



TWEED
SHIRE COUNCIL

Mayor: Cr B Longland (Mayor)

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

Agenda

Ordinary Council Meeting Thursday 21 March 2013

held at Murwillumbah Cultural and Civic Centre
commencing at 4.45pm

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

- 1 [CONMIN] Confirmation of the Minutes of the Ordinary and Confidential Council Meetings held Thursday 14 February 2013

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

The Minutes of the Ordinary and Confidential Council Meeting held Thursday 14 February 2013 are attached for information and adoption by Council.

RECOMMENDATION:

That:

1. The Minutes of the Ordinary and Confidential Council Meetings held Thursday 14 February 2013 be adopted as a true and accurate record of proceedings of that meeting.
2. ATTACHMENT 2 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
 - (f) matters affecting the security of the council, councillors, council staff or council property.

REPORT:

As per Summary.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.3.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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

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. Attachment 1 Minutes of the Ordinary Council Meeting held Thursday 14 February 2013 (ECM 63625849).
 - 2. Confidential Attachment 2 Minutes of the Confidential Council Meeting held Thursday 14 February 2013 (ECM 63435806).
-

SCHEDULE OF OUTSTANDING RESOLUTIONS

2 [SOR] Schedule of Outstanding Resolutions



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*

26 June 2012

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 Council continues to negotiate with the proponent and the Department and a final report will be considered by Council in the forthcoming months.

21 August 2012

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

38 [SUB-EAAC] Minutes of the Equal Access Advisory Committee Meeting held Wednesday 20 June 2012

542

**Cr D Holdom
Cr J van Lieshout**

RESOLVED that the:

1. Minutes of the Equal Access Advisory Committee Meeting held Wednesday 20 June 2012 be received and noted; and
2. Director's recommendations be adopted as follows:

General Business Items

1. Regional forum for Equal Access Committees, 7 May

- 1) *That as part of the ongoing official Tweed Shire Council induction process (which new and returning Councillors will undergo post elections on September 8):*
 - *An induction workshop on Access and Inclusion is held.*
 - *The workshop be scheduled and conducted no later than the end of February 2013.*

Current Status: Training has been scheduled for 2 May 2013.

25 October 2012

ORDERS OF THE DAY

47 [NOM-Cr K Milne] Greenfield Policy Implications

NOTICE OF MOTION:

621
**Cr K Milne
Cr G Bagnall**

RESOLVED that Council brings forward a report in regard to enhancing Council's policies for major Greenfield developments to improve outcomes for:

1. Ecological sustainability appropriate to Tweed Shire's nationally and internationally significant environment and its current environmental stress,

2. Community health planning, including meeting the needs of seniors and children,
3. Planning for green spaces, community gardens, edible landscapes and wild places,
4. Reduced carbon emissions, energy efficiency, and potential for greater on site waste management, and
5. Opportunities to promote and facilitate a more localised economy through appropriate planning.

Current Status: Report is being prepared for consideration at the April Council Meeting.Bu

13 December 2012

ORDERS OF THE DAY

49 [NOM-Cr K Milne] Planning Reforms Agenda

NOTICE OF MOTION:

789

Cr K Milne
Cr G Bagnall

RESOLVED that Council brings forward a report detailing the current planning reforms agenda and options for reprioritising the planning reforms agenda to include:

- a) a Sustainability policy for Council
- b) a Sustainability Development Control Plan for new developments
- c) a National Iconic Landscapes Development Control Plan

Current Status: Report to be prepared.

50 [NOM-Cr K Milne] Ecologically Sustainable Economic Development

NOTICE OF MOTION:

791

AMENDMENT

**Cr M Armstrong
Cr C Byrne**

RESOLVED that Council brings forward a report on developing an economic development strategy for the Shire with a primary objective of achieving leading best practice in ecologically sustainable development, cultural development and protection of agricultural lands.

Current Status: Report to be prepared.

52 [NOM-Cr G Bagnall] Council's Sustainability Purchasing Power

NOTICE OF MOTION:

793

**Cr G Bagnall
Cr P Youngblutt**

RESOLVED that Council brings forward a report on:

1. Options for improving sustainability outcomes and preference for local suppliers in regard to Council's procurement policies, tender processes and selection criteria.
2. The legislative obstacles that impact on Council's ability to improve sustainability outcomes through the above measures, including suggested recommendations that might address these issues.

Current Status: Report to be prepared.

24 January 2013

ORDERS OF THE DAY

46 [NOM-Cr C Byrne] Operation of Library Services

NOTICE OF MOTION:

58

Cr C Byrne
Cr W Polglase

RESOLVED that a report be generated to demonstrate the viability of Tweed Shire Council being able to provide library services in its own capacity to all residents, and ratepayers of Tweed Shire, and to explore other partners for the provision of such services.

Current Status: Report to be prepared.

14 February 2013

ORDERS OF THE DAY

43 [NOM-Cr K Milne] Urban Land Release Strategy

110

Cr K Milne
Cr G Bagnall

RESOLVED that Council holds a meeting with the Pottsville, Mooball and Burringbar community to advise of Council's Urban Land Release Strategy and the potential rezonings in their areas.

Current Status: Meeting to be organised.

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MAYORAL MINUTE

3 [MM-CM] Mayoral Minute for the period from 1 February to 6 March 2013

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors

COMMITTEE MEETINGS

Attended by the Mayor

- 1 Feb 2013 - NOROC Meeting - Tweed Shire Council Chambers, Murwillumbah Civic Centre Tumbulgum Road.
 - 15 Feb 2013 - Margaret Olley Art Centre Steering Committee - Marks Family Library, Tweed River Art Gallery, Mistral Road, Murwillumbah (also attended by Warren Polglase as TRAG Foundation President).
 - 20 Feb 2013 - Destination Tweed Board Meeting - Mantra Boardroom, Salt Village, Kingscliff.
-

INVITATIONS:

Attended by the Mayor

- 1 Feb 2013 - Murwillumbah Chamber Business Breakfast - Greenhills on Tweed, 131 River Street, South Murwillumbah.
 - 6 Feb 2013 - Official Opening of Banora Point Waste Water Treatment Plant - Banora Point Waste Water Treatment Plant, Enterprise Avenue, Banora Point (also attended by Crs Polglase and Byrne).
 - 14 Feb 2013 - Opening of the Clarissa Mason Wing - Sathya Sai Primary School, 9 Nullum St, Murwillumbah.
 - 15 Feb 2013 - Opening of the Margaret Olley Exhibition - Tweed River Art Gallery, Mistral Road, Murwillumbah (also attended by Warren Polglase as TRAG Foundation President).
 - 15 Feb 2013 - 'Don's Party: A pop up Picnic in the Paddock', Protest against CSG - Knights Road, Doubtful Creek.
-

- 17 Feb 2013 - Far North Coast Branch Inc. Junior Branch Titles - Fingal Rovers SLSC, Fingal Head.
- 19 Feb 2013 - Kingscliff Chamber Business Breakfast - Cudgen Headland Surf Club, Marine Parade, Kingscliff.
- 19 Feb 2013 - 2013 Rates Incentive Prize winner meet and photo opportunity - Leslie (Bob) Campbell & Ann Howarth's home, 21 Botanical Circuit, Banora Point.
- 19 Feb 2013 - Clarrie Hall Dam Filming Photo Opportunity and Media Event - Murwillumbah Bowling Club, 1 Condong Street, Murwillumbah.

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

- 13 Feb 2013 - Tweed/Byron Local Area Command - Medals and Awards Presentation Ceremony - PCYC, Florence St, Tweed Heads (Cr Youngblutt attended).
- 13 Feb 2013 - Tweed Coastal Committee - Canvas and Kettle Meeting Room, Murwillumbah Civic Centre, Tumbulgum Road (Cr Bagnall attended).
- 24 Feb 2013 - Solar Summer Sizzle - All Saints Anglican Church, 32 Byangum Road, Murwillumbah (Cr Armstrong attended).
- 2 Mar 2013 - NSW Rural Fire Service, Tweed District, Long Service Medal Ceremony - Tweed Rural Fire Service, 92 Lundberg Drive, Murwillumbah (Cr Armstrong attended for Mayor, Cr Youngblutt also advised his attendance).

Inability to Attend by or on behalf of the Mayor

- 6 Feb 2013 - Murwillumbah Community Centre Management Meeting - Murwillumbah Community Centre, Nullum Street.
 - 7 Feb 2013 - Local Traffic Committee Meeting - Murwillumbah Civic Centre.
 - 8 Feb 2013 - Arts Northern Rivers Board Meeting - Arts Northern Rivers Offices, Old Tintenbar Chambers, 2/5 Bruxner Highway, Alstonville.
 - 10 Feb 2013 - Revs 'n Rockabilly presented by Cooly Rocks On - Poineer Park, 500 Fraser Drive, South Tweed Heads.
 - 1 Mar 2013 - Aboriginal Advisory Committee meeting - Tweed Byron Local Aboriginal Land Council, 21/25 Ourimbah Road, Tweed Heads.
 - 6 Mar 2013 - Murwillumbah Community Centre Management Committee - Murwillumbah Community Centre, Nullum Street, Murwillumbah
-

REQUESTS FOR WORKSHOPS:

There were no additional requests for workshops from Councillors in the period from 1 February to 6 March 2013, other than those already scheduled.

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

Councillors did not attend any conferences in the period from 1 February to 6 March 2013.

Information on Conferences to be held

- 11 Apr 2013 Performance Management of Senior Staff, LGSA Councillor Professional Development Program - Half day, 12.30 to 4.30pm, Ballina venue to be advised - *Many Councillors are involved in the performance management of senior staff. This will include conducting performance interviews and giving constructive feedback. This program aims to assist councillors to carry out this role effectively. Facilitated by Mark Anderson or Christian Morris from Local Government Management Solutions - \$440pp.*
- 16-19 Jun 2013 The 2013 National General Assembly, Canberra - National Convention Centre, Canberra, ACT - *The National General Assembly (NGA) is a significant opportunity for local government to meet and discuss the issues facing local government, to engage directly with key federal politicians, hear from a range of subject matter experts, and to develop agreed positions which can inform the development of ALGA's policies in the coming year. This year's theme is "Foundations for the Future: Twenty 13", capturing the opportunities of the 14 September 2013 federal election - Early bird Registration \$899pp by 22 April, plus \$230 social events, \$880 for 4 night's accommodation, approx \$500 flights and transfers (est. \$2,500pp cost to attend) - Refer <http://alga.asn.au/?ID=7525>*
- 17-19 Jun 2013 The 6th Making Cities Liveable Conference (18-19 June), in conjunction with the Sustainable Transformation Conference (17 June) - both held at the Novotel, St Kilda, Melbourne -
The Sustainable Transformation Conference will include topics of *sustainable business structures, the carbon tax, not for profit sector, recycling and waste management, transport and logistics, energy & technology.*
The Making Cities Liveable Conference addresses *healthy urban design, community health, connecting people and places, population growth, food security and urban agriculture, transport, urban landscapes and public spaces, natural resource management, energy consumption and generation, government and business leadership - education for behaviour change.*

3 Day Registration \$850pp, 2 Day Registration \$700pp Early Bird rates until 29 April, plus \$4-600 for 2-3 night's accommodation, approx \$500 flights and transfers (est. \$1,700 -\$2,150pp total)
<http://www.healthycities.com.au/index.html>

SIGNING OF DOCUMENTS BY THE MAYOR:

- 7 Feb 2013 - Request document – Nobbys Creek Road Nobbys Creek Land Acquisition for Road Purposes.
 - 14 Feb 2013 - Request document – Kyogle Road Terragon Land Acquisition for Road Purposes.
 - 18 Feb 2013 - Request document – Cudgera Avenue and Tweed Coast Road Pottsville - Dedication as Public Land.
-

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:-

- 1. The Mayoral Minute for the period from 1 February to 6 March 2013 be received and noted.**
- 2. The attendance of Councillors at nominated Conferences be authorised.**

UNDER SEPARATE COVER:

Nil.

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4 [MM] Mayoral Minute - 2013 National General Assembly (NGA) - Call for Motions

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors,

2013 NATIONAL GENERAL ASSEMBLY (NGA) - CALL FOR MOTIONS

The Australian Local Government Association (ALGA) is calling for motions for the 2013 National General Assembly of Local Government, to be held in Canberra 16 - 19 June 2013.

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

1. Fall under the NGA theme of 'Foundations for the Future - Twenty 13'.
2. Be relevant to the work of local government nationally; and
3. Complement or build on the policy objectives of state and territory associations.

A Discussion Paper is available on the ALGA website at www.alga.asn.au. The ALGA has requested that motions are submitted electronically via the online form no later than 26 April 2013. Councillors are invited to provide any Notices of Motion for consideration by Council and submission to the National General Assembly.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.2.

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:-

Council determines the following Motions for submission to the 2013 National General Assembly of Local Government:-

UNDER SEPARATE COVER:

Nil.

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

5 [NOR-Cr B Longland, Cr M Armstrong, Cr K Milne] [TCS-CM] Model Code of Conduct and Procedures

NOTICE OF RESCISSION:

Councillor B Longland, M Armstrong and K Milne move that the Minute Number 94 Item 28 of meeting held Thursday 14 February 2013 being:

"... that Council adopts the:

1. *Model Code of Conduct for Local Councils in NSW March 2013 as its Model Code of Conduct Version 1.9 with the enhancements that were previously included in the current Code of Conduct for Tweed Shire Council, being:*
 - a. *Alcohol and other Drugs, formerly Item 6.14 new Part 7.23;*
 - b. *Meeting with Developers and Consultants, formerly Item 9.9 new Part 6.8;*
and
 - c. *Public comment by Council Officials, formerly Item 10.22 new Part 6.9.*
2. *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW March 2013 to be known as Procedure Administration of the Model Code of Conduct Version 1.0.*
3. *Deletion and removal of the Conduct Review Committee/Sole Reviewer Policy Version 1.1 from the list of local Council Policies.*
4. *Calling of Expressions of Interest for a Panel of Conduct Reviewers in accordance with the requirements of the Procedure Administration of the Model Code of Conduct Version 1.0."*

be rescinded

6 [NOM-Cr B Longland] Model Code of Conduct

NOTICE OF MOTION:

Councillor B Longland moves that Council adopts the:

1. Model Code of Conduct for Local Councils in NSW March 2013 as its Model Code of Conduct Version 1.9 with the inclusion of the following clause:

"Councillors will complete a file note of any meetings with developers or their consultants which relate to development decisions that are likely to come before the Council."

2. Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW March 2013 to be known as Procedure Administration of the Model Code of Conduct Version 1.0.
 3. Deletion and removal of the Conduct Review Committee/Sole Reviewer Policy Version 1.1 from the list of local Council Policies.
 4. Calling of Expressions of Interest for appointment of a Panel of Conduct Reviewers in conjunction with other interested NOROC councils utilising the selection process as outlined in the Procedure Administration of the Model Code of conduct Version 1.0, with the panel to be in place by 30 September 2013.
-

7 [NOR-Cr M Armstrong, Cr G Bagnall, Cr K Milne] [PR-CM] Development Application DA12/0320 for a Two Lot into Six Lot Subdivision at Lot 12 DP 825726 No. 26 Waterlily Close; Lot 25 DP 870463 No. 37 Hindmarsh Road, Nunderi

NOTICE OF RESCISSION:

Councillor M Armstrong, G Bagnall and K Milne move that the Minute Number 74 Item 11 of meeting held Thursday 14 February 2013 being:

"... that Development Application DA12/0320 for a two lot into six lot subdivision at Lot 12 DP 825726; No. 26 Waterlily Close; Lot 25 DP 870463; No. 37 Hindmarsh Road Nunderi be approved subject to the following conditions:

GENERAL

1. *The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos BH110134-DA1A Issue A (Proposed Layout Plan) dated 11 June 2012, BH110134-CV14 Issue C (Concept Layout Plan) dated 26 June 2012, BH110134-CV15 Issue B (Sediment and Erosion Control Plan) dated 19 June 2012, BH110134-CV-16 Issue A (Stormwater Catchment Plan) dated 01 February 2012, BH110134-CV17 Issue B dated 19 June 2012 prepared by Hammond & Associates, except where varied by the conditions of this consent.*

[GEN0005]

2. *The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.*

[GEN0045]

3. *The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.*

[GEN0125]

4. *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]

5. *The approved subdivision/development shall not result in any clearing of native vegetation without prior approval from the relevant authority.*

[GEN0290]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. *Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.*

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

7. *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]

8. *Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.*

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

- (a) Contours and terraces where the height exceeds 1m.*
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.*
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.*

(d) *Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.*

[PCC0455]

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

[PCC0465]

10. *All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.*

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

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

[PCC0585]

12. *Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted for Council approval.*

[PCC0675]

13. *Design detail shall be provided with the Construction Certificate to address the flood compatibility of the proposed structures including the following specific matters:*

(a) *Design flood level of RL4.2m AHD.*

(b) *Provision of a high level evacuation route, as defined by DCP-A3, to all dwelling sites, considering both regional and local catchment flood events.*

[PCC0705]

14. *A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.*

[PCC0865]

15. *The proponent shall submit plans and specifications with an application for Construction Certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications:*

(a) *Construction of filled building pads, access driveway construction and/or modifications for all Lots, and various stormwater drainage works including*

dam spillway modification, re-routing a drain through Lot 1, and several driveway culverts and swale drains, as nominated in various reports in the Statement of Environmental Effects.

