked AAC members to choose which artefacts they would like to keep at particular locations. Artefacts are in Everick's office at the moment. Des suggested bringing the artefacts to TBLALC until they are distributed to the Museum.

Action: Everick are to deliver the Cobaki Lakes artefacts to Tweed Byron Local Aboriginal Land Council for a temporary storing place.

Tim has spoken to Leda about employment. Leda have authorised Tim to speak to DEEWR about it.

(h) Wooyung (also Outstanding Matter 34) [New Item]

Tim showed house plans to AAC. An area identified as M1 on the plans is a midden. An area identified as SSI contains a shell scatter. Everick has requested a minimum 20m buffer from the midden site. There is shell scatter at the SS1 area. Excavation has not been done yet. A non cultural shell has turned up from nearby sand mining. It has been given a precautionary SS1.

The house footprint is large and located on an area where physical heritage of the site will not be directly impacted. However the development may impact on environmental heritage.

TBLALC is of the view that the single house proposal does not impact directly on known sites. However TBLALC reserves final judgement until further information is forthcoming.

Aunty Joyce suggested that no one knows what is below the surface. Tim advised he has included in stakeholder comments that Garth and Aunty Joyce are protesting.

Tim Robins left the meeting at 2.57pm.

Inwards Correspondence

IC1 Rest Area Signage Strategy - Yelgun

Anne McLean read out a letter from RMS. AAC agreed that AAC and Shane Ivy from the Brunswick community should be consulted further about the signage.

Action: Anne will advise RMS.

IC2 The Family Centre

This item is deferred until the next AAC meeting.

IC3 Migration Heritage Centre Funding suspended for next AAC Meeting

This item is deferred until the next AAC meeting.

Outwards Correspondence

Nil.

General Business

GB1 NAIDOC Week School Initiatives

This has already been discussed during the Outstanding Matters session of this meeting.

GB2 Code of Meeting Practice

This item was not discussed during this meeting.

GB2 Minutes of April Aboriginal Advisory Meeting [New Item]

Minutes of April Meeting:

Moved: Cr Dot Holdom

Seconded: Aunty Joyce Summers

RESOLVED to amend page three of the Minutes of the Aboriginal Advisory Committee meeting held Friday 13 April 2012. Item A1 (b), second sentence to read:

"At its meeting of 20 March 2012, Council resolved to rescind a previous decision to refuse the application, and therefore the application currently remains undetermined."

GB3 Minutes [New Item]

Des Williams asked if AAC Minutes should be signed off by the Chair of that meeting.

Action: Anne McLean will ask Council's Corporate Governance Manager if Aboriginal Advisory Committee Minutes need to be signed by the Chair of that meeting.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held on Friday 13 July 2012.

The meeting closed at 3.08pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

O30 Memorandum of Understanding (MOU)

That Council recognises the Aboriginal Advisory Committee as being the peak advisor to Council on indigenous matters and that this is included in the Memorandum of Understanding.

O44 "NAIDOC Week School Initiative Competitions"

That Council contributes \$450 from the Aboriginal Development Fund towards children's activities on an annual basis.

O47 Local Government Aboriginal Network Conference

That Council funds a female member of the Aboriginal Advisory Committee to attend the NSW Local Government Aboriginal Network Conference to be held in Grafton from 15 to 17 August 2012.

O48 ATSI Issues Paper Update

That a member of the Aboriginal Advisory Committee sits on the tender panel for the ATSI Issues Paper Project and that Aboriginal consultants be identified as potential tenderers.

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50 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 21 June 2012

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 10.00am

PRESENT:

Committee Members: Cr Barry Longland, Ms Liz Smith, Roads and Maritime Services of NSW, Snr Constable Ray Wilson, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Danny Rose (Chairman), Mr Leon McLean, Mr Paul Brouwer, Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Mr Thomas George MP, Member for Lismore, Mr Ray Clark, Mr Geoff Provest MP, Member for Tweed.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 17 May 2012 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC-SOR] Schedule of Outstanding Resolutions - 17 May 2012

1. [LTC] Chinderah Bay Drive, Chinderah (Item B4)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM33214307; Traffic - Committee; Speed Zones; Chinderah Bay Drive

SUMMARY OF REPORT:

From Meeting held 19 May 2011 (Item B4)

Request received for a reduction in the speed limit to 50km/h on Chinderah Bay Drive, Chinderah.

"Speed Limit is currently 60kph and is too high with the pedestrian traffic at the Fish Shop, slow-moving tourist traffic, continued accidents on Jenner's corner."

The Chairman advised that this be listed on the Schedule of Outstanding Resolutions.

COMMITTEE ADVICE:

That the RTA be requested to conduct a speed zone review of Chinderah Bay Drive, Wommin Bay Road, Waugh Street and Phillip Street with a view to reducing the 60kph zones to 50kph.