- (b) The access driveway for Lot 5 shall be provided with a gravelled surface and not a grassed surface as depicted on Hammond & Associates plan BH110134-CV14.*
- (c) The existing water supply pipe from Gumtree Court that services the existing dwelling on Lot 25 (No. 37 Hindmarsh Road) is to be disconnected and fully removed (at least) wherever it crosses internal lot boundaries.*
- (d) The construction of vehicular footpath crossings for Lots 1, 2 and 4 can be included in the construction certificate application - or alternatively the applicant may submit separate applications pursuant to Section 138 of the Roads Act for these works.*

[PCC0875]

16. Prior to the issue of a Construction Certificate for civil works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon*
- (b) four copies of detailed engineering plans and specifications, prepared in accordance with Development Design Specification D13 - particularly Section D13.09. The detailed plans shall include but are not limited to the following:*
 - earthworks*
 - roadworks/furnishings*
 - stormwater drainage*
 - water supply works*
 - landscaping works*
 - sedimentation and erosion management plans*
 - location of all service conduits (water, electricity supply and telecommunication infrastructure), as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations*

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

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

- (a) The Construction Certificate Application shall detail stormwater management for the occupational or use stage of the development in accordance with Section D7.07 of Councils Development Design Specification D7 - Stormwater Quality.*

- (b) *Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.*
- (c) *The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management.*
- (d) *Specific Requirements to be detailed within the Construction Certificate application include:*
- (e) *Shake down area along the haul route immediately before the intersection with the road reserve.*

[PCC1105]

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

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

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

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

[PCC1145]

19. *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]

20. *Prior to issue of the Construction Certificate, the applicant is to submit a Habitat Restoration Plan in accordance with Council's draft guidelines as attached and the Terms of Approval from the Office of Water and dated 12 November 2012 detailing:*

- (a) *The establishment and maintenance of the rehabilitated riparian corridor in accordance with the Office of Water guidelines and to the satisfaction of Council's Director of Planning and Regulation or delegate.*
- (b) *The retention of all preferred Koala feed trees (*Eucalyptus robusta*, *Eucalyptus tereticornis*, *Eucalyptus microcorys*, and *Eucalyptus propinqua*)*

- (c) *Identification of the location and demonstration of the retention of the individual Rhodamnia maideniana.*

The Habitat Restoration Plan must be approved to the satisfaction of Council's Director of Planning and Regulation or delegate prior to commencement of works.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

21. *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]

22. *Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-*

- (a) *Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or*
- (b) *AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.*
- (c) *WorkCover Regulations 2000.*

[PCW0025]

23. *All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.*

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

24. *Civil work in accordance with a development consent must not be commenced until:*

- (a) *a Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:*
- (i) *the consent authority, or*
- (ii) *an accredited certifier, and*
- (b) *the person having the benefit of the development consent:*
- (i) *has appointed a principal certifying authority,*
- (ii) *has appointed a Subdivision Works Accredited Certifier (SWAC) to certify the compliance of the completed works. The SWAC must be accredited in accordance with Tweed Shire Council DCP Part A5 - Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a*

minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier - Stormwater management facilities construction compliance

C6: Accredited Certifier - Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to commencement of works, and

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,*
- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and*
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.*

Note: For subdivisions creating 5 new allotments or less, OR the value of new public infrastructure is less than \$30,000, then the SWAC may be substituted for an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with National Professional Engineers Register (NPER) registration.

[PCW0815]

- 25. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.*

[PCW0835]

- 26. 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

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

[DUR0005]

28. *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]

29. *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.

[DUR0215]

30. *All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.*

[DUR0225]

31. *During filling operations:*

- *No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.*
- *All fill and cut batters shall be contained wholly within the subject land.*
- *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 and to the satisfaction of the Principal Certifying Authority.*

and upon completion,

- *all topsoil to be respread and the site to be grassed and landscaped including battered areas.*

[DUR0755]

32. *No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.*

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

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

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

[DUR0795]

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

[DUR0815]

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

[DUR0985]

36. *The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.*

[DUR0995]

37. *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]

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

[DUR1015]

39. *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]

40. *All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.*

[DUR1075]

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

[DUR1795]

42. *Deleted.*

[DUR1805]

43. *During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:*

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.*
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.*

[DUR1825]

44. *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]

45. *If Tweed Shire Council issues the Construction Certificate, Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:*

Roadworks/Driveway Works

- (a) Pre-construction commencement erosion and sedimentation control measures*
- (b) Completion of earthworks*
- (c) Excavation of subgrade*
- (d) Pavement - sub-base*
- (e) Pavement - pre seal*
- (f) Final inspections - on maintenance*
- (g) Off Maintenance inspection*

Water Reticulation, Drainage

- (a) Excavation*
- (b) Bedding*
- (c) Laying/jointing*

- (d) *Manholes/pits*
- (e) *Backfilling*
- (f) *Permanent erosion and sedimentation control measures*
- (g) *Drainage channels*
- (h) *Final inspection - on maintenance*
- (i) *Off maintenance*

Council's role is limited to the above mandatory inspections and does NOT include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all civil works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

46. *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]

47. *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]

48. *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]

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

[DUR2435]

50. *All operations must comply with the fauna and flora amelioration measures as outlined in the Ecological Assessment prepared by James Warren & Associates and dated July 2012. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations, appropriate Plans of Management for those*

species must be formulated to the satisfaction of the General Manager or delegate. No further operational works will take place until the Plan(s) of Management is/are approved.

51. No preferred Koala feed trees (*Eucalyptus robusta*, *Eucalyptus tereticornis*, *Eucalyptus microcorys*, and *Eucalyptus propinqua*), Pink Bloodwood (*Corymbia intermedia*) within proposed Lot 6, Blackbutt (*Eucalyptus pilularis*) within proposed Lot 5 and large Fig (*Ficus* sp.) in proposed Lot 3 may be cleared without specific approval of the General Manager or delegate. Should any of these trees require removal or become damaged or die during subdivision works, a suitable replacement tree will be planted on the site to the satisfaction of the General Manager or delegate.
52. The only drainage lines approved for filling are those specified on the Conceptual Layout Plan (Drawing number: BH110134-CV14) as designed by Hammond & Associates and dated May 2012.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

53. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

54. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP6: 2.4 ET @ \$12150 per ET \$29,160

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

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

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

[PCC0265/PSC0165]

55. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

- (a) *Tweed Road Contribution Plan:*
- | | |
|---|------------------|
| <i>26 Trips @ \$1822 per Trips</i> | <i>\$46,908*</i> |
| <i>(\$1807 base rate + \$15 indexation)</i> | |
| <i>S94 Plan No. 4</i> | |
| <i>Sector10_4</i> | |
- (b) *Open Space (Casual):*
- | | |
|--|----------------|
| <i>4 ET @ \$526 per ET</i> | <i>\$2,104</i> |
| <i>(\$502 base rate + \$24 indexation)</i> | |
| <i>S94 Plan No. 5</i> | |
- (c) *Open Space (Structured):*
- | | |
|--|----------------|
| <i>4 ET @ \$602 per ET</i> | <i>\$2,408</i> |
| <i>(\$575 base rate + \$27 indexation)</i> | |
| <i>S94 Plan No. 5</i> | |
- (d) *Shirewide Library Facilities:*
- | | |
|--|----------------|
| <i>4 ET @ \$816 per ET</i> | <i>\$3,264</i> |
| <i>(\$792 base rate + \$24 indexation)</i> | |
| <i>S94 Plan No. 11</i> | |
- (e) *Bus Shelters:*
- | | |
|--|--------------|
| <i>4 ET @ \$62 per ET</i> | <i>\$248</i> |
| <i>(\$60 base rate + \$2 indexation)</i> | |
| <i>S94 Plan No. 12</i> | |
- (f) *Eviron Cemetery:*
- | | |
|--|--------------|
| <i>4 ET @ \$121 per ET</i> | <i>\$484</i> |
| <i>(\$101 base rate + \$20 indexation)</i> | |
| <i>S94 Plan No. 13</i> | |

- (g) *Community Facilities (Tweed Coast - North)*
 4 ET @ \$1352 per ET \$5,408
 (\$1305.6 base rate + \$46.4 indexation)
 S94 Plan No. 15
- (h) *Regional Open Space (Casual)*
 4 ET @ \$1064 per ET \$4,256
 (\$1031 base rate + \$33 indexation)
 S94 Plan No. 26
- (i) *Regional Open Space (Structured):*
 4 ET @ \$3730 per ET \$14,920
 (\$3619 base rate + \$111 indexation)
 S94 Plan No. 26
- * *Includes adjustments which effect compliance with the Directions from the Minister for Planning in relation to the maximum contribution payable per dwelling dated 13 January 2009 and 19 July 2009.*

[PCC0215/PSC0175]

56. *Section 94 Contributions*

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of the subdivision certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{TRCP - Heavy} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{TRCP - Heavy}$ *heavy haulage contribution*

and:

Prod. *projected demand for extractive material to be hauled to the site over life of project in tonnes*

*Dist. average haulage distance of product on Shire roads
(trip one way)*

*\$Unit the unit cost attributed to maintaining a road as set out in Section 7.2
(currently 5.4c per tonne per kilometre)*

Admin. Administration component - 5% - see Section 6.6

[PSC0185]

57. *Prior to the issue of an Occupation Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.*

The bond shall be based on 5% of the value of the public infrastructure works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (as set out in Councils Fees and Charges current at the time of payment), which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

58. *A bond to ensure acceptable plant establishment and landscaping performance shall be lodged by the Developer prior to the issue of the Subdivision Certificate. The bond shall be held by Council for a period of 6 months from the date of issue of the Subdivision Certificate and may be utilised by Council during this period to undertake essential plant establishment or related plant care works, should non compliance occur. Any balance remaining at the end of the 6 months establishment period will be refunded.*

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

[PSC0235]

59. *Prior to the issue of a subdivision certificate, a certificate of compliance shall be submitted to Council by the Developers Subdivision Works Accredited Certifier (SWAC) or equivalent, verifying that the placed fill has been compacted in accordance with the requirements of AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments" and is suitable for residential purposes.*

The submission shall include copies of all undertaken test results.

[PSC0395]

60. *All approved landscaping requirements must be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Landscaping must be maintained at all times to the satisfaction of the General Manager or delegate.*

[PSC0485]

61. *Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.*

[PSC0725]

62. *Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.*

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;*
- (b) the plans accurately reflect the Work as Executed.*

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

[PSC0735]

63. *A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.*

[PSC0825]

64. *Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.*

[PSC0830]

65. *The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:*

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.*
- (b) Easements for batters and support for any earthworks batters that cross newly created property boundaries.*
- (c) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006" Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.*
- (d) Extinguishment of superfluous Right Of Carriageways that were previously created to provide temporary turning areas for refuse vehicles and the general public, but are now no longer required.*

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway / easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such

restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the Community Land Development Act, Strata Titles Act, Conveyancing Act, or other applicable legislation.

[PSC0835]

66. *Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan. Furthermore, prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council's procedure on street numbering.*

[PSC0845]

67. *Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.*

[PSC0855]

68. *Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.*

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.*
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.*

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

69. *Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-*

- (a) Compliance Certificate - Roads/Driveways*
- (b) Compliance Certificate - Water Reticulation*
- (c) Compliance Certificate - Drainage*

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's*

Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.

2. *The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".*

[PSC0915]

70. *The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.*

[PSC0925]

71. *Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.*

[PSC0945]

72. *Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and sewerage system installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.*

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

73. *Prior to issuing a Subdivision Certificate, reticulated water supply (or acceptable alternative) shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.*

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

[PSC1115]

74. *The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.*

[PSC1165]

75. *The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead or underground electricity and energising has been provided to each allotment.*

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1175]

76. *All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.*
77. *Proposed onsite sewage management facilities are to be installed in accordance with the HMC report (ref: HMC Pty Ltd 2010.075 dated August 2010) except where modified by this approval.*
78. *Land application areas, for treated wastewater disposal, are to be located at least 20m from the central drainage channel, which runs from the dam in the east, to the western side of the property.*
79. *Adequate provision to be made, within filled areas, so that wastewater treatment devices and wastewater Land Application Areas (LAA) can be installed above the following flood levels i.e. Treatment devices (vents and electrical control units) will only be approved for installation above the 100 year ARI flood height, and LAA's will only be approved on the batter slopes of house pads or other areas where the installation height is above the Q20 flood level.*
80. *Prior to the issue of a subdivision certificate approval to operate the existing on-site sewage management facilities, under Section 68 of the Local Government Act 1993, shall be obtained from Council.*
81. *Environmental restoration works shall be completed to a level specified in the approved Habitat Restoration Plan and the guidelines as established by the Office of Water prior to the release of the subdivision certificate and shall be maintained in accordance with the approved Plan.*
82. *The planted area and/or regenerated area shall be fenced to prevent stock access.*
83. *Fencing shall not restrict the free movement of koalas that may traverse the site from time to time and shall allow a clearance of at least 40cm at the bottom to enable koalas to move under it. If post and wire fencing is used, the bottom strand must not be barbed. Subdivision boundary fences to be erected on the property, shall comply with the following conditions:*
 - (a) *Fences shall be constructed of wire, with the top wire and the bottom two wires consisting of non-electrified plain wire.*
 - (b) *The bottom fence wire shall be no closer than 40 cm to the ground at any point.*
 - (c) *The removal of vegetation for fence construction shall be undertaken with hand tools only (e.g. brush cutters, lawn mowers), and shall be limited to a maximum width of 1m.*
84. *As a minimum the following restrictions as to user under Section 88B of the Conveyancing Act are to be created to Council's satisfaction:*
 - (a) *Restriction as to user regarding the environmental covenant area to be described within the approved Habitat Restoration Plan and the Office of Waters guidelines for the site - this area must be subject to an ecological*

restoration program where native vegetation is protected. Burden: Each lot. Benefit: Tweed Shire Council.

- (b) Restriction as to user regarding protection of all Koala feed tree species on the site of 3m or greater in height. Burden: Each lot. Benefit: Tweed Shire Council.

GENERAL TERMS OF APPROVAL UNDER SECTION 91 OF THE WATER MANAGEMENT ACT 2000 (Work requiring a controlled activity approval)

<i>Plans, standards and guidelines</i>	
1	<i>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA12/0320 and provided by Council. Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Officer of Water must be notified to determine if any variations to these GTA will be required.</i>
2	<i>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront and for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</i>
3	<i>The consent holder must prepare or commission the preparation of: (i) Vegetation Management Plan (ii) Erosion and Sediment Control Plan</i>
4	<i>All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx <http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx></i> <i>(i) Vegetation Management Plans</i> <i>(ii) Riparian Corridors</i> <i>(iii) In-stream works</i>
5	<i>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.</i>
<i>Rehabilitation and maintenance</i>	
6	<i>The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.</i>
7	<i>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.</i>
<i>Reporting requirements</i>	

8	<i>The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.</i>
<i>Security deposits</i>	
9	<i>N/A</i>
<i>Access-ways</i>	
10	<i>N/A</i>
11	<i>N/A</i>
<i>Bridge, causeway, culverts and crossing</i>	
12	<i>N/A</i>
13	<i>N/A</i>
<i>Disposal</i>	
14	<i>The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.</i>
<i>Drainage and Stormwater</i>	
15	<i>The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.</i>
16	<i>The consent holder must stabilise drainage discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.</i>
<i>Erosion control</i>	
17	<i>The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.</i>
<i>Excavation</i>	
18	<i>The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.</i>
19	<i>N/A</i>
<i>Maintaining river</i>	
20	<i>The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.</i>

21	<i>The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the NSW Office of Water.</i>
<i>River bed and bank protection</i>	
22	<i>N/A</i>
23	<i>The consent holder must establish riparian corridors along the unnamed watercourse in accordance with a plan approved by the NSW Office of Water.</i>
<i>Plans, standards and guidelines</i>	
24	<i>N/A</i>
25	<i>N/A</i>
26	<i>N/A</i>
27	<i>N/A</i>
END OF CONDITIONS	

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. *The development proposal is to comply with the subdivision layout identified on the drawing prepared by Hammond and Associates numbered BH110134-DA1A Sheet 1 of 1, Issue A, dated 11 June 2012.*
2. *At the issue of subdivision certificate and in perpetuity the land surrounding each of the existing dwellings, on proposed Lots 1 and 6 to a distance of 20m or to the boundary (whichever is the least), shall be maintained 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'.*
3. *Water and electricity are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.*
4. *A 10,000l fire fighting water supply must be available for each dwelling where the reticulated supply is not adequate/available or greater than 70m from the most external part of the dwelling. This includes the existing dwelling on proposed Lot 6. Existing tank(s) may be able to be used for this purpose. The fire fighting water supply shall meet the following requirements:*
 - (a) *A hardened ground surface for fire fighting truck access is to be constructed up to and within 4 metres of the fire fighting water supply.*
 - (b) *A 65mm metal Storz outlet with a gate or ball valve, shall be fitted to any fire fighting water supply tank(s) and be accessible for a fire fighting truck. The Storz outlet fitting shall not be located facing the hazard or the approved structure.*
 - (c) *The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.*

- (d) *All associated fittings to the fire fighting water supply tank(s) shall be non-combustible.*
- (e) *All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.*
- (f) *Fire fighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, shall be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters.*

Should new tank(s) be installed for to provide an adequate fire fighting water supply, they shall meet the following additional requirements:

- (a) *Any fire fighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.*
- (b) *Below ground fire fighting water supply tank(s) shall have an access hole measuring a minimum 200mm x 200mm to allow fire fighting trucks to access water direct from the tank.*
- (c) *Fire fighting water supply tank(s) shall be located not less than 5 metres and not more than 20 metres from the approved structure.*
- (d) *Above ground fire fighting water supply tank(s) are to be manufactured using non combustible material (concrete, metal, etc).*
- (e) *Non combustible materials (concrete, metal, etc) will only be used to elevate or raise fire fighting water supply tank(s) above the natural ground level.*
- (f) *Any below ground fire fighting water supply tank(s) constructed of combustible polycarbonate, plastic, fiberglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.*

Note: Below ground dedicated fire fighting water supply tank(s) is defined as: that no part of the tank(s) is to be located above natural ground level.

A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:

- i) *Markers must be fixed in a suitable location so as to be highly visible; and*
- ii) *Markers should be positioned adjacent to the most appropriate access for the water supply.*

5. *In recognition that the existing dwellings may be connected to a gas supply, the following requirements are to be complied with:*

- (a) *Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZ 1596:2008: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.*
- (b) *All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.*
- (c) *Gas cylinders kept close to the building shall have release valves directed away from the building. Connections to and from gas cylinders are to be metal.*

- (d) *Polymer sheathed flexible gas supply lines to gas meters adjacent to building are not to be used.*
6. *Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.*
7. *The existing dwellings, located on proposed Lots 1 and 6, are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders."*

be rescinded

8 [NOM-Cr K Milne] Development Application DA12/0320, Lot 12 DP 825726, No 26 Waterlily Close; Lot 25 DP 870463, No 37 Hindmarsh Road Nunderi

NOTICE OF MOTION:

Councillor K Milne moves that Development Application DA12/0320 for a two lot into six lot subdivision at Lot 12 DP 825726; No. 26 Waterlily Close; Lot 25 DP 870463; No. 37 Hindmarsh Road Nunderi be refused for the following reasons:

1. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 2. The unsuitability of the site for the development.
 3. The application is considered an overdevelopment of the site resulting in unacceptable impacts.
 4. Visual impacts to the neighbours.
-

9 [NOM-Cr B Longland] Use of Land - Cabarita Youth Service

NOTICE OF MOTION:

Councillor B Longland moves that a report be prepared on the feasibility of use of Council owned vacant land in Hastings Road Cabarita, to be utilised for the provision of youth services by the Cabarita Youth Service.

10 [NOM-Cr M Armstrong] Community Workshops - Planning White Paper

NOTICE OF MOTION:

Councillor M Armstrong moves that:

1. Council holds community workshops in Tweed Heads, Banora Point, Murwillumbah and Kingscliff, on the NSW Planning White Paper following its release.
 2. In facilitating these community workshops, they be held within one (1) month of the release of the White Paper in order to inform our community about the proposals contained within the White Paper and provide an opportunity for Council staff and Councillors to hear community views on these proposals.
-

11 [NOM-Cr M Armstrong] Promotion of Sustainable Design

NOTICE OF MOTION:

Councillor M Armstrong moves that Council:

1. Hosts a Community Summit, prior to 30 October 2013, to engage with the community to develop policies to promote sustainable design, sustainable retrofitting of existing homes and sustainable community planning in the Tweed Shire.
 2. Prepares a report to be brought forward to the December 2013 Council meeting encapsulating the findings of the Community Summit with a view to introducing policies to promote sustainable development throughout the Tweed Shire.
-

12 [NOM-Cr K Milne] Establishing a Council Mediation Process

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on establishing a formal mediation process within Council's organisation and the potential for appropriate training of staff.

13 [NOM-Cr W Polglase] Tweed Development Control Plan Section B15 - Seabreeze Estate, Pottsville

NOTICE OF MOTION:

Councillor W Polglase moves that:

1. The request of Darryl Anderson Consulting Pty Ltd in respect of preparing an amendment to the Tweed Development Control Plan 2008, Section B15 - Seabreeze Estate Pottsville, which comprises the retention of a 6ha future school site and the inclusion of suitable planning provisions to enable and guide the development of the residual residentially zoned balance land, as required to satisfy the provision of the
-

Tweed Local Environmental Plan 2000; cl 53E Specific provisions for Seabreeze Estate—Stage 2, be accepted; and

2. The Development Control Plan amendment be prepared in accordance with Option 3 of the Council report of 14 February 2013 in respect of this matter; and
 3. The amended Development Control Plan includes a new provision detailing the review timeframe for the future school site, which is to accord with Resolution No.4 of the Council report of 14 February 2013 in respect of this matter.
-

14 [NOM-Cr P Youngblutt] Equal Access - Tweed Aquatic Centre

NOTICE OF MOTION:

Councillor P Youngblutt moves that Council officers, in consultation with the Equal Access Advisory Committee, investigate and report back to Council on the provision of a subsidy to improve accessibility for Tweed Shire residents with permanent or temporary disability to the Tweed Aquatic Centres.

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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

15 [GM-CM] Destination Tweed Quarterly Performance Report - October to December 2012

SUBMITTED BY: Business and Economic Development

FILE REFERENCE: Destination Tweed



Strengthening the Economy

SUMMARY OF REPORT:

As required by the current funding and performance agreement with Destination Tweed, a quarterly performance report and summary financial statement are to be provided for Council's review. This report provides Destination Tweed's quarterly reports for the quarter 1 October to 31 December 2012. All financial information that is of a 'commercial in confidence' nature in this report has been provided in a confidential attachment.

This report recommends that Council endorses the October to December 2012 quarterly report from Destination Tweed.

RECOMMENDATION:

1. That Council Endorses Destination Tweed's Quarterly Report for the quarter October to December 2012.
2. ATTACHMENT 1 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:



Quarterly Report to Council October to December 2012

1. TOURISM MARKETING & PROMOTION

Market research and back ground

Tourism data used in this report has been obtained from a number of sources such as Tourism Research Australia (TRA), International Visitor Survey (IVS), the National Visitor Survey (NVS), Australian Bureau of Statistics (ABS) and data collected at the Tweed Heads and Murwillumbah Visitor Information Centres (VIC).

The DT Destination awareness campaign continued to run over the last quarter of 2012 targeting SE Qld with specific messages focused on the Gold Coast and Brisbane markets. The campaign continued with the use of aspirational imagery and simple but emotive messages that cut-through to the key message and call to action in a matter of seconds. The creative was designed to engage the reader to stop and consider the idea of turning their daydream of a relaxing getaway to the Tweed in to a reality. Images used were aspirational in intent and encouraged readers to imagine themselves engaging in the activities represented by the imagery. The key messages encouraged readers to consider their close proximity to the experiences in our region that, they themselves could be experiencing. The campaign aimed to introduce the region to new residents of SE Qld as well as reconnect with those that have been to the Tweed previously.

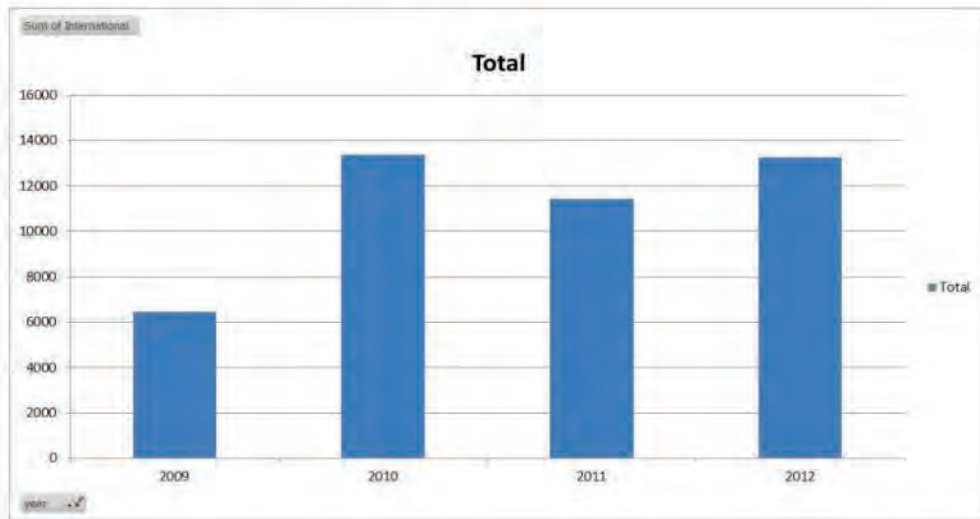
The initial marketing activity to the region saw a greater emphasis being placed on introducing the region to new residents of SE Qld; with the continued interstate migration and growth into this corridor it ensures that there will always be a healthy new market to reach. It is pleasing to note that over this period data from the NVS identified an overall increase of 22.9% in day visitation in comparison to the previous year. Pleasingly, this growth was achieved over the same period that DT ran the 'Turn your daydream into a day trip' marketing campaign in SE Qld.

During the back half of the year, DT changed the key message in radio and print media to become more focused on 'reconnecting' with visitors who have been to the Tweed before and to convert day visitation to overnight stays. The NVS data shows a drop off in day visitors of 3.3% in this quarter ending Sept 2012 in comparison to 2011, but expected given the change of message.

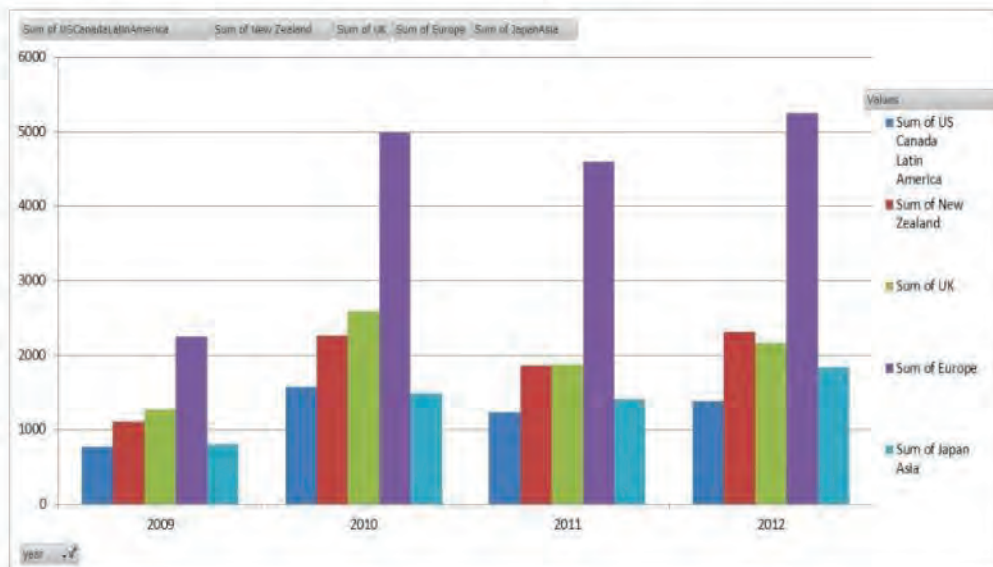
With the drop in day visitors we saw an increase in domestic overnight visitation; the latest NVS data sets released (to Sept 2012) demonstrate that the Tweed increased its visitation by 10.3% from June 2012. This increase took the Tweed to have a 26% stake of the overall market share for the Northern Rivers. During the same time period (June to Sept 2012) the Tweed saw a 25.3% increase domestic visitor nights. ***Simply put, visitors are spending more time in the region which is an increase in direct and indirect tourism expenditure in the local economy.***

International visitation over the same period saw a 10% increase, anecdotally assisted by more direct flights to Gold Coast Airport.

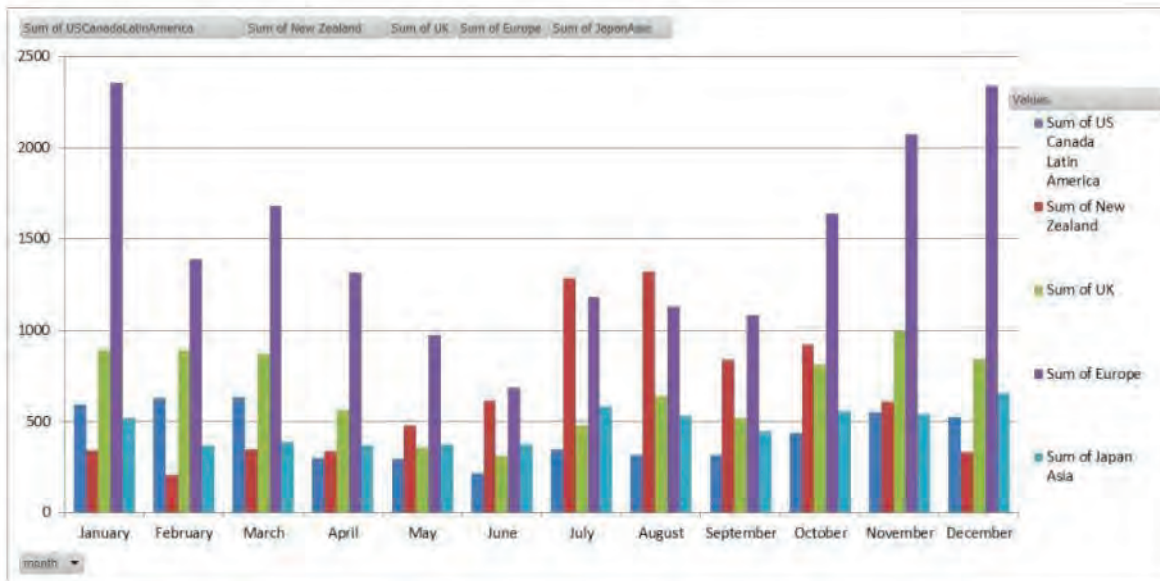
Historical International Visitation (totals by year)



DT capture data from tourists visiting the VIC's at both Tweed Heads and Murwillumbah, this data provides indicative trends which, when matched to other data sets such as the IVS and industry data reinforce key market trends. The chart below identifies our key international markets. It is not a surprise to see high level of European travellers visiting our region, as this market has a greater tendency to consume nature based destinations and experiences.



Looking at the internal market sources by month (monthly totals from 2009-2012) clear patterns emerge from the UK and European markets as they escape their northern hemisphere winter months and the NZ market as they escape their winter to warmer climates of Australia. Also, there are the more static markets of the US and Asia. This data assists in determining on the timings and cycles of our international marketing.



Brand design and evolution

Destination Tweed is the overarching corporate entity with two brands; Tweed Tourism and Tweed Business. All outward collateral has a call to action back to the respective brand based. Each brand has a developing look and feel with collateral contemporary designs that are clear, simple and with an uncluttered message.

DT's markets are much savvier today and need to be reached with key messages, simple visuals that identify the regions experiences / opportunities. The branding elements have been redesigned and reflect a more contemporary design with simple messages. This is a required step away from the designs and ad hoc approach of the past. It is this style that reaches across the outdoor advertising, print advertising, magazine features, brochures and upcoming consumer website.

The Tweed has not only its traditional competitive domestic destinations such as the Sunshine coast but also due the strength of the Australian dollar international destinations such as Phuket, Bangkok, pacific islands and Hawaii all now erode the domestic market. The gap between inbound and domestic holidays versus outbound continues to widen meaning the Tweed is placed in an increasingly competitive market.

The brand and look and feel of how we promote the region was changed from the old cluttered and dated designs (below) to a more contemporary look at feel.



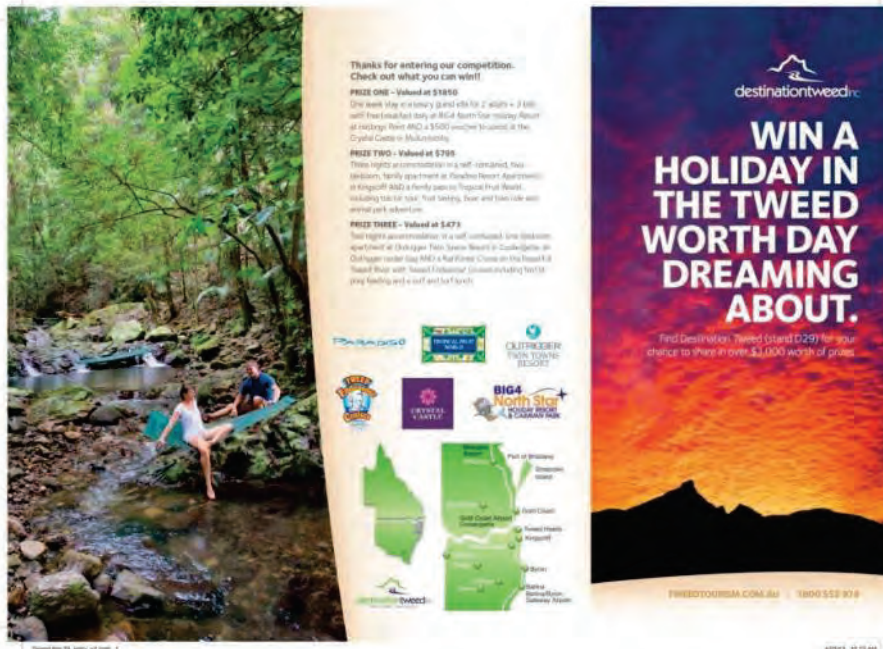
Tweed Tourism banners

The banners need to cover and appeal to as many market segments as possible in order to portray the regions key experiences. Included is a local map of the tweed. These are designed to work stand alone or with the spyder displays and brochures. The experiential imagery is used in order to gain the attention of a consumer as they walk past at shows or promotions.