Current Status: That Item 1 from Local Traffic Committee meeting held 17 May 2012 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 19 May 2011- Item B4).

2. [LTC] Kennedy Drive, Tweed Heads - Tweed Street Audit (Item B5)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 19660428; Traffic - Committee; Pedestrian Crossings; Traffic - Safety; Kennedy Drive, Tweed Heads

SUMMARY OF REPORT:

From Meeting held 23 September 2010 (Item B5):

Request received for the provision of a safe crossing for people near Kennedy Plaza. It is reported that "*since the opening of the new bypass the traffic is horrific and pedestrians can wait up to 15 minutes*". It is also reported that "*motorists making illegal right hand turns into Kennedy Plaza also contribute to traffic congestion*".

Kennedy Drive near Kennedy Plaza carries over 20,000 vehicles per day, which is significant. A marked pedestrian crossing was located in this vicinity prior to the installation of the traffic signals at Ducat Street. This crossing was removed on request from the Roads and Traffic Authority of NSW as the signals provided a much safer crossing point for pedestrians. The signals are located approximately 200m west of the middle of the shopping centre. There is also a pedestrian underpass connecting residents on the southern side of Kennedy Drive to the shopping centre.

The pedestrian warrant for a marked or signalised pedestrian crossing would not be met at this location.

Council's crash database shows 6 reported crashes occurred in the vicinity of Kennedy Plaza between 2004 and 2009, none of which involved a pedestrian.

The Roads and Traffic Authority of NSW Representative advised that the Roads and Traffic Authority of NSW were investigating the Ducat Street/Kennedy Drive signals which will include the Kennedy Plaza area. It was suggested that this matter be listed as an Outstanding Resolution until the Roads and Traffic Authority of NSW have finalised their investigation. This investigation may include the possibility of the inclusion of a pedestrian refuge, which is the subject of concern.

COMMITTEE ADVICE:

That Kennedy Drive, Tweed Heads South be listed on the Outstanding Resolutions report.

From Meeting held 21 June 2012:

Draft plans of proposed changes on Kennedy Drive at Kennedy Plaza were distributed. The plans show a pedestrian refuge and continuation of centre chevron markings across the driveway access to the Plaza. Design options were considered to provide protected right turns into the Plaza however this was not geometrically possible.

The Committee requested that an amended design be considered that extended the raised centre median across the driveway to prevent right turns from Kennedy Drive into the Plaza, noting that this is consistent with the consent for the Plaza and would address current non-compliance with right turn restrictions. It was noted that the raised centre median would also eliminate right turns out of the Plaza which are currently permitted.

This option will be investigated further by Council officers and this item will remain on the Schedule of Outstanding Resolutions.

Current Status: That Item 2 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 21 June 2012 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 23 September 2010 (Item B5).

3. [LTC] Clothiers Creek Road, Clothiers Creek (Item B4)

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 37021766; Traffic - Committee; Traffic - Speed Zones; Access to Property - Driveways; Directional Signs; Clothiers Creek Road; Raven Place; Condor Place

SUMMARY OF REPORT:

Request received in relation to the speed of vehicles travelling on Clothiers Creek Road, Clothiers Creek in particular between Raven Place and Condor Place.

"Lately we've seen many vehicles overtaking over double unbroken lines in front of our property and also between Raven's Place and Madura Tea. This practice is a recipe for disaster as the sections of road where this occurring are only short and have restricted vision because of blind corners.

There are four road intersections, in excess of forty private driveways, two major businesses between Farrant's Hill Road and the Pacific Hwy interchange.

- 1. We'd like to see the speed limit dropped to 70km/h between Nunderi and the Highway which could possibly bring the majority of motorists down to 80km/h.....*
- 3. Some signage erected to alert motorists of concealed driveways (at present there's only one.....)*

.... We believe the existing speed limit on our section of road excessive due to the amount of traffic that travels, exits and enters every day."

On 25 November 2010 the Committee considered an item that related to various speed zoning issues across the Shire, including Clothiers Creek Road. The Committee advised as follows:

"That speed zone reviews for the following roads be referred to the Roads and Traffic Authority of NSW:

- 1. Fraser Drive (between Botanical Circuit and Terranora Road)*
- 2. Clothiers Creek Road*
- 3. Tomewin Road, the 100km/hr zone just outside of Murwillumbah"*

The outcomes of a speed zone review on Clothiers Creek Road has yet to be received from the Roads and Traffic Authority of NSW.

COMMITTEE ADVICE:

That the speed zone review request for Clothiers Creek Road of 25 November 2010 for the Roads and Traffic Authority of NSW be placed on the Schedule of Outstanding Resolutions.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 21 June 2012 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 22 September 2011 (Item B4).