Consumer data capture - Competition –

Used to capture consumer details with which populate data base for EDM's, viral campaigns and product offers. This a two side DL flyer that is customisable to each consumer show DT attends. A total of \$3500 in Prizes were generously donated by DT members and industry partners for the first consumer show.



Print Advertising:

Outdoor advertising: Billboards used to raise awareness in locations such as train stations where foot traffic is relatively static. Again emotive imagery used and simple message to assist the reader in wanting be immersed in the experiences they see in the Tweed instead of going to or from work. The distance of 80 Klm or 1 hour flight assists in putting the location of the Tweed into perspective and not out of reach.

Brisbane Central Station:



Town Hall & Wynard Stations Sydney:



Bus Advertising:

DT skinned the sides of busses in routes that travelled through specific areas and suburbs. Again this was to raise destational awareness and location in SE Qld and Sydney Eastern Suburbs (imagery not provided)..

Brisbane Bayside:



Gold Coast Busses:



- Seniors magazine



If you find yourself daydreaming about getting away, there's no better place than the Tweed, where all kinds of daydreams come true.

If it's an escape from the hustle and bustle of city life, the Tweed Valley combines old world charm and country hospitality in quaint cafes like Flutterbies in Tyalgum, serving their famous cupcakes and coffee or local pubs where you can enjoy a leisurely lunch with a bushman's vibe. Not to mention the many scenic riverbanks and winding creeks, perfect for a picnic lunch or throwing in a line and trying your luck.

Of course if you want to pick up the pace a little you can also try your luck at Twin Towns or take in one of their acclaimed shows with national and international artists.

If that's not enough, your daydreams can hit top speed at the Cooly Rocks National Hot Rod event held in Coolangatta and Tweed Heads from 31 May - 10 June.

For another change of pace head to the Farmer's Markets held every Wednesday in Murwillumbah or call into the Visitor Information Centre and take time to explore the Art Trail of the Tweed Region, from pottery shops to artists studios and the Tweed River Art Gallery.

For places to stay there's a range of options from beach and Riverfront caravan parks to self contained apartments and hotels and motels that suit all styles of travellers and budgets.

One last tip, Autumn is perfect on the Tweed - the days are still long, the weather is still warm and the crowds of summer have left.

So pack your bags and follow your daydreams to the Tweed.

Book online at tweedtourism.com.au
 Email info@tweedtourism.com.au
 or call toll free 1800 674 414 to speak to one of our friendly local staff.



- Out & About With Kids (magazine)

MAKE YOUR DAYDREAMS A LIFE LONG MEMORY

Fill your days with family fun this autumn and take a trip to the fabulous Tweed Coast. It's the perfect time and the perfect place to get out, get active and turn your daydreams into life long memories.

It's back to school! Get up close and personal with turtles on a Watersport's boat, snorkelling in. And when you surface try the Ocean Adventure Fun programme where the kids learn about about the marine environment and water safety, as well as how to protect and preserve beach birds and fish.

At Tropical Fruit World the luscious are luscious. The mangoes "rip" and the citrus fruits, all of the season. We farm up and water our own lemons, just harvested, to create it's the freshest available for you.

For old fashion fun, teach the kids the "Hula Hoop" of cake, getting, safely enjoying and playing along the beautiful beach. Don't miss the chance for a day full of fun at the Curlew Middle School. Make your beach!

And for somewhere to stay there's no end of choice. From the traditional to the beach you'll find all kinds of accommodation. The all kinds of facilities and amenities, there are parks and trails to walking, fishing and all the other fun. One of the Tweed Coast's best kept secrets.

To this autumn turn all those daydreams into life long memories with an unforgettable adventure to the Tweed.

Book online at tweedtourism.com.au
 Email info@tweedtourism.com.au
 or call toll free 1800 674 414 to speak to one of our friendly local staff.

- Customised information hand out for all sporting events

NO MATTER WHAT YOUR DAYDREAM, YOU'LL FIND IT HERE.

If you're daydreaming of something less strenuous after the triathlon, look around and see what the Tweed Coast and Tweed Valley really have to show this week.

Saturday 24 November – Tweed River Art Gallery Artisan Market
Sunday 25 November – Murwillumbah Show-ground Markets

Bring this flyer with you to receive **10% OFF** all purchases in our visitor centres and **HALF PRICE ENTRY** to Tropical Fruit World on Durambah Rd.

ABOUT THE TWEED REGION

Tweed Coast
 Nestled in the embrace of the world's most beautiful coastline, the Tweed Coast offers a unique blend of natural beauty and world-class amenities. From the stunning beaches and crystal-clear waters to the world-class golf courses and world-class shopping, the Tweed Coast is a truly special destination. The Tweed Coast is a truly special destination, offering a unique blend of natural beauty and world-class amenities. From the stunning beaches and crystal-clear waters to the world-class golf courses and world-class shopping, the Tweed Coast is a truly special destination.

Tweed Valley
 The Tweed Valley is a truly special destination, offering a unique blend of natural beauty and world-class amenities. From the stunning beaches and crystal-clear waters to the world-class golf courses and world-class shopping, the Tweed Valley is a truly special destination.

destinationtweed

Brochure development:

The Tweed Visitors Guide has been produced and is being distributed. Work on the Tweed Touring Guide is now underway. This will form part of a suite of collateral such as Art trails, a good and dining Guide, soft adventure with which to promote the region's key experiences to visitors already in the region or planning on coming to their region. They will follow the same branding elements of the Tweed Visitors Guide.



Engage with Industry

- As a member of the Tourism Managers Group, the CEO maintains a high level of contact with the regions LGA's and Regional Tourism Organisation
- Destination Tweed remains the lead agency for NSW in the Australia's Green Cauldron (AGC) National Landscapes Programme (NLP)
- Regular meetings with Destination NSW & Tourism Australia
- Regular communications with Department of Resources, Energy and Tourism
- Relationship development with travel trade (retail, wholesale, ITA's, airlines, ITO's & DMC)
- Regular communication and attendance of industry forums such as ATEC and RTO
- Ongoing marketing, product development and PR with members

Editorial / PR:

Coverage for the December quarter is as follows:

- Retirement Times – provided 600 word feature
- Tweed Foodie Fest – 2CH (Sydney), Hot Tomato, ABC Coast FM, Gold Coast Bulletin, Daily News,
- Ocean Road Magazine
- 2013 QLD Netball Challenge Cup – Daily News, Echonet Daily
- Marine Action Conservation Society – NBN News, Nine Gold Coast News, Echonet Daily, Daily News, Tweed Sun
- Rotary Duck Race – Tweed Sun, Tweed Coast Weekly, Tweed Valley Weekly
- Tyalgum Dance Spectacular – Daily News, Tweed Coast Weekly, Byron Shire News, Tweed Valley Weekly, Tweed Border Mail, Tweed Sun, Gold Coast Sun, ABC North Coast, Northern Rivers Echo
- November Tweed Calendar of Events – Tweed Coast Weekly, Tweed Valley Weekly
- Caldera Art – Daily News, Gold Coast Bulletin
- I'm a Celebrity Get Me Out of Here – Gold Coast Bulletin
- Feasting on Local Harvest Food Trails Promotion – Sunday Mail Escape, Sunday Telegraph Escape, Herald Sun Escape, Adelaide Now
- Green Cauldron Panorama – Daily News, Echonet Daily, Northern Rivers Echo, Rabbit Radio, ABC Gold Coast
- Watersports Guru – Daily News
- 4ASD Kids Weekend – Daily News, Tweed Sun, Tweed Coast Weekly, Tweed Valley Weekly
- 101 Best Beaches – Daily News, Tweed Sun, Tweed Coast Weekly, Tweed Valley Weekly

Total Advertising Value for December Quarter:	\$556,204
Total Editorial Value for December Quarter:	\$1,668,603

Social Media:

This continues to be an area that DT is expanding into with a redesign of the social media sites in line with the new branding elements. The current sites are being integrated into the DT website to provide greater functionality and sharing of content.

These social media channels are used to promote the regions community events, markets, activities, networking opportunities and business chamber functions. DT currently has 4900 Facebook friends.

Currently DT are working collaboratively with NCDN and Destination NSW to produce a series of short online videos for you tube and smart phones to promote the region and the Legendary pacific Coast. DT will also be undertaking a series of regional profile with which to use in e marketing campaigns.

Tweed Tourism/Destination Tweed Website Analytics:

Tweed Tourism/Destination Tweed website analytics for the October, November, December quarter:

Site Usage	October	November	December*	Total / Average
Number of visits	6354	5873	2437	14664 total
Unique visits	4997	4722	2024	11743 total
Time spent per visit	2.40	2.49	1.54	2.14 average
Page views per visit	3.21	3.2	3.07	3.16 average
Bounce rate	55	54.21	54.21	54.5% average
New visits	72.24%	74.34%	74.64%	73.7% average

* December statistics were only available up to 17 December 2012

2. BUSINESS ATTRACTION

As per previous reports to Council, there has been considerable confusion over the role of Economic Development and Destination Tweed's (DT) contractual obligations. Having entered into a partnership with Council to develop an Economic Development Strategy for the Tweed we are now confident that all stakeholders will have a clear picture of economic development for the shire as we move forward. The strategy will shape the work that Destination Tweed undertakes and will create collaboration and a clear path for all stakeholders towards economic development.

Engage with Local Business

To understand the current pressures and hurdles facing local business, as well as identifying the barriers to growth and development a survey of business across multiple industries was undertaken.

DT partnered with the Caldera Institute to engage with and support the Murwillumbah business community who had expressed concerns regarding the number of vacant premises in the CBD, together with a range of issues potentially impacting on business growth and confidence. The project aimed at providing some of the base data required to:

- Support economic growth by fostering development and encouraging new business opportunities to strengthen and diversify Murwillumbah's economic base;
- Help ensure future plans are based on the current needs and wants of the business community;
- Provide useful research data for prospective new businesses.

To do this, the project was designed to provide a snapshot of current business in Murwillumbah. It has included a survey and interviews regarding issues relating to business retention and expansion. Ultimately if these settings are effective and a healthy and a positive business environment prevails, the stage is set for new business attraction. Business attraction efforts are less likely to be successful if existing businesses are not happy with the local business climate.

We have also undertaken an 'audit' of current businesses. For a regional town like Murwillumbah it is important to understand the existing business mix, so that the strengths, weaknesses and gaps in

meeting the demands of current and potential customers and clients can be identified and new opportunities highlighted. Areas surveyed have included south Murwillumbah and the Murwillumbah industrial areas as well as the CBD. This has resulted in recording and categorising just under 400 businesses.

A realistic action plan to support retention and growth of existing business and attraction of new businesses will now be workshopped with local businesses. This will include assessing options for the proposal to develop an arts precinct/incubator to capitalise on the development of the Margaret Olley Centre.

Information drawn from this survey will assist in developing customised marketing packages for the key existing and potential business sector.

Raise the Profile of Destination Tweed

DT, through working with Australia's Green Cauldron development (STIG projects), Destination NSW, Regional Development Australia and other local and state organisations, has been promoting the region as a place of business, growth and opportunity.

The Strategic Tourism Investment Grants (STIG) projects seek to nurture and develop tourism products that fall within the AGC region. Whilst the projects are part of the National Landscapes and the STIG grants are Federal, it was Tourism Queensland that provided additional funding and now 'own' them. We are in the early stages of these projects and it remains to be seen if any Tweed based operators will be successful in gaining this support.

Additional general advertising has been undertaken in the Northern Rivers Business magazines and advertising space booked in the NSW Governments book for international investment. This is a tactical long term proposition.

Develop and Promote News Stories

In the December quarter business PR was picked up in local media for the Business Retention & Expansion Survey and various food industry articles on Tweed Fresh.

Hold Regular Meetings with State, RDA & Industry Representatives

Regular meetings have been held with various government departments and offices including:

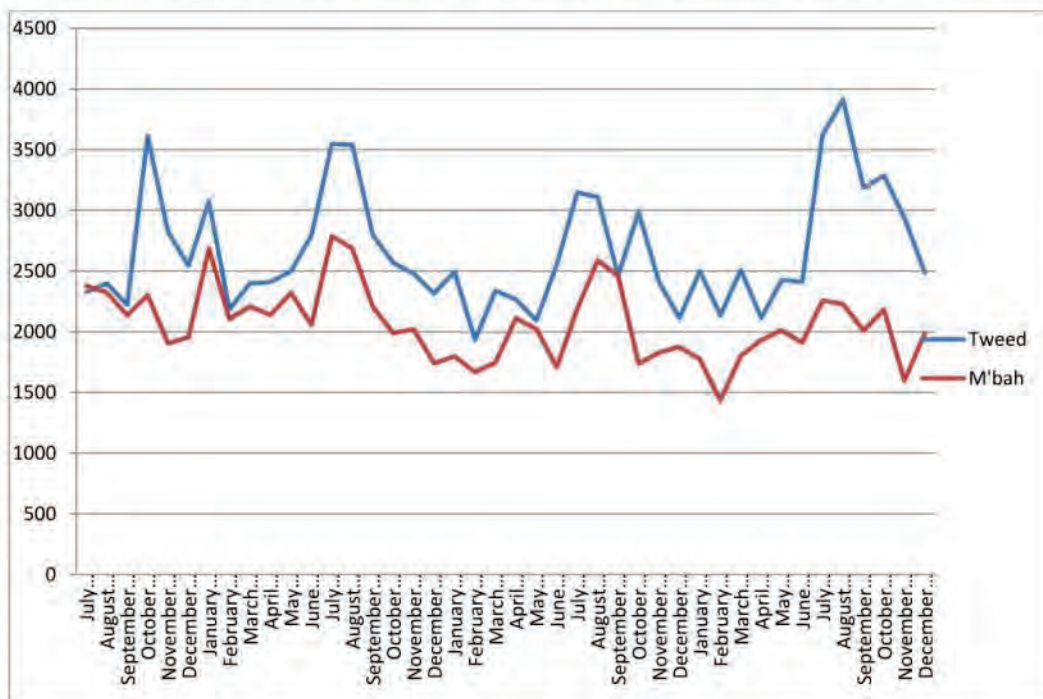
- ATEC
- Dept. Industry & Innovation
- EDA
- NSW Business Chamber
- Austrade

3. OPERATE VISITOR INFORMATION CENTRES

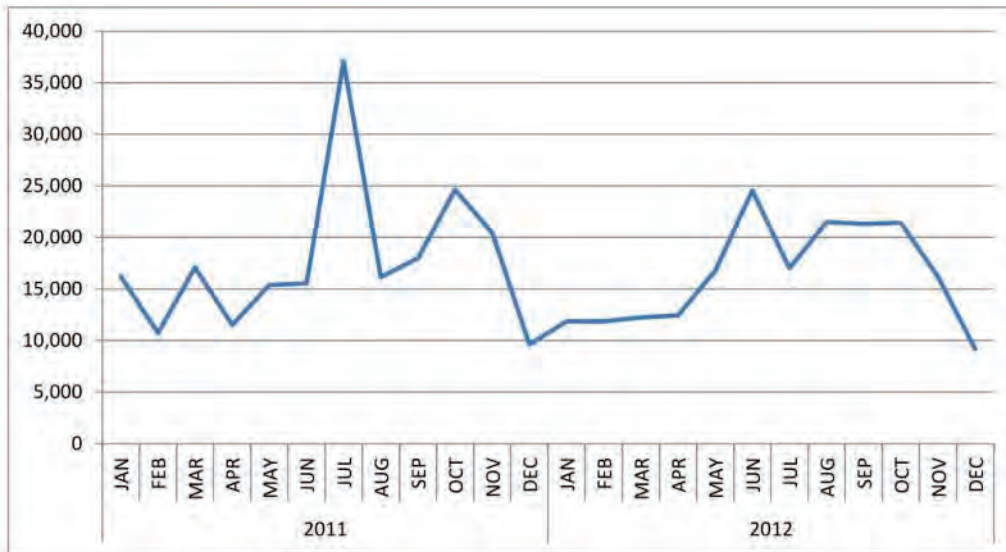
It is important to note the visitor numbers listed below are only taken from two areas of the Shire and register only those visitors that physically come in to the VICs. The figures below should not be used to judge or compare effectiveness of marketing or the tourism market share of the Tweed; they are a snapshot of a section of the market that travel to the region, that when used on conjunction with other data sources, provide an insight in to visitation.

DT capture data from a number of sources, to-date none of these have been effectively combined and collated into usable formats that allow for data queries to be run. We are now consolidating all data and will, in time, be able to query specific data sets centred on understanding the visitor behaviour, trends, travel movements and expenditure. At present we have queried the initial data sets with pivot tables and have identified a number of interesting trends and patterns.

Figures below show VIC visitation over a three year period at both Tweed Heads & Murwillumbah, the interesting point to note is the high usage of VIC during July / August, declining through to December.

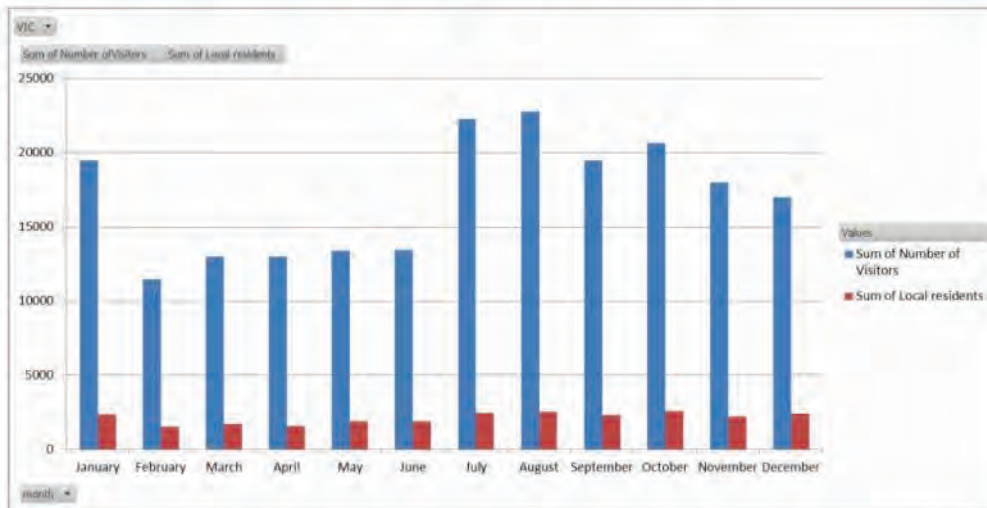


At first glance the dips in VIC visitation over the peak months of October-December contradict visitation to the region with this being peak season. At first glance the dip in the peak season is a concern as this dip is also reflected in the following chart which shows the historical sales figures for the VICs. *Note: The spike in July 2011 sales is due to a large corporate booking.*

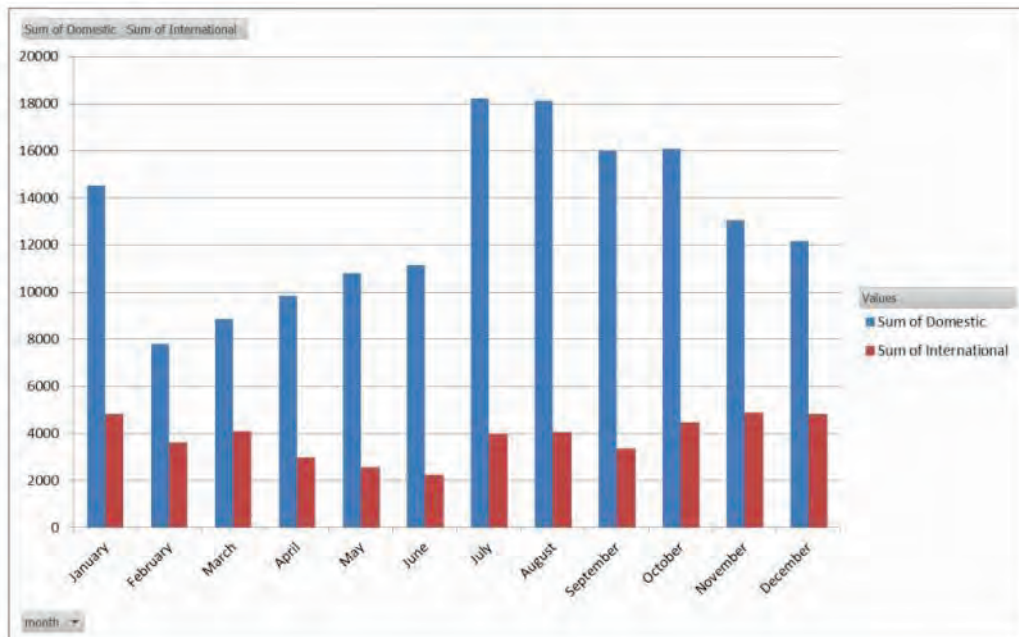


At first glance this dip is seen as a concern and it is when considering revenue falls off during the peak season, but viewed in context to other data this concern can be seen as an opportunity for the future.

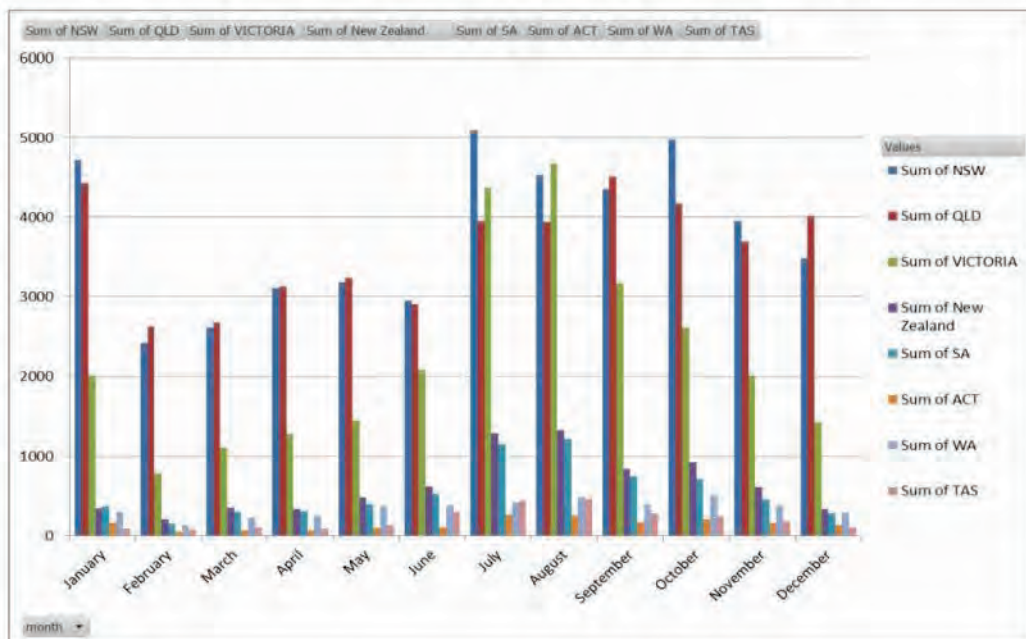
To understand more clearly why the last quarter in each year dips we need to look at total monthly figures (from 2009-2012) for each month (see chart below) and separate tourism visitors from local residents who purchase at the VIC's. It is clear that peak visitation in the VICs is July, reducing over time to January, where it drops off in February. From February onwards it begins to build slowly again.



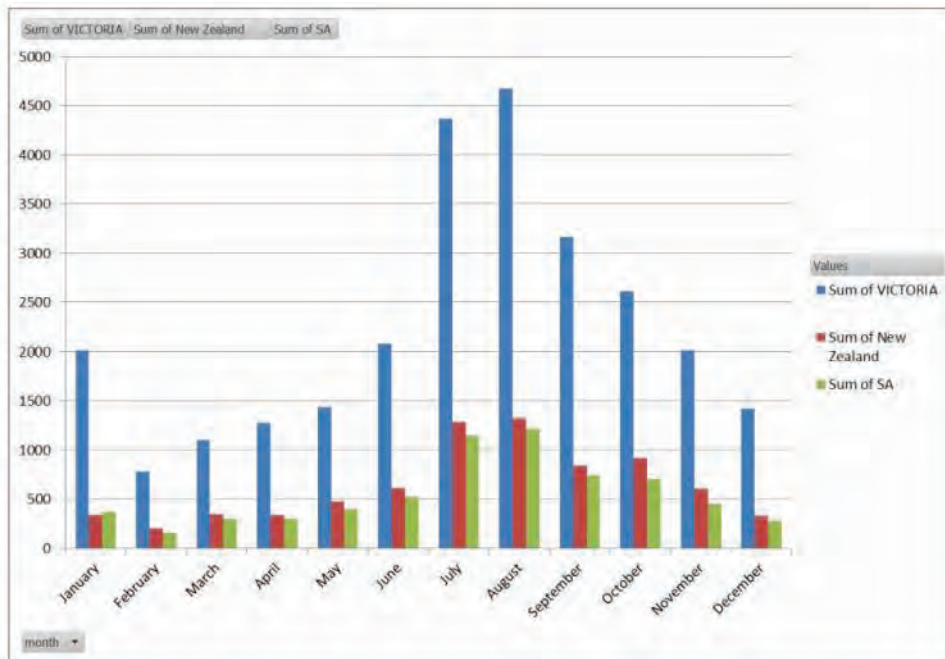
It is significant that each year there is a spike in visitation to the VICs in July and August. The chart below identifies that the international market does have a limited influence on this peak (as identified earlier in the report) with New Zealand (NZ) being only market that affects the July and August months. This is in line with TRA international arrival data. The spikes in visitation are clearly caused the domestic market.



The breakdown below of domestic visitation by state (including NZ) identifies some key trends.

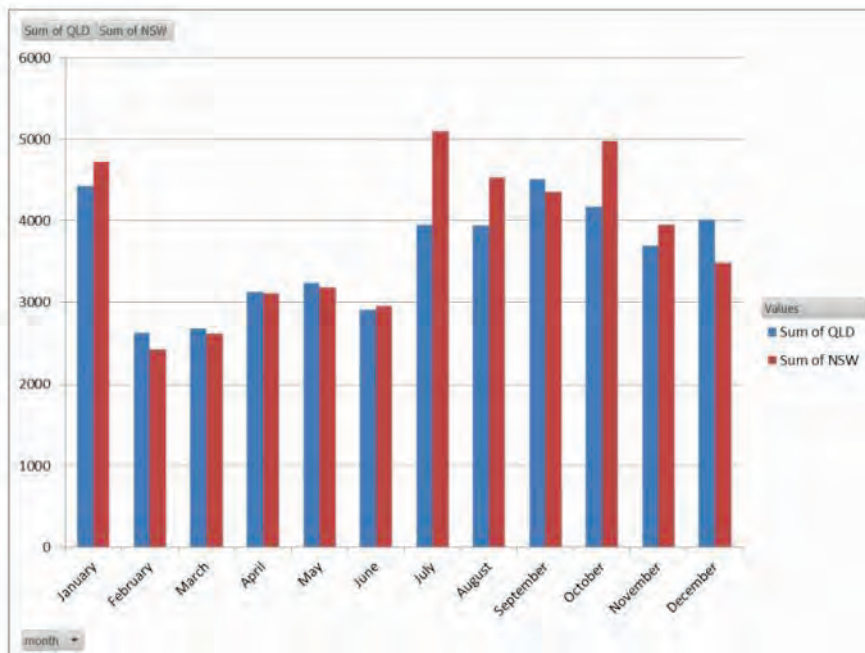


Taking the above data and stripping out some of the source markets that do not have a significant impact on this trend, clearly demonstrates that Victoria, NZ and South Australia have significant impact on visitation numbers and sales trends at the VICs. Simply put, when these markets visit the region they utilise the VICs to book tours, attractions and purchase goods and wares.



This data indicates that the markets of NSW and Qld do not book tours or attractions, nor do they purchase goods and wares from the VICs.

As per the graph below the NSW and Qld market still visit the VICs but decreasing numbers from the southern states push down overall visitation data numbers. The question being: why do these two markets not purchase through the VICs?



A key reason for this is that visitors from Qld represent the largest daytrip market to the Tweed region. This data represents repeat visitation, to an extent, visitors know what our region has to offer and do not need to purchase tours, attraction, goods and wares. Over the peak season of summer, the majority of visitors come on packaged itineraries, or have pre-purchased, or are happy and confident to book directly with operators. All of these things mean there is no need or requirement for this market segment to visit the VICs.

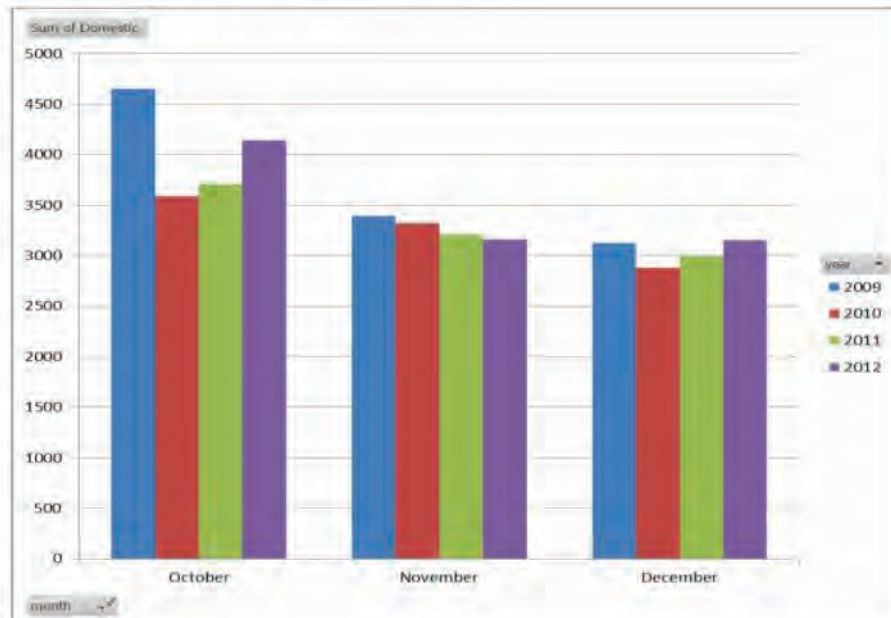
There are a number of strategies that can be employed to turn this peak season dip in to a peak season increase. The opportunity moving forward is to provide reasons for tourists to visit the VICs, for the VIC to utilise its travel agents licence and act as ground handler for ITO's and industry solely focusing on the region's niche experiences that are not handled by industry.

Currently DT are reviewing the method of delivering information to visitors, goods and services offered, retail shop layout as well as the quality and type of stock held. Sales training will assist in not only improving the dissemination of information to visitors but it will also help to secure bookings and convert enquiry to sales. This must occur in order for the VICs to stay current and relevant to the market as well as economically viable.

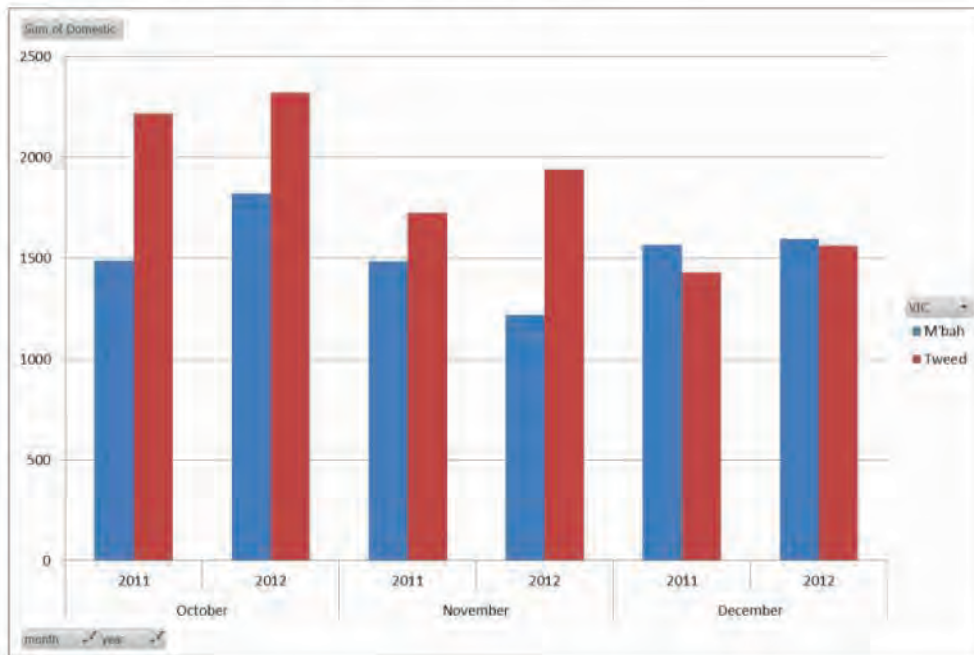
Kingscliff VIC:

The plans for the Kingscliff VIC have had to change given the proposed property is on the market. The investment required cannot go in to a property where there are too many unknown issues as well as being on the market. Both DT and TSC are seeking a long-term solution and recognise the importance of having a VIC in a key tourist area.

Historical fourth quarter total VIC visitation



VIC quarterly comparison (2011 & 2012) total visitor numbers:



Commissions Earned

- Commission revenue for the second quarter of the 2012-13 financial year totalled \$10 826 which is under the budgeted figure of \$12 500. It is less than the same period last year by \$1217.
- Commission revenue represents 10% of total booking value made.
- 18% of bookings through the website were made online, a decrease of 28% in comparison to the previous quarter. Once again the higher online bookings can be attributed to theatre company ticket sales.

Retail Revenue

2nd Quarter	Oct-Dec 2012			6 Months YTD			
	Last Year	Budget	Variance	YTD	Last Year	Budget	Variance
19,325	17,301	17,600	11.70%	35,366	34,267	33,600	1,766

- Retail was up by 16.70% in the Tweed Heads VIC compared to last year, and up by 3.16% compared to the previous quarter.
- Murwillumbah retail was down by 3.63% on last years figures, and up by 5.38% on the previous quarter.
- Hamper / wholesale sales were \$2 580 up by a huge 379% from last year due to a big hamper order from the University Centre for Rural Health.