4 [LTC] Leisure Drive, Banora Point (Item A2)

ORIGIN:

Planning & Infrastructure

FILE NO: ECN 47737364; Traffic - Committee; Traffic - Pedestrian Crossings; Traffic - Safety; Leisure Drive; Advocate Place

SUMMARY OF REPORT:

Request received in relation to the provision of a safe crossing on:

"Leisure Drive in the vicinity of Advocate Place to enable residents from the retirement villages to safely cross the road to get to the bus stop. Although I appreciate that pedestrian numbers make this an unlikely spot for another crossing, is it feasible to install a pedestrian safety island in this vicinity?"

There is an existing refuge 100m east of Advocate Place and a splitter island at the Greenway Dr roundabout 200m to the west and 400m to the east there is the traffic signals at Winders Place. The lane width adjacent to the bus shelter westbound is less than desirable and it is proposed to relocate the shelter further east to enable the left turn lane into Advocate Pl to be used as a bus set down/pick up area. The shelter would then be adjacent to the refuge. This is subject to available road verge for shelter placement.

Further discussion on the relocation of the pedestrian refuge has led to the need for further community consultation. Council officers should further consider the provision of an additional refuge between Advocate Place and Greenway Drive.

COMMITTEE ADVICE:

That the existing bus shelter on west bound Leisure Drive west of Advocate Place be relocated east of Advocate Place adjacent to the dedicated left turn lane, subject to available road verge being available.

RECOMMENDATION TO COMMITTEE:

That:

1. No further action be taken in relation to Leisure Drive and Advocate Place until community consultation has taken place.
2. This item be placed on the list of Outstanding Resolutions.

From Meeting held 21 June 2012:

The Committee was advised that Geoff Provest's office has received correspondence from Council regarding this matter. The existing bus shelter will remain in its current location and a new pedestrian refuge will be provided in the 2012/2013 Works Program, in accordance with discussions with community members.

COMMITTEE ADVICE:

That a new pedestrian refuge be installed on Leisure Drive, Banora Point in the vicinity of Advocate Place as part of the 2012/2013 Works Program.

Current Status:

That:

1. *This item be repeated in Section B of these Minutes for the advice of the Committee and*
 2. *This item be removed from the current list of Outstanding Resolutions.*
-

5. [LTC] Murwillumbah Primary School - Parking (B5)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 5758792; Schools - Murwillumbah Primary; Traffic - Committee; Traffic - General; Traffic - Parking Zones; Traffic - School Zones; Parking - Infringement Notices; Eyles Avenue; Condong Street; Prince Street; Riverview Street

SUMMARY OF REPORT:

Request received in relation to the difficulty with parking in and around the Murwillumbah Primary School, particularly for people with large families and young babies.

It has also been reported that:

"buses park in a car park zone in Eyles Avenue in front of the "No Parking" zone. In the morning it is a Bus Zone but not in the afternoon. Two buses can fit in this zone so you can imagine how many cars would be the equivalent. This week in our school newsletter parents were warned by the bus companies not to park in their Bus Zones because it is dangerous and fines are heavy. I also think having buses through Eyles St is very congested and dangerous. What about disabled car parking for that matter?"

A plan of the existing parking and bus zones associated with the school was submitted to the meeting.

COMMITTEE ADVICE:

That:

1. Council officers initiate further consultation with the school principal, P & C and bus operators regarding traffic movements around Murwillumbah Primary School.
 2. Murwillumbah Primary School be placed on the list of Outstanding Resolutions.
-

From Meeting held 21 June 2012:

The Committee was advised that bus operators have discussed this matter and in principle support removal of bus zones in Condong Street if the school frontage of Eyles Avenue, can be entirely dedicated to bus parking during bus drop off and pick up times. Council officers will need to verify the street width in this area.

Current Status: That Item 5 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 21 June 2012 remain on the list of Outstanding Resolutions

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 19 April 2012 (Item B5).

6. [LTC] Cooley Street, Bogangar (B6)

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 46772205; Traffic - Committee; Parking - Illegal; Directional Signs; Pedestrian Safety; Driveways; Traffic - Parking Zones; Traffic - Safety; Traffic - School Zones

SUMMARY OF REPORT:

Request received in relation to parking congestion and infringements in Cooley Street, Bogangar.

I am writing in regard to the continual congestion and blatant disregard for the road rules and safety of both children and adults in Cooley Street, Bogangar on school days. The Bogangar Primary School has a "walk-through" gate access at the end of Cooley Street but due to the fact that many residents with children at the school would have to traverse the Coast Road to the roundabout at Sandalwood Rd and then return Coast Road to access the school parking bays, a large majority has decided that Cooley Street is a much better option for the drop off and pick up of their children.

....There appears to be a large majority that insists on parking in the cul-de-sac section of the street and leaving the vehicle to either pick up or drop off their child, which action poses a considerable safety and illegal parking situation. I have also witnessed vehicles parking across all driveways in the street blocking access and exit to the occupiers of the properties. As there is a large majority of parents driving large 4WD vehicles I feel this is also a considerable safety issue, as Cooley Street is a narrow street and the capacity of these vehicles to turn at the cul-de-sac is nearly impossible thus presenting a situation where the 4WD must reverse towards the entrance/exit gate of the school, at which time many children are entering or exiting."

Council officers have visited the site on similar occasions and reported that there is no significant issue in regard to parking associated with the school.

COMMITTEE ADVICE:

That:

1. Parking issues associated at Bogangar School on Cooley Street continue to be monitored and the school be consulted on the issue of pedestrian access.
2. This item be listed on Outstanding Resolutions.

Current Status: That Item 6 from Local Traffic Committee meeting held 21 June 2012 be placed on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 19 April 2012 (Item B6).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Sunshine Avenue School Zone - Tweed Heads South

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 51504298, School Zones; Bus Services - General; School - Lindisfarne Anglican Primary; Sunshine Avenue; Dry Dock Road.

SUMMARY OF REPORT:

Request received for the extension of the bus zone into the turn-around area at the bottom of Sunshine Avenue (Lindisfarne Anglican Primary) or alternatively "No Stopping Signage" placed at the end of the street due to cars parking at the bus turn-around area in this vicinity during school drop off and pick up times.

To improve the traffic flow for vehicles exiting Sunshine Avenue onto Dry Dock Road it is recommended that "No Stopping" signage be installed on Sunshine Avenue to improve left turn movements. There may also be opportunity to shift the existing double centre line eastward so that two northbound lanes can be marked at the intersection.

In considering changes to the linemarking the presence of heavy vehicles associated with the Country Energy Depot will need to be taken into account.

COMMITTEE ADVICE:

That:

1. "No Stopping 8am to 9.30am and 2.30pm to 4.00pm School Days" be installed on the bus turnaround area at the end of Sunshine Avenue Tweed Heads South.
2. "No Stopping 8am to 9.30am and 2.30pm to 4pm School Days" be installed on the west side of Sunshine Avenue at the Dry Dock Road intersection for a length of approximately 43m.

RECOMMENDATION TO COUNCIL:

That:

1. "No Stopping 8am to 9.30am and 2.30pm to 4.00pm School Days" be installed on the bus turnaround area at the end of Sunshine Avenue Tweed Heads South.
2. "No Stopping 8am to 9.30am and 2.30pm to 4pm School Days" be installed on the west side of Sunshine Avenue at the Dry Dock Road intersection for a length of approximately 43m.

*FOR VOTE - Ms Liz Smith, Snr Const Ray Wilson, Cr Barry Longland, Rod Bates
PRESENT. DID NOT VOTE - Col Brooks*

A2 [LTC] Alma Street, Murwillumbah - Rainforest Information Centre

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 51370317; Traffic - Committee; Parking Zones; Alma Street

SUMMARY OF REPORT:

Request received for approval to create a permit parking area behind the Rainforest Information Centre off Alma Street, Murwillumbah.

It is reported that:

"Permit parking is required behind the rainforest info centre to reduce the volume of pub customers using this car park.

This will allow DA compliance with respect to parking from both the Rainforest Info Centre and pub, and reduce conflict between vehicles and pedestrians following river bank and park enhancement works undertaken in the area."

Changes to the parking and access arrangements around the Information Centre are related to Council proposals to upgrade Budd Park. Plans of the proposal will be provided to the Committee for discussion. As part of previous Development Application Conditions the hotel is required to install bollards to restrict access from their Tweed Valley Way driveway to this parking area and this has recently been completed.

COMMITTEE ADVICE:

That "No Parking behind this point 7am - 5pm Monday to Friday, 7am - 12noon Saturday, vehicles displaying approved permits excepted" signage be installed on the entrance to the parking area behind the Rainforest Information Centre, Alma Street, South Murwillumbah.

RECOMMENDATION TO COUNCIL:

That "No Parking behind this point 7am - 5pm Monday to Friday, 7am - 12noon Saturday, vehicles displaying approved permits excepted" signage be installed on the entrance to the parking area behind the Rainforest Information Centre, Alma Street, South Murwillumbah.

*FOR VOTE - Ms Liz Smith, Snr Const Ray Wilson, Cr Barry Longland, Col Brooks
PRESENT. DID NOT VOTE - Rod Bates*

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] Speed Limit Review - Carool Road

ORIGIN:
Planning & Infrastructure

FILE NO: ECM51519130, Speed Zones; Carool Road Carool

SUMMARY OF REPORT:

Request has been received to review the speed limit on Carool Road from 80kph to 60/70kph.

Recently a 100kph speed zone sign has been installed on Carool Road as it leaves Bilambil village. In accordance with advice from NSW Roads and Maritime Services, this sign will be replaced by an "End 50kph Zone" sign and a "Reduce Speed to Conditions" sign. This avoids the need to sign post new speed zones and avoids the need for a Speed Limit Review.