Quality of Service at Visitor Information Centres

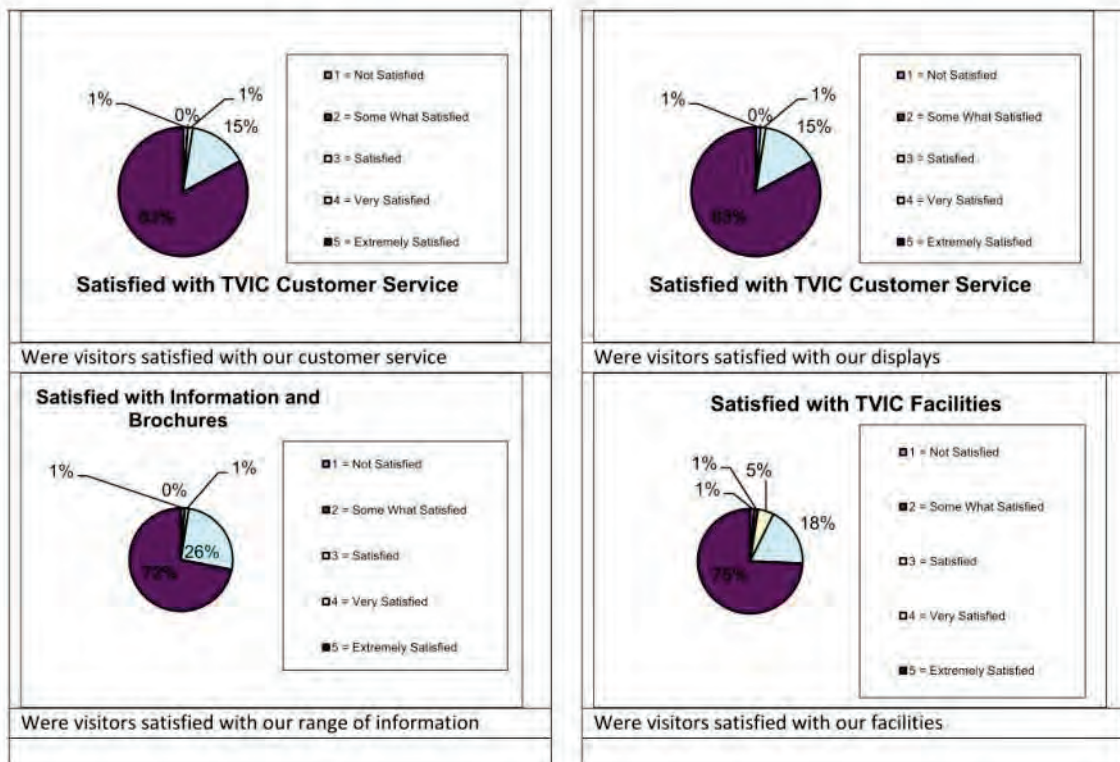
Surveys for the last quarter, results show that 83% of visitors to the VICs were extremely satisfied, 15% very satisfied and 1% satisfied with the quality of customer service received. The majority of visitors surveyed were happy with the range of marketing collateral, including brochures, maps and information provided as well as interpretative displays.

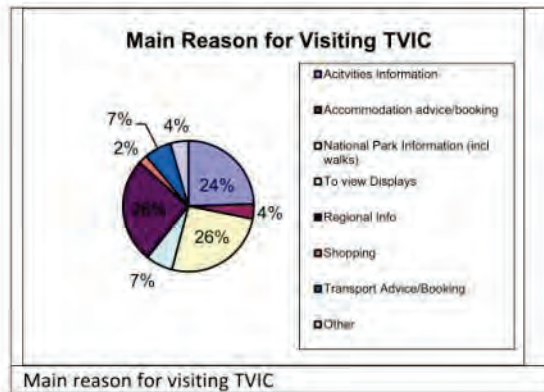
Most of the feedback was very positive this month with comments such as:

- Relaxing happy place
- Nature's paradise
- Lush charming
- Just beautiful
- Very friendly and helpful staff

The negative comments included:

- Please have art gallery opened
- Very, very poor no RV parking (no parking for caravans)
- Would like to see a map including National Park camping areas





Prepare and Submit Monthly VIC Accreditation Reports

Reports sent to Aurora each month and include walk in stats, number of phone calls and number of email enquiries.

Prepare and Submit Annual VIC Accreditation Reports

The renewal for the Murwillumbah accreditation was sent to Aurora in May 2012.

Organise Monthly Operator Famils for VIC Staff and Volunteers

Each month one or two familiarisation tours of operator properties are conducted rotating between Tweed Heads, Murwillumbah and the Tweed Coast. The famils held in the December Quarter were:

- Domain Resorts – Mainwaring Apartments, Drift Apartments, Pandanus Pocket, Cotton Beach
- Dreamworld
- Cooks Endeavour Motor Inn
- Tweed Harbour Motor Inn
- Café D’Bar Gallery & Café
- Greenmount Beach Resort
- Sunset Strip Budget Resort
- Stokers Hiding Nature Lodge & Farmstay
- A View of Mt Warning B&B
- Mavises Kitchen & Cabins
- Movieworld – White Christmas
- Tweed River Motel
- Dreamworld – Kung Fu Panda Opening

Appendix 1 Timelines

TOURISM MARKETING & PROMOTION TIMELINE

Action	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Engage with industry									
Survey members and operators									
Tourism Update									
Identify product / experience / infrastructure gaps									
Workshops / forums for local industry									
Outline product / experiences investment opportunities									
Annual Forum to review products and experiences									
Engage with private sector									
Work with Council to support infrastructure improvements									
Develop Tweed Tourism Brand									
Develop print advertising									
Develop and produce maps									
Web Site development									
Develop and produce relevant brochures									
Develop and produce visitor guide									
Place Ads									
Run FAM trips									
Editorial / PR									
Social Media									

BUSINESS ATTRACTION TIMELINE

Action	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept
Subscribe to industry publications									
Engage local business									
Assist local business explore NBN opportunities									
Raise the profile of Destination Tweed									
Develop and maintain marketing material									
Develop and promote news stories									
Develop customised marketing packages									
Design and implement direct mail campaign									
Produce annual update on Tweed economy									
Hold annual economic summit/business forum									
Attend trade shows and networking events									

Meet with media from trade publications									
Identify and engage with potential investors									
Maintain Tweed business website									
Hold regular meetings with Tweed Shire Council									
Provide customised information to investors									
Hold regular meetings with state, RDA and industry reps									

OPERATE VISITOR INFORMATION CENTRES TIMELINE

Action	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept
Provide visitor information services at VIC's									
Prepare and submit monthly VIC accreditation reports									
Prepare and submit annual VIC accreditation reports									
Contain VIC costs via appropriately trained workforce									
Deliver in-house staff training via weekly SMOT modules									
Deliver annual Aurora Research training									
Monthly operator famils for VIC staff and volunteers									
Provide and online accommodation booking service									
Launch new website									
Promote tourism operator services through the VIC's									
Distribute annual Visitor Guide through established outlets									
Produce annual Visitor Guide (with marketing)									
Provide annual work programmes to Council									
Provide Quarterly Report to Council									
Present progress report to nominated Council committee									

OPTIONS:

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

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

CONCLUSION:

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

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Council contribution to Destination Tweed is in accord with the annual estimates and payments to Destination Tweed are made following submission of quarterly invoices.

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
- 3.1.4 Market the Tweed as a destination for business and tourism
- 3.1.4.2 Facilitate the development of the Strategic Plan and Operational Plan for tourism promotion and economic development
- 3.1.4.3 Operate Visitor Information Centres at Murwillumbah and Tweed Heads
- 3.1.4.4 Establish a website to promote the Tweed as a destination and to attract visitors
- 3.1.4.6 Facilitate economic promotion and tourism development within the Tweed
- 3.1.4.7 Increase visitors to the Tweed

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1: December 2012 Quarter Report (ECM64374345).

16 [GM-CM] Request for additional support for Battle of the Border Cycling Events 2013

SUBMITTED BY: Communications and Marketing

FILE REFERENCE: Festivals/Events - Other, Donations



Supporting Community Life



Strengthening the Economy

SUMMARY OF REPORT:

QSMSports has successfully held a competitive and social cycling festival the 'Battle of the Border' for four years in various parts of the Tweed. The Tweed is an ideal area for road cycling because of the challenging elevations and scenic outlook.

For the Battle of the Border in May 2013 the event organiser QSMSports has secured Cycling Australia Men's National Road Series (NRS) professional/semi professional level cycling races along with the Women's NRS cycling races which they successfully conducted for the first time in Tweed in May last year. The event has grown, particularly in competitive racing and has the potential to establish Tweed as a significant sports tourism destination for cycling. In June 2012 Council provided QSMSports 'Battle of the Border' event with \$10,000 funding through the Financial Assistance 2012/2013 Festivals and Events Policy, and the Mayor and Destination Tweed provided a letter of support to their submission to Cycling Australia.

QSMSports has requested an additional \$20,000 financial funding and \$1600 in kind for extra costs associated with producing a class one major cycling event. This funding will be used primarily on traffic management related expenses. The benefits include additional numbers of competitors who are likely to stay longer and have larger numbers of support staff returning increased visitor expenditure in the Tweed. The estimated target for visitor expenditure is \$2,000,000. The recommendation and allocation of Council funding towards the next three events 2013-2015 is to provide certainty to the event organisers, develop the event to the next level and establish a commitment to the Tweed.

RECOMMENDATION:

That:

1. Council approves funding for QSMSports Battle of the Border event for the next three years as follows: 2013 - \$20,000, 2014 - \$17,500, 2015 - \$15,000.

- 2. Funding provided to QSMSports for the Battle of the Border cycling events in 2014 and 2015 is conditional upon QSMSports providing Council with a report detailing the return on investment arising out of each year's event.**

REPORT:

The additional funding request from QSMSports will be used primarily on traffic management related expenses to ensure the event meets the NSW Department of Road and Maritime Services (previously Roads Transport Authority) road racing standards for a class one major cycling event. There are extra costs associated with producing a class one major cycling event related to road closures, race course design and community consultation.

The benefits of this event are increased numbers of competitors and participants to the Tweed and teams are likely to stay longer and have larger numbers of support staff. The estimated target for visitor expenditure is \$2,000,000. SBS TV films the NRS cycle series so there is also the opportunity for national broadcast of the Tweed to 200,000 viewers.

The allocation of funding towards the next three events 2013 to 2015 from Council's annual budget is to provide certainty to the event organisers to enable them to develop the event to the next level. Plans include signing up a major name as patron, expanding the social ride components and building on the reputation of the Tweed as a cycling destination recognised nationally and in Asia.

Below are the budget details of the request for \$20,000 additional funding and \$1600 in kind from Council for the Battle of the Border 2013. Council has already allocated \$10,000 under the Financial Assistance 2012/2013 Festivals and Events Policy in June 2012 towards this event. The total budget for police and traffic control is \$45,000 and total overall expenditure is \$210,000. The event will not make a profit but hopes to break even, depending on the generosity of sponsorships.

EXPENSE	DETAIL	TSC IN-KIND	TSC FUNDED *Estimates only
Community Consultation	Advertising of proposed courses to communities through Tweed Link for 3 weeks		\$1000
Traffic Control Plans	Likely up to 50 TCPS		\$2000
Community Notification	Advertising weekly in Tweed Link month prior to event		\$1200
Advertising Media	Advertising centre spreads in local newsprint of road affected		\$600
Road Signage	Production of estimated 100 road closure signs		\$2500
Transportation	Use of Council trucking prior to and after event to ship water barriers, fencing, cones etc	\$1000	
Works Equipment	Loan of cones, scrim, fencing, pickets etc	No charge	
Permits & Risk Assessment	Waiver of TSC site permits etc	\$600	
Installation Road signage	Install road closure/traffic signage prior to event; and removal after event		
Thursday Stage 6 – Mens NRS Road Race	VMS hire x 2 8 Traffic Control 4 hours 6 Police 6 hours		\$300 \$1800 \$5580
Friday Stage 1 – NRS Mens & Womens & All grades	VMS hire x 2 10 Traffic Control 6 hours 6 Police 6 hours		\$300 \$2000 \$5580

EXPENSE	DETAIL	TSC IN-KIND	TSC FUNDED *Estimates only
Saturday Stage 2 – Individual Time Trial	VMS hire x 2 5 Traffic Control 5 hours 1 Police 5 hours		\$300 \$1300 \$750
Saturday Stage 3 - Criterium	6 Traffic Control 5 hours 1 Police 5 hours		\$1500 \$750
Sunday Stage 4 – Road Race	10 Traffic Control 7 hours 4 Police 7 hours		\$3500 \$3200
	Total	\$1,600	\$31,910

OPTIONS:

1. That Council provides QSMSports with financial contribution for the Battle of the Border Event for 2013 - \$20,000, 2014 - \$17,500, 2015 - \$15,000 and that the funding provided to QSMSports for the Battle of the Border cycling events in 2014 and 2015 be conditional upon QSMSports providing to Council a report detailing return on investment arising out of each year's event.
2. No additional assistance be provided to QSMSports for Battle of the Border.

CONCLUSION:

QSMSports has successfully held the Battle of the Border for four years. The event has grown particularly in competitive racing and this has the potential for establishing the Tweed as a significant sports destination for cycling. Road closures are an inconvenience but necessary to safely conduct the races. The additional support requested is for essential traffic control and communicating to inform the Tweed community. As a condition of funding future events this report recommends Council only provides further support to QSMSports on the condition it provides a report to Council detailing returns on investment including number of participants and estimated revenue generated in the Tweed.

COUNCIL IMPLICATIONS:

a. Policy:

Events Strategy 2011-2016

b. Budget/Long Term Financial Plan:

\$6200 remains in this year's in kind budget for events. The in kind component of \$1600 can be met from this budget.

\$20,000 funded from the quarterly budget review of 2012-2013 Council budget.

\$17,500 funded from 2013-2014 Council budget.

\$15,000 funded from 2014-2015 Council 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
- 2.1 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
- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities
- 3.1.2 Attract major events to the Tweed
- 3.1.2.1 Provide assistance and support for potential sports tourism and major events

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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17 [GM-CM] Recreational Vehicle Friendly Town Initiative

SUBMITTED BY: Business and Economic Development

FILE REFERENCE: Destination Tweed



Strengthening the Economy

SUMMARY OF REPORT:

At its meeting of 14 February 2013 Council resolved to endorse a Notice of Motion brought forward by Cr Bagnall. The resolution was:

... that Council requests a report from Destination Tweed regarding the benefits and constraints of Tweed Shire joining the RV friendly towns initiative.

Destination Tweed have responded to this request and provided a response which is included.

This report recommends that Council receives and notes this report.

RECOMMENDATION:

That Council receives and notes this report.

REPORT:



Report on Tweed Shire joining the RV friendly town's initiative.

27 February 2013

Background.

Destination Tweed (DT) has been requested to provide a report on the benefits and constraints of Tweed Shire joining the RV friendly town's initiative. The views put forward by DT are given in context to where the Tweed Shire currently sits within the broader tourism development cycle, and what we believe are the required focus for developing tourism at this point in time.

The RV Friendly Town Scheme is a CMCA initiative aimed at assisting recreational vehicle (RV - this includes motorhomes, campervans and caravans) in the planning of their trips. An RV Friendly Town is one that has met a set of guidelines to ensure the town provides a certain amount of amenities, and a certain level of services for these travellers.

Before any town can be appointed to the scheme, there is a set of criteria that must be met, which include:

Essential

- Provision of appropriate parking within town centre with access to a general shopping area with groceries or fresh produce.
- Provision of short term (24/48 hour) parking for self-contained vehicles. No more than 5kms from the post office or agency.
- Access to potable water.
- Access to a free dump point, within town precinct.
- Council to provide one person as contact.

Desirable

- Provision of long term parking for self-contained vehicles.
- Access to medical facilities or an applicable evacuation plan.
- Access to a pharmacy or a procedure to obtain pharmaceutical products.
- Visitor Information Centre (VIC) with appropriate parking facilities within a reasonable distance.
- VIC to provide a town map showing essential facilities such as hospital, medical services, fuel, shopping area, dump point, fresh water etc.
- RV Friendly Town signs to be erected within the town precinct

Current visitation.

The Tweed Shire has 19 existing caravan parks ranging in size and scope that provided basic unpowered sites through to high quality parks such as the award winning Big 4 in Hastings Point.

These parks currently attract a large number of RVs that utilise the existing caravan related infrastructure and caravan associated facilities. The average occupancy for the caravan parks within the Tweed Shires is 65.8% (averaged over 12 month period ending June 2012 – source ABS), which is higher than the average occupancy for both the Northern Rivers (NR) (56.2%) and NSW State (59.3).

Whilst we are unable at this point in time to provide specific data on the actual number of RV visitors to the region, the data collected at the Tweed VIC certainly show trends in visitation to the region by

RV tourists. This evidence combined with the high caravan parks occupancy indicate that at present the Tweed Shire already receives a larger RV's to the Shire, a greater share than the other NR Shires.

Current average length of stay in the Tweed Shire is 4.3 nights (of which RV's are included). By offering 2 nights free as the essential criteria require we potentially decrease the length of stay in any town. Once an RV has been packed up and ready to move, they will travel a reasonable distance before setting up again, not just 5-10km down the road to then pay for a site and stay in the region longer.

Marketing.

DT's tourism development strategy and marketing is focused on key identified and profiled markets that deliver high visitation and yield for both the domestic and international markets. This is across multiple market segments and is neither static nor exhaustive but is reflective of the value proposition of the region, the experiences and product range at our disposal and matched to appropriate target markets.

The RV market is predominately domestically driven market and DT recognise its value and scope, however at this point in time the regions tourism development investment must be allocated where there is a greater return on investment through increasing tourist visitation and yield. Other markets than the RV will allow us to achieve this.

At present, the existing stimulation of the RV market through attendance at consumer shows (i.e. Caravan & Camping Shows), co-operative marketing (i.e. Legendary Pacific Coast) and target market specific activity (i.e. caravanning magazines), as well as activity by industry have a positive impact on ensuring this market is reached and interest converted. At this point in time this investment drives results.

As the region develops with emerging markets and existing markets moving through their respective cycles, energy can be redirected towards the RV market as a specific segment beyond the above activity.

Infrastructure.

Given the high demand for existing caravan infrastructure within the Tweed Shire the provision of 'free' services by a Council may be a useful short-term solution in order to prevent RVs parking and camping on the side of the road and / or to attract RV tourists to the region.

It is DT's concern that providing free facilities (as required to become RV friendly) may in fact discourage private caravan parks from investing and operating in the area, as well as reduce the benefits from a competitive market.

These benefits include efficient market prices, customer choice through a wide range of services and the development of services that customers want, leading to broader tourism product offer as well as greater economic development opportunities. It is these benefits that ensure that the Tweed has breadth of product offer and maintains greater markets share / higher occupancy than other regions.

Planning for the future infrastructure requirements of the RV market needs to be strategic and recognise the additional demand for infrastructure and services likely to be generated by this market.

The full costs involved to become RV friendly would be burdened by the Tweed Shire Council and require funds to be allocated in order to achieve at a minimum the essential criteria. Given at this point in time these facilities are provided successfully by the private sector at no cost to the rate payer, it would arguably be better for TSC to encourage private investment and development.

Additional considerations.

It is not just the market size and scope, nor the product development that need to be considered in this equation but also a much broader set of considerations that are beyond the scope of Destination Tweed and this report;

- Health and safety
- Town planning requirements for RV parking and facilities
- Environmental management & regulations
- The potential of loss, risk and litigation as well as other legal considerations also play a key part of becoming officially RV friendly.

Council in providing free facilities such as dump points and overnight caravan spaces is open to on-going cost, regulatory adherence, whilst trying to balance with the private sector operating in the same sphere. This equates to consumption of Council time and resources with the key question being, does the indirect expenditure of RV tourists cover the cost of being a RV friendly?

Summary.

If we were a community in the far West that relied solely on the RV's for their tourist market then the proposition is clear. The reality is that the key tourist markets that contribute to the tourist economy are not the RV tourist.

At this point in time the focus for DT is on higher yielding markets, those that come to the region for longer stays, pay for accommodation, eat out and spend money within the community. Attracting this market type ensures there is a healthy direct and indirect tourism expenditure the supports the local economy and employment.

The risk that council takes by engaging in becoming RV friendly is - what stops RV's from pulling into free spots at 5pm, using the facilities that are supplied free of charge, before heading out at 7am the next morning to head to their next destination, without actually having spent a cent in the region. With such a large private sector already invested in this market, does council risk dissatisfaction and complaints from both business owners and rate payers?



OPTIONS:

There are two options for Council to consider as a result of this report.

1. Resolve to receive and note the report prepared by Destination Tweed and not participate in the RV Friendly Town's initiative,
2. Resolve to further investigate the budgetary, policy, economic and environmental implications of becoming involved with the initiative.

CONCLUSION:

This report recommends that that Council receives and notes this report.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.1 Expand employment, tourism and education opportunities
- 3.1.4 Market the Tweed as a destination for business and tourism
- 3.1.4.6 Facilitate economic promotion and tourism development within the Tweed
- 3.1.4.6.1 Manage and facilitate activities contracted to Destination Tweed

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

18 [GM-CM] Development Options - Bob Whittle Murwillumbah Airfield

SUBMITTED BY: Business and Economic Development

FILE REFERENCE: Airfield - Murwillumbah



Strengthening the Economy

SUMMARY OF REPORT:

Last year the consortium which had established a development approval for the development of 23 hangars on the western side of the runway advised Council that they were not in a position to enter into a lease to develop the hangars. There are now several sites available for aeronautical related development.

This report reviews the options available to Council and recommends that it endorse a public exhibition process to test the market for potential developers suitable for these sites.

RECOMMENDATION:

That Council approves the calling of Expressions of Interest for interested parties to make submissions on potential development options for the Bob Whittle - Murwillumbah Airfield.

REPORT:

Background

The Bob Whittle Murwillumbah Airfield is located in the town of Murwillumbah in the Tweed Valley. It is an aeroplane landing area and operates outside of controlled airspace.

Runway 18/36 is surfaced with grass, nominated as 800 m long and located within a runway strip approximately 42 m wide marked with gable markers and cones.

On the western side of the aerodrome are two multi-bay hangars, along with two separate areas subject to a development application for the construction of more light aircraft hangars. These hangars are to be used for private purposes only i.e. not commercial activities. On the eastern side of the aerodrome are several businesses and leased hangars, an avgas refuelling installation, grass tie down area, a grass helicopter landing site specifically for the use by emergency rescue helicopters and a car park. Refer to Locality Plan below for an overview of the site.



Bob Whittle Murwillumbah Airfield

Locality Plan
Bob Whittle Murwillumbah Airfield

<p><small>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 damage) 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 'Dig before You Dig' enquiry must be made by calling 1200. The information contained on this document remains valid for 30 days only from the date of supply.</small></p>	<p><small>Cadastral: 30 January, 2013 © Land and Property Information (LPI) & Tweed Shire Council. Boundaries shown should be considered approximate only.</small></p>	<p><small>0 0.1 0.2 Km 1:14,597 A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</small></p> <p><small>Map Projection: Universal Transverse Mercator Horizontal Datum: Geoidetic Datum of Australia 1994 Grid: Map Grid of Australia, Zone 56</small></p>	<p><small>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2464 PO Box 816 Murwillumbah NSW 2464 T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planning.reforms@tweed.nsw.gov.au</small></p>	 <p>TWEED SHIRE COUNCIL</p>
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Current Lease Situation

On the eastern side of the runway there are currently nine (9) hangars which are leased to two aeronautical businesses, two for private hangars as well as a separate lease to the Murwillumbah Aeroclub which includes a hangar, clubhouse and a refuelling area. There are also two private businesses that are located off the airfield land but have licensed access to the airfield.

Over the past few years there has been an increasing number of enquiries from aeronautical businesses and aircraft owners expressed seeking lease areas within the Airfield property.

There is a tie down area on the eastern side of the airfield which is currently offered for free to private aircraft for short periods of time.

Western Development Area

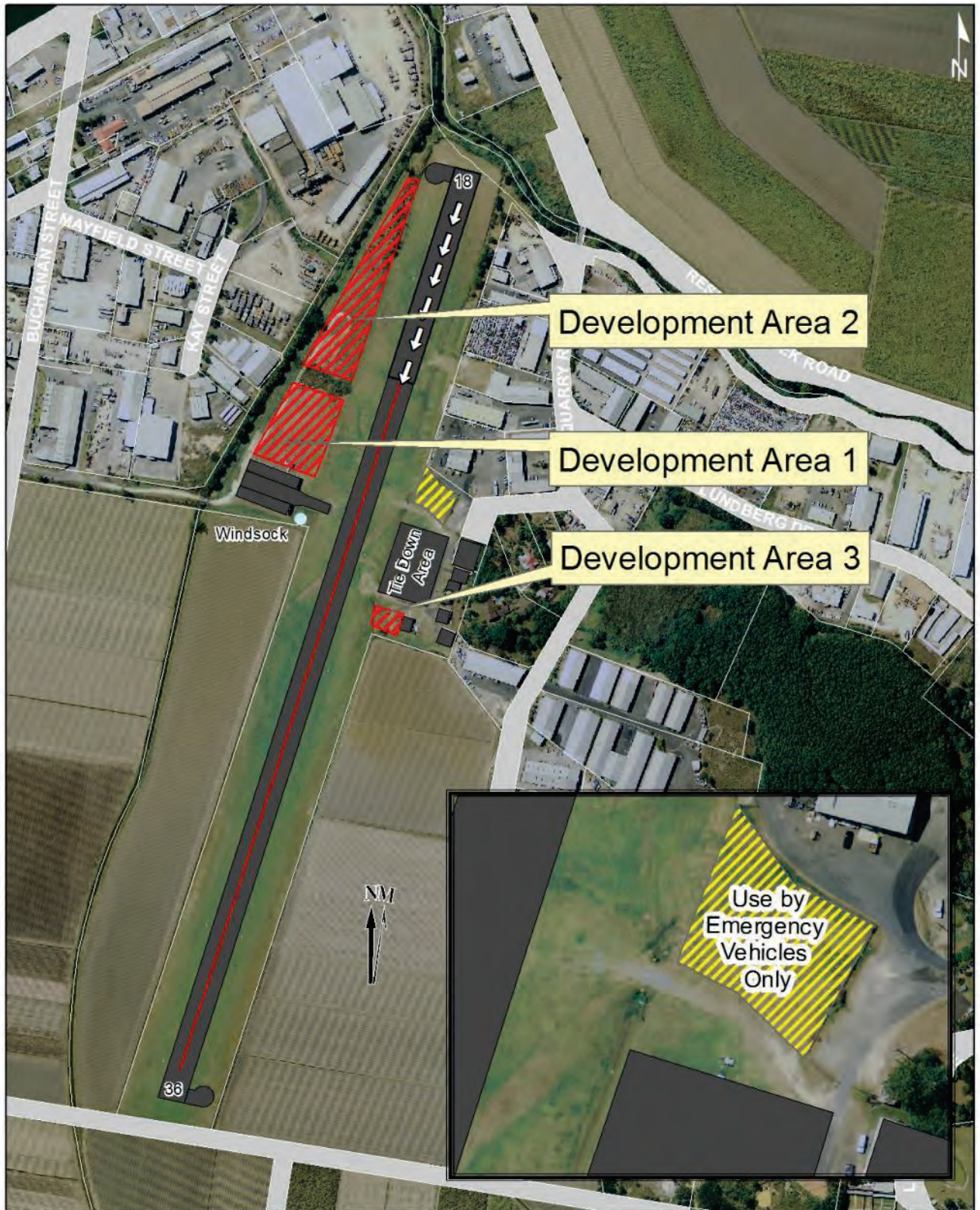
In 2003 a development consortium, Murwillumbah Hangar Group II, established a development approval for the construction of 23 hangars on two development sites on the western side of the runway. These two development sites had previously been filled, levelled and preloaded by Council to make way for future development associated with the airfield.

The Murwillumbah Hangar Group II had undertaken all preliminary works to gain commencement for the approval and had established commencement on the development approval therefore ensuring its longevity. Approval had also been granted for construction as part of this approval.

In early 2012 discussions had been underway with the Group to enter into a lease so that construction could commence. In May last year the Murwillumbah Hangar Group formally advised that they were not in a position to enter into a lease with Council for the development of the two development pads on the western side of the runway.

Airfield Development Options

There are limited development options available given the physical constraints at the Airfield. Particularly these include the flooding and height restrictions. However the development sites on the western side as well as a smaller hangar sites on the eastern side represent some development potential. The Layout Map below identified where these sites are located.



Murwillumbah Airfield - Layout Map

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/>

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Cadastre: 23 January, 2013
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 Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidetic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 56

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Filepath: U:\GIS\Tweed\Map\Airfield\Development\2013\Development_Areas.mxd

Author: Mark Tickle - Business & Economic Development Unit

Date Printed: 23 January 2012

1. Western Development Area 1 (South) (320m²)

This site has been filled and preloaded. It is level but will require an access ramp taxiway for aircraft access to the runway. There is access to Buchanan St via a bridge across the cane drain to the west of the site. There is no power or sewer to this site.

2. Western Development Area 2 (North) (553m²)

This site has been filled and preloaded. It is level but will require an access ramp taxiway for aircraft access to the runway. There is access to Buchanan St via a bridge across the cane drain to the west of the site. There is no power or sewer to this site.

3. Eastern Development Area 3 (hangar site) (112m²)

This site has approximately a 1 metre fall towards the runway. Height restrictions may apply due to the close proximity of the site to the runway. Access can be gained through to the adjoining taxiway provided it is accessed at grade. This site has connection to water, sewer, electricity and communications.

The eastern tie down area is not considered suitable for development. An appropriate alternative use is for it to continue as an itinerant aircraft parking area.

Services

Communications, electricity and sewer are provided to the eastern side of the runway but not the western side, however water is supplied to both sides.

OPTIONS:

The options available to Council are to resolve to;

1. call of Expressions of Interest for interested parties to make submissions on potential development options for the Bob Whittle - Murwillumbah Airfield to test the market for suitable developers for aeronautical related developments,
2. investigate alternative options for the management and maintenance of the Airfield,
3. not undertake any further action and leave the development areas undeveloped and continue operating the Airfield with the current level of development.

CONCLUSION:

This report recommends that Council seeks expression of interest which will test the market for suitable developers for aeronautical related developments.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

This report recommends calling for expressions of interest to lease areas within the Murwillumbah Airfield area. These leases will have the potential to generate revenue for Council.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 3 Strengthening the Economy
- 3.4 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
- 3.4.3.2 Operate an Airfield in Murwillumbah
- 3.4.3.2.1 Provide efficient and effective ongoing management of the Murwillumbah Airfield

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Potential Lease and Development of Murwillumbah Airfield - Expression of Interest Document (ECM 64457832)
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REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 79C

Evaluation

79C Evaluation

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

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

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

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

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

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

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

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

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

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

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

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

19 [PR-CM] Development Application DA12/0537 for a Two Lot Subdivision at Lot 7 DP 849520 No. 207 Howards Road, Burringbar

SUBMITTED BY: Development Assessment

FILE NUMBER: DA12/0537 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 and Infrastructure, officers have resolved to report this application to full Council. The standard is varied 98%.

The SEPP No. 1 variation relates to Clause 20(2)(a) of the Tweed Local Environmental Plan 2000 (LEP 2000) which states that consent may only be granted to subdivision of land within Zone 1(a), 1(b2), 7(a), 7(d) or 7(l) if the area of zoned land within each allotment created is at least 40 hectares.

The applicant seeks consent to create a two lot rural residential subdivision from the one allotment currently at 207 Howards Road, Burringbar. The site has an area of 42.61 hectares and is zoned 1(a). The applicant proposes the following:

- Proposed Lot 1 has a total area of 8211m² and is 1(a) zoned land, which is less than 40 hectares as required by the development standard. This is proposed to accommodate the current primary dwelling.
- Proposed Lot 2 has a total area of 41.79 hectares and is 1(a) zoned land. This is proposed to accommodate the current rural workers dwelling and associated rural sheds.

Assessment of the application has taken into account the existing dwelling entitlement history.

Concurrence was not granted by the Director General in this instance to permit the creation of proposed Lot 1 of 8,211m² for the following reason:

"Concurrence was not granted in this instance because the proposal will result in further fragmentation of rural land undermining the 40ha development standard of the zone. In this case the subdivision would result in a lot that will be 98% below the 40ha subdivision standard.

Further, subdivision of a rural worker's dwelling is inconsistent with the intent of the definition of that type of dwelling. Approval would create a precedent for other rural worker's dwellings across the state and is not in the public interest."

As the Department of Planning and Infrastructure has not granted concurrence Council is required to refuse the application.

The proposal was referred to the NSW Rural Fire Service (RFS) as Integrated Development. The NSW RFS responded on 20 December 2012 with recommended conditions.

Having regard to relevant statutory controls and an assessment against Clause 20(2)(a) of the Tweed LEP 2000, the proposed two lot subdivision is not considered suitable and therefore the proposed development is recommended for refusal. This recommendation is in accordance with direction from the Department of Planning and Infrastructure.

RECOMMENDATION:

That Development Application DA12/0537 for a two lot subdivision at Lot 7 DP 849520; No. 207 Howards Road, Burringbar be refused for the following reasons:

- 1. The Department of Planning and Infrastructure has not issued concurrence.**
- 2. The proposed subdivision does not comply with the 40 hectare minimum development standard contained within Clause 20(2)(a) of the Tweed Local Environmental Plan 2000.**
- 3. The State Environmental Planning Policy No. 1 objection has not demonstrated that the development standard is unnecessary and unreasonable.**

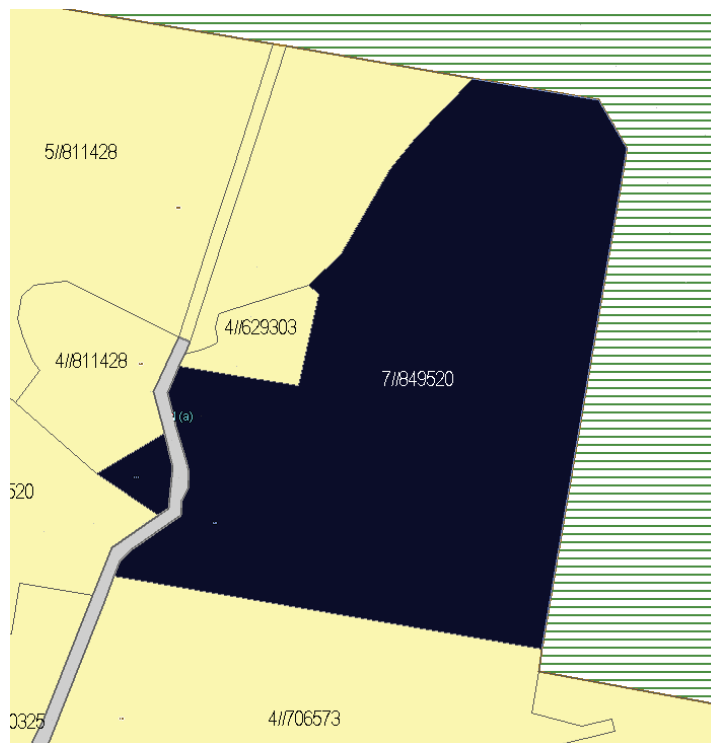
REPORT:

Applicant: Ms BA Nunan
Owner: Estate of Sheila Howard
Location: Lot 7 DP 849520; No. 207 Howards Road, Burringbar
Zoning: 1(a) Rural
Cost: Nil

Background:

The Subject Site

The subject site which is located east and west of Howards Road currently comprises a total area of 42.61 hectares. It comprises one parcel of 1(a) rural zoned land.