COMMITTEE ADVICE:

That an "End 50kph Zone" sign and a "Reduce Speed to Conditions" sign be installed on Carool Road at Bilambil to replace the existing 100kph speed zone sign.

B2 [LTC] Rainbow Ride Bicycle Challenge - 11 November 2012

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 50289472; Traffic - Committee; Traffic - Control; Festivals/Events - Other;
Bicycle Matters

SUMMARY OF REPORT:

Request received for permission to use Council roads for the Rainbow Ride Cycle Challenge on Sunday 11 November 2012. The course for this event is the same as last year.

The event starts in Byron Bay at the Lighthouse and finishes in Ewingsdale.

Roads to be utilised in Tweed Shire are:

Tweed Valley Way, Mooball
Stokers Road
Mistral Road
Bakers Road
Uki Road
Kyogle Road
Smiths Creek Road
Pottsville Road
Cudgera Creek Road
Tweed Coast Road, Pottsville
Wooyung Road

COMMITTEE ADVICE:

That Council supports the conduct of the Rainbow Ride Event on 11 November 2012 subject to the following:

1. Police approval for the event is sought and obtained.
2. The event organiser is to provide adequate public liability insurance for the event.
3. Proposed rest areas within Tweed Shire are to be resourced adequately including installing additional toilets.
4. All signage installed for the event must not cause a hazard for motorists or pedestrians and are to be removed immediately after the conduct of the event.

B3 [LTC] Marine Parade, Kingscliff

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 50284283; Traffic - Committee; Traffic - Parking Zones; Marine Parade, Kingscliff

SUMMARY OF REPORT:

Request received in relation to the provision of a 'No Parking' zone opposite the driveway entrance to 'Reflections'.

Request received that:

"That our Association asks that, as a temporary measure, the creation of a "No Parking" zone (Point B on drawing) opposite the driveway entrance to Reflections be implemented forthwith."

Currently vehicles parking opposite to the driveway of the residential development does not impede access. This matter was previously considered by the Committee on 21 July 2011 where it was resolved that no action be taken.

A copy of the draft design for the realignment of the Coastline Cycleway and associated changes to parking in the area will be provided to the Committee for their information.

COMMITTEE ADVICE:

That no action be taken regarding the installation of 'No Parking' signage on Marine Parade opposite the entrance to the residential development 'Reflections'.

B4. [LTC] Leisure Drive, Banora Point

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 47737364; Traffic - Committee; Traffic - Pedestrian Crossings; Traffic-Safety; Leisure Drive; Advocate Place

SUMMARY OF REPORT:

This item has been moved from Schedule of Outstanding Resolutions (Item 4 from meeting held 21 June 2012).

Request received in relation to the provision of a safe crossing on:

"Leisure Drive in the vicinity of Advocate Place to enable residents from the retirement villages to safely cross the road to get to the bus stop. Although I appreciate that pedestrian numbers make this an unlikely spot for another crossing, is it feasible to install a pedestrian safety island in this vicinity?"

There is an existing refuge 100m east of Advocate Place and a splitter island at the Greenway Dr roundabout 200m to the west and 400m to the east there is the traffic signals at Winders Place. The lane width adjacent to the bus shelter westbound is less than desirable and it is proposed to relocate the shelter further east to enable the left turn lane into Advocate PI to be used as a bus set down/pick up area. The shelter would then be adjacent to the refuge. This is subject to available road verge for shelter placement.

Further discussion on the relocation of the pedestrian refuge has led to the need for further community consultation. Council officers should further consider the provision of an additional refuge between Advocate Place and Greenway Drive.

COMMITTEE ADVICE:

That the existing bus shelter on west bound Leisure Drive west of Advocate Place be relocated east of Advocate Place adjacent to the dedicated left turn lane, subject to available road verge being available.

RECOMMENDATION TO COMMITTEE:

That:

1. No further action be taken in relation to Leisure Drive and Advocate Place until community consultation has taken place.
2. This item be placed on the list of Outstanding Resolutions.

From Meeting held 21 June 2012:

The Committee was advised that Geoff Provest's office has received correspondence from Council regarding this matter. The existing bus shelter will remain in its current location and a new pedestrian refuge will be provided in the 2012/2013 Works Program, in accordance with discussions with community members.

COMMITTEE ADVICE:

That a new pedestrian refuge be installed on Leisure Drive, Banora Point in the vicinity of Advocate Place as part of the 2012/2013 Works Program.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 19 July 2012 in the Mt Warning Meeting Room commencing at 10.00am.

There being no further business the Meeting terminated at 11.26am.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 Sunshine Avenue School Zone - Tweed Heads South

Nil.

A2 Alma Street, Murwillumbah - Rainforest Information Centre

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

A1 Sunshine Avenue School Zone - Tweed Heads South

That:

1. ***"No Stopping 8am to 9.30am and 2.30pm to 4.00pm School Days" be installed on the bus turnaround area at the end of Sunshine Avenue Tweed Heads South.***
2. ***"No Stopping 8am to 9.30am and 2.30pm to 4pm School Days" be installed on the west side of Sunshine Avenue at the Dry Dock Road intersection for a length of approximately 43m.***

A2 Alma Street, Murwillumbah - Rainforest Information Centre

That "No Parking behind this point 7am - 5pm Monday to Friday, 7am - 12noon Saturday, vehicles displaying approved permits excepted" signage be installed on the entrance to the parking area behind the Rainforest Information Centre, Alma Street, South Murwillumbah.

ORDERS OF THE DAY



Civic Leadership

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 *Civic Leadership*
- 1.2.1 *Council will be underpinned by good governance and transparency in its decision making processes*
- 1.2.2.1 *Priority decision making*
- 1.2.2.1.1 *Council decisions will be in accordance with the Community Strategic Plan*

51 [NOR-Cr K Skinner, Cr P Youngblutt, Cr W Polglase] Byrrill Creek Dam Site - Moratorium

NOTICE OF RESCISSION:

Councillor K Skinner, P Youngblutt and W Polglase move that Council resolution at Minute No 314 in relation to Item 49 of the Meeting held Tuesday 15 May 2012 being:

"that Council places a moratorium on any dam proposal at Byrrill Creek for a period of the next twenty (20) years, effective from 15 May 2012."

be rescinded

52 [NOM-Cr K Skinner] Tweed District Water Supply Augmentation

NOTICE OF MOTION:

Councillor K Skinner moves that Council:

1. Informs the NSW Minister for Water of Council's resolution to adopt the larger Byrrill Creek Dam (that is 36,000ML) as the preferred water supply augmentation option for the Tweed Shire.
 2. Proceeds with development of a Land Acquisition Plan to determine processes, timing, costs and other factors which will facilitate acquisition of properties or parts thereof as required.
 3. Retains ownership of land at Doon Doon Creek, and incorporates a possible future 77.0m AHD buffer into planning instruments to enable consideration of future water supply augmentations at Clarrie Hall Dam beyond the current planning horizon.
-

4. Proceeds with planning approval investigations for Preliminary Geological / Geotechnical Studies, Seismic Studies and Hydrology Studies; a Legal and Planning Advice Study; a Land Acquisition Plan; and liaising with Government Agencies regarding Planning Approval Requirements (EIS requirements, Adaptive Management requirements, Water Sharing Plan, Fisheries requirements).

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- 53 [NOR-Cr K Milne, Cr B Longland, Cr D Holdom] Development Application DA11/0356 for a Wakeboarding Coaching Clinic between Fingal and Chinderah along the Tweed River (operating from Fingal Boat Ramp) at Lot 403 DP 755740 Main Road, Fingal Head**

NOTICE OF RESCISSION:

Councillor K Milne, B Longland and D Holdom move that Council resolution at Minute No 334 in relation to Item 14 of the Meeting held 26 June 2012 being:

"... that Council grant in-principle support for the proposal and that officers bring back a further report to Council with possible conditions of development consent."

be rescinded.

- 54 [NOM-Cr D Holdom] Development Application DA11/0356 for a Wakeboarding Coaching Clinic between Fingal and Chinderah along the Tweed River (operating from Fingal Boat Ramp) at Lot 403 DP 755740 Main Road, Fingal Head**

NOTICE OF MOTION:

Councillor D Holdom moves that Development Application DA11/0356 for a wakeboarding coaching clinic between Fingal and Chinderah along the Tweed River (operating from Fingal boat ramp) at Lot 403 DP 755740 Main Road, Fingal Head be refused for the following reasons:

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

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

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

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

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

It is Council's view that the proposed development is inconsistent with the aims of State Environmental Planning Policies (SEPP):

- SEPP 14: Coastal Wetlands;
- SEPP 26: Littoral Rainforests;
- SEPP 64: Advertising and Signage (Clauses 10 and 27);
- SEPP 71: Coastal Protection (Clause 8(a), (d), (g), (h), (i) and (p)(i)); and
- North Coast Regional Environmental Plan (NCREP): Clauses 15, 32B, 75, 76 and 81.

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

The Tweed Local Environmental Plan (LEP) 2000:

- Clause 4: Aims of this plan;
 - Clause 5: Ecologically sustainable development;
 - Clause 8(1): Consent Considerations;
 - Clause 11: Zoning;
 - Clause 13: Development of uncoloured land on the zone map;
 - Clause 25: Development in zone 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and on adjacent land;
 - Clause 29: Development adjacent to zone 8(a) National Parks and Nature Reserves; and
 - Clause 31: Development adjoining waterbodies.
4. The proposal is inconsistent with management plans produced by Council and the Roads and Maritime Services that highlight the need to protect ecology and reduce erosion within the vicinity of the Tweed River.
 5. Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.