Lot 7 DP 849520

The site is bound to the north and east by National Parks and to the south and west by rural properties utilised for agricultural purposes.

The Proposed Development

The proposal includes:

- Subdivision of the site into two lots:
Lot 1 = 8,211m² (contains the existing primary dwelling)
Lot 2 = 41.79 hectares (contains the existing rural workers dwelling and decommissioned dwelling)

The application seeks to create separate lots over each dwelling.

History

The subject site has an extensive development history including references to unauthorised structures. A search of Council records has revealed that an unapproved dwelling on the

eastern side of the road on the property was required to have been decommissioned by July 2012.

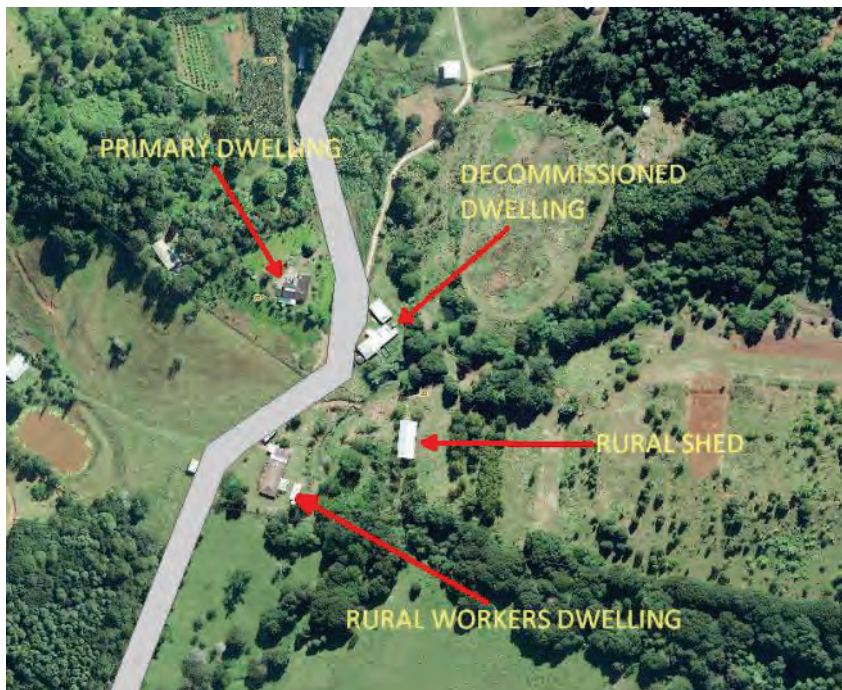
The dwelling house on proposed Lot 1 is the primary dwelling and was approved pursuant to Building Permit No. 0287/84B. A rural workers dwelling which is located on the south western corner of proposed Lot 2 was approved by Development Consent No. 94/263. Lot 7 DP 849520 was created pursuant to Development Consent No. S94/87.

It was also noted the Development Assessment Panel at its meeting 1/7/1994 discussed a proposed boundary alteration between Lot 5 DP 629303 and Part Lot 169 DP 755721, Howards Road, (the previous lot descriptions) and mentioned the following with relation to the creation of Lot 7.

"As the proposal is an alteration between two (2) existing lots, no additional lots are created and Council does not require road upgrading for rural workers dwellings, it is considered that the SEPP No. 1 objection should be supported. The Director's concurrence can be assumed.

Clause 33 of the Tweed Local Environmental Plan 1987 sets out the requirements for a rural workers dwelling. Proposed Lot 7 is used for banana growing and for fruit trees. The applicant has demonstrated that a rural worker needs to reside on the land and the rural workers dwelling can be justified.

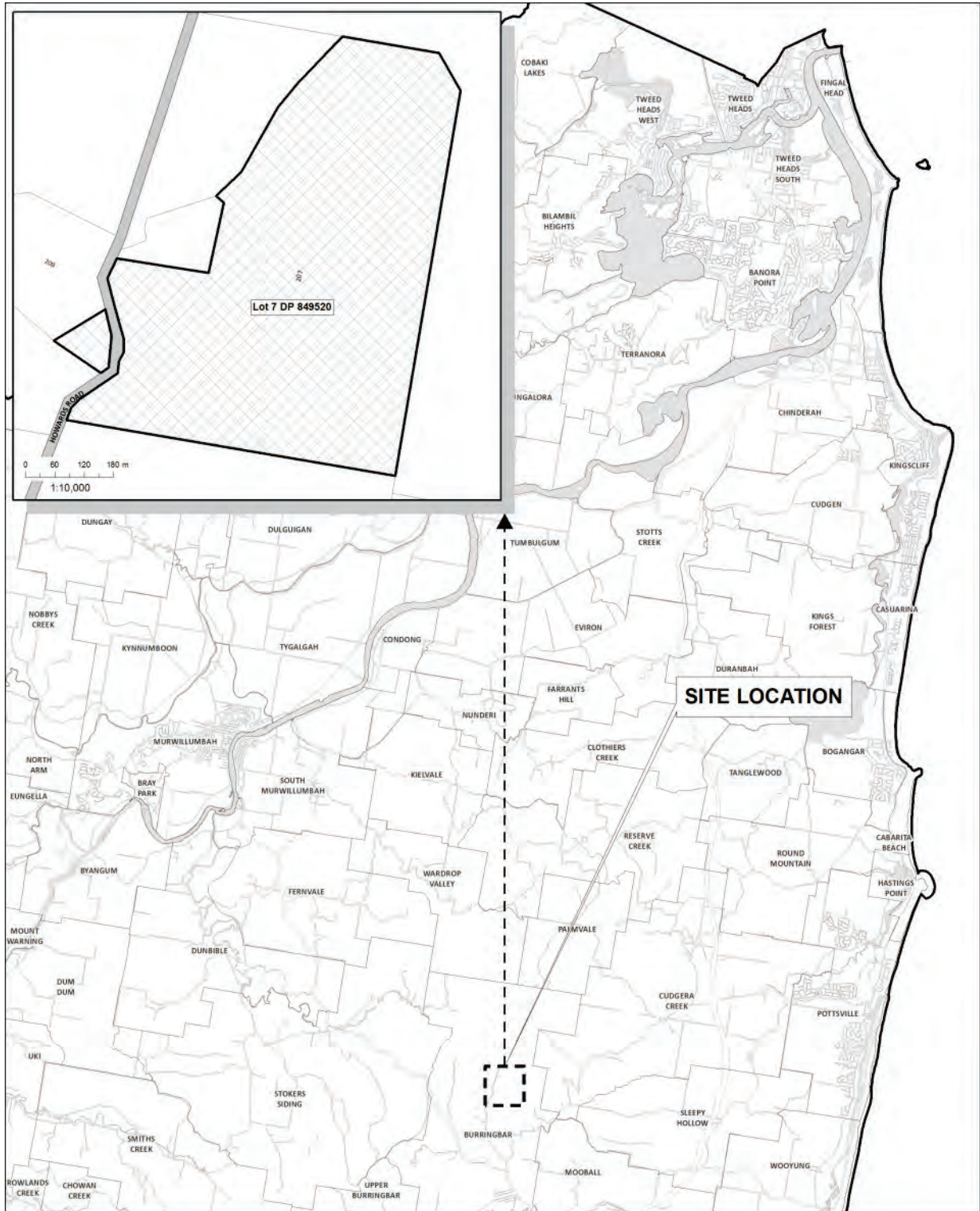
Proposed Lot 7 is severed by Howards Road. The severed piece of land has an area of 8211m² and contains a dwelling. Whilst this arrangement is not ideal, it is highly unlikely that Council would at any time in the future support an application to create this area as an individual allotment. The minimum lot size under the Tweed Local Environmental Plan is two (2) hectares. Also, the previously approved boundary alteration was approved with two severed lots."



Summary

Having regard to relevant statutory controls and an assessment against Clause 20(2)(a) of the Tweed LEP 2000, the proposed two lot subdivision is not considered suitable and therefore the proposed development is recommended for refusal. This recommendation is in accordance with direction from the Department of Planning and Infrastructure.

SITE DIAGRAM:



Locality Plan

Lot 7 DP 849520
No. 207 Howards Road, Burringbar

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Cadastral: 20 February, 2013
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Boundaries shown should be considered approximate only.

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1:125,000 @ A4 Portrait
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 1994
Grid: Map Grid of Australia, Zone 56

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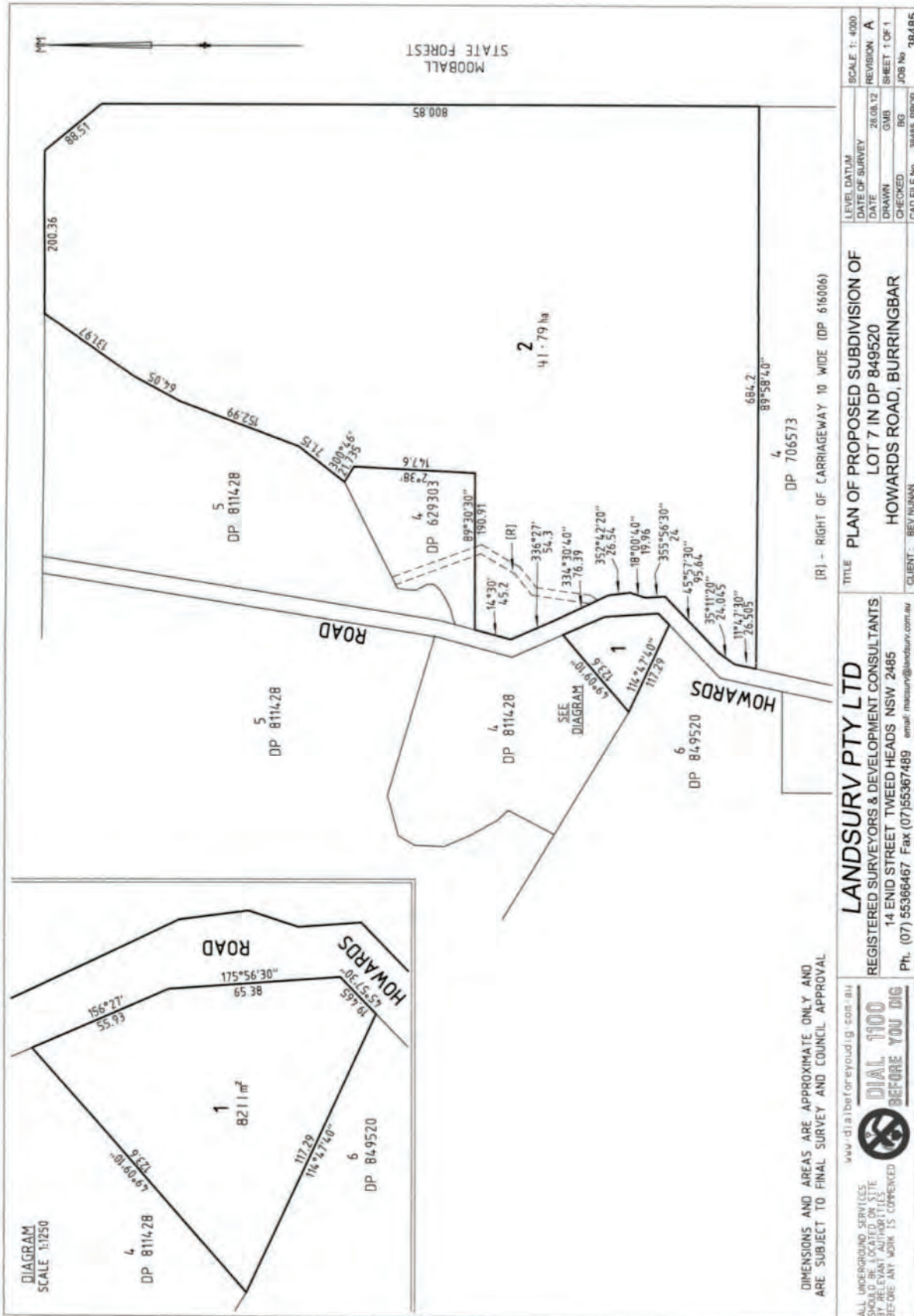


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Author: G. Jones, Information Technology Unit

Date Printed: 20 February, 2013

DEVELOPMENT/ELEVATION PLANS:



Considerations Under Section 79c Of The Environmental Planning And Assessment Act 1979:

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The proposed development is not considered to be consistent with the aims of the Tweed Local Environmental Plan. The proposed development is not considered to be consistent with the vision of the shire "to manage growth so that the unique natural and developed character of the Tweed Shire is retained." The proposed development is for a two lot subdivision which does not comply with the minimum development standards (particularly lot size) contained within the Tweed Local Environmental Plan 2000.

The proposed development is significantly non-compliant with the Tweed LEP, therefore it is considered not to be in keeping with the aim of the plan in particular to the aim that all development should be restricted to certain land within a zone and that specific development requirements should apply to certain land in a zone or to a certain type of development.

Clause 5 - Ecologically Sustainable Development

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

As there are no physical changes to the subject site it is considered that intergenerational equity and conservation of biological diversity and ecological integrity will not be impacted.

Clause 8 - Consent Considerations

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

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

The land is within the 1(a) zone and the proposed subdivision is not consistent with the primary objective of the zone. The fragmentation of the agricultural land will not protect the rural character and amenity of the area.

The proposed development is for a two lot subdivision which does not comply with the minimum development standards (particularly lot size) contained within the Tweed Local Environmental Plan 2000.

The proposed development if approved may result in unacceptable cumulative impacts. The creation of a freehold lot may encourage, or allow for further subdivision and non-rural development in the surrounding locality.

Clause 11 - Zone Objectives

The subject land is zoned 1(a) Rural. The objectives of the 1(a) Rural zone include:

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 proposed subdivision is to create an allotment for the purpose of residential uses and the other for rural residential uses. It is considered that the intent of the proposed subdivision does not satisfy the objectives of the Tweed LEP as proposed Lot 1 will not be used for agricultural purposes and will create unnecessary fragmentation of land. This configuration may lead to establishing rural land use conflicts which will result in the rural character and amenity being compromised.

Furthermore, Clause 11 of the TLEP states, for land within the 1(a) zone, dwelling houses are permissible if each is on an allotment of at least 40 hectares or on an allotment referred to in Clause 57. Currently the subject site has one dwelling entitlement being the primary dwelling on the western side of Howards Road.

The rural workers dwelling is required to be on a block of land associated with the primary dwelling as defined below.

Rural workers dwelling - a dwelling which is on land on which there is already erected a dwelling or dwellings and which is occupied by persons engaged in rural occupation on that land.

It is therefore considered that there is only one dwelling entitlement and the subdivision of the land would create another dwelling entitlement.

The proposal is therefore not consistent with the relevant zone objectives.

Clause 15 - Essential Services

Clause 15 of the TLEP 2000 requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. The site is located within an established area, with connection to all essential services available. The proposal will not impact those services.

The proposal does not require and will not impact upon essential services to the site.

Clause 16 - Height of Building

Not applicable. There are no new dwellings proposed.

Clause 17 - Social Impact Assessment

An assessment under DCP A13 – Socio-Economic Impact Assessment has revealed that a Social Impact Assessment is not necessary for this type of development and accordingly Clause 17 is deemed satisfied.

Clause 20 - Subdivision

This clause requires a minimum allotment size of 40 hectares in the 1(a) zone. The proposed lots do not comply with this development standard. An objection under State Environmental Planning Policy No.1 has been prepared by the applicant in this regard and is addressed later in this report.

Clause 29 - Development adjacent to Zone 8 (a) National Parks and Nature Reserves

This clause is in place to ensure land adjacent to Zone 8 (a) does not have a significant impact on wildlife habitat. The proposed development would not result in any physical changes to the property and as such would not result in an impact on the 8(a) zoned land. It is therefore considered that this clause is satisfied.

Clause 35 - Acid Sulfate Soils

Clause 35 of the TLEP 2000 requires Acid Sulfate Soils (ASS) management in relation to development where such is likely to be impacted upon. Part of the

subject site exhibits Class 5 ASS however, due to the nature of the development being no excavation it is considered that ASS will not be impacted.

Clause 57 - Protection of existing dwelling entitlement

The aim of this plan is *to protect an existing dwelling entitlement on an allotment lawfully created or the creation of which was lawfully consented to before the commencement of this plan.*

Currently the subject site has one dwelling entitlement as it has 42.61 hectares. If the subdivision was to be approved it would create a situation where the primary dwelling will be located on an allotment which does not comply with the Tweed LEP