It is Council's view that use of unzoned land adjacent to environmental conservation areas of State significance for the purposes of a wakeboarding coaching clinic is considered unacceptable due to its impact upon the habitat of estuarine fauna, in particular that of migratory shorebirds.

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

It is Council's view that it is in the broader general public interest to enforce the standards contained within the Tweed LEP 2000 specifically as it relates to the objectives of unzoned land and the 6(a) Open Space, 6(b) Recreation, 7(a) Environmental Protection (Wetlands and Littoral Rainforests), 7(d) Environmental Protection (Scenic/Escarpment), 8(a) National Parks and Nature Reserves and 2(a) Low Density Residential zones.

55 [NOR-Cr P Youngblutt, Cr W Polglase, Cr K Skinner] Structural Reform Business Case - Rous Water, Richmond River County Council, Far North Coast Weeds

NOTICE OF RESCISSION:

Councillors P Youngblutt, W Polglase and K Skinner move that Council resolution at Minute No 357 in relation to Item 21 of the meeting held Tuesday 26 June 2012 being:

"... that Council supports Option 7 from the UTS Centre for Local Government - Business Case for Structural Reform - April 2012, as the basis for the reform of Far North Coast Weeds, Rous Water, and Richmond River County Council."

be rescinded

56 [NOM-Cr P Youngblutt] Structural Reform Business Case - Rous Water, Richmond River County Council, Far North Coast Weeds

NOTICE OF MOTION:

Councillor P Youngblutt moves that Tweed Shire Council supports structural reform of the Far North Coast County Council in principle and notes the reports of University of Technology Sydney : Centre for Local Government (UTS:CLG) and Mr Brian Wilkinson, but defers any decision on the preferred governance model and structure (options within the UTS:CLG report) for consultation with the Destination 2036 Steering Committee and the Independent Local Government Review Panel to ascertain the most appropriate structural framework in light of the Destination 2036 Action Plan and corresponding Directions.

57 [NOM-Cr B Longland] Tweed Heads Streetscape

NOTICE OF MOTION:

In 2009, Council approved a high-rise development at the corner of Bay and Wharf Streets, Tweed Heads. The proponent has not proceeded with the approval and the site remains vacant bounded by hoarding at a key intersection at the entrance to the Shire. This has invited graffiti and the site has been identified for some time by the Tweed business community as an eyesore to those entering the Tweed.

Councillor B Longland moves that Council enter negotiations with the owners of the site at the corner of Bay and Wharf Streets, Tweed Heads, with a view to removal of the hoarding and remediation of the area in order to enhance the gateway public domain of Tweed Heads.

58 [NOM-Cr B Longland] Year Twelve Art Exhibition

NOTICE OF MOTION:

With the recognition of the Tweed River Art Gallery as one of the nation's leading regional galleries, it would be appropriate to provide the opportunity for our Higher School Certificate visual arts students to exhibit their work at this facility. It is envisaged that the art teachers at all High Schools in the Tweed Shire would select the top 3 or 4 works from the Year 12 visual arts courses for exhibition at a time which can be accommodated within the Gallery's exhibition program. The exhibition could be judged by our Art Gallery Director with an appropriate award being considered for the winning artworks.

Councillor B Longland moves that Council brings forward a report on the establishment of an annual exhibition at the Tweed River Art Gallery for Higher School Certificate visual arts students to exhibit works to be nominated by each of the High Schools in the Tweed Shire.

59 [NOM-Cr K Milne] Alternative Options for Funding the Coastal Crown Reserves

NOTICE OF MOTION:

Councillor K Milne moves that the General Manager brings forward a report on potential alternative options to fund the Coastal Crown Reserves that could avoid or reduce the need for the major coastal development options identified in the Crown Reserves Plan of Management.

Note: A public meeting held in 2008 at Kingscliff, attended by approximately two hundred people including most of the coastal Residents Associations, passed a motion to reject the Draft Crown Reserves Plan of Management due to major concerns with over development of the coast.

Council now has a new General Manager with expertise in economic management who may have new ideas that could alleviate the community angst caused by the current plan.

60 [NOM-Cr K Milne] 2012 Council Election - Candidate Profiles

NOTICE OF MOTION:

Councillor K Milne moves that Council establishes a webpage to provide the community with a profile of all 2012 Council candidates to be submitted by each candidate at least two weeks prior to the election, with a limit of 3,000 words.

Note:

Council candidates have little opportunity to present detailed information to the community about their candidacy through traditional media sources and the community often mentions the lack of information on candidates available.

Whilst the NSW Election Commission provides some limited opportunity for candidate basic information, only 1849 characters including spaces is available for candidates to describe their vision and goals etc.

The community looks to Council as the first point of call about Council information.

Council could provide more accessible and extensive information on all candidates to assist the community.

61 [NOM - Cr K Milne] 2012 Council Election - Candidate Declarations of Election Donations

NOTICE OF MOTION:

Councillor K Milne moves that:

1. The Council candidate webpage, proposed above, include a section for candidates to declare the amount of donations received and the donors for the 2012 Council elections prior to the elections, and/or in the alternative,

2. Each current councillor endorses a personal voluntary commitment to making a public declaration in the media of all donations received for the 2012 Council elections in time to be published prior to the election.
-

62 [NOM-Cr K Milne] Performance Review for Current Councillors

NOTICE OF MOTION:

Councillor K Milne moves that Council collates a list of each councillor's Notices of Motions and Questions with Notice submitted for inclusion in Council's meeting agendas over the past four year term and brings forward this report to the August Council meeting.

Note:

The community has little ability to judge the performance and actions of each Councillor in a wholistic sense as there is traditionally no reporting on individual councillors' performances except through monitoring the Council meetings.

The community can search on the Council website and open 4 years of Council agendas, but many cannot afford the time or the internet costs. Otherwise the public must rely on media coverage which, whilst invaluable, is limited by space, sporadic, often sensational and sometimes even inaccurate.

Council could assist the community in making an assessment of their councillors at the end of their term by making such a report available and accessible.

63 [NOM-Cr K Milne] Pecuniary Interest for Councillors for LEPs and DCPs

NOTICE OF MOTION:

Councillor K Milne moves that Council:

1. Notes with genuine concern that:
 - (a) The NSW government has amended the Local Government Act to allow for councillors to vote on changes to Council's LEP and DCPs that effect the whole or a significant part of Council's area, even where councillors have a direct pecuniary interest in the outcome;
 - (b) This change allows Councillors to vote on proposals that will see potentially large land holdings owned by them substantially increased in value by either changing their zoning (for example from rural or industrial to residential) or increase their development yield by increasing the FSR or maximum building height on the land; and
-

- (c) With the coming local council elections this change will allow large land owners and property developers in NSW to run for local office so that they can directly vote to increase the value of their land holdings.
2. Resolves to address this threat to the integrity of local planning decisions by:
- (a) Taking all possible steps to amend its Code of Meeting Practice to put in place a higher ethical standard for deciding planning matters than the minimum set under the Local Government Act;
- (b) That in amending its Code of Meeting Practice that Council note that it is the wish of the community that where councillors have a direct pecuniary interest in any changes to the LEP or DCPs that effect the whole or a significant part of Council's area, being an interest that extends beyond their current place of residence, that they step aside and take no part in that planning matter; and
- (c) Calling on all candidates in the coming September Council election to commit publicly to meeting the higher ethical standard in planning matters as adopted by Council in this motion.

Note:

It should be a fundamental principle at any level of government that elected officials do not vote to enrich themselves.

This new law encourage property owners and property developers to put up their hand to run for Council in September knowing that, if elected, they can vote to improve the development yield on their own land and personally enrich themselves.

Background

This new law will allow:

- Councillors who own shops in commercial precincts, or other land holdings, to increase the FSR on that land and thereby greatly increase its development potential and substantially increase its value.
- Rural and regional councillors, particularly in growing towns such as Tweed, to vote to rezone land they own on the outskirts of town from "rural" to "industrial" or "residential" and reap potentially very, very large personal profits.
- Councillors who own commercial or industrial land to vote to, for example, water down contribution requirements in Council wide parking Development Control Plans where there is a change of use, (such as changing from low off street parking use of industrial to higher of commercial) thereby delivering them hundreds of thousands of dollars in savings if they change from a less to a more intense use;

There has been an issue when councils are adopting new council-wide Local Environment Plans that as most councillors own their own home, they have potential pecuniary interest even in maintaining the existing zoning of their home. This has lead to many councillors seeking an exemption under s458 of the Act from the Minister for Local Government to vote on matters where they have a pecuniary interest.

Acknowledging this, the Greens in the NSW Parliament moved an amendment that provided where the pecuniary interest arose only by reason of the Councillor's primary residence, that Councillors could disclose the interest and then vote. The government rejected this amendment. They gave no coherent reason for doing so.

Section 2(b) of the motion proposed addresses this concern i.e. "this being an interest that extends beyond their current place of residence".

The new s451(4) was inserted into the Local Government Act by an amendment to the Act that was given assent on 4 April 2012. It reads:

Section 451 Disclosure and presence in meetings

- (4) Subsections (1) and (2) do not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:
 - (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
 - (b) the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.
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CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

1 [CNR-CM] Acceptance of Funding from Arts NSW

REASON FOR CONFIDENTIALITY:

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: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.



Supporting Community Life

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO-CM] Urban Addressing - Hungerford Lane, Kingscliff

REASON FOR CONFIDENTIALITY:

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).



Civic Leadership

3 [EO-CM] Hopkins Creek Road, Hopkins Creek - Acquisition of Land for Road Widening Purposes

REASON FOR CONFIDENTIALITY:

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).



Civic Leadership
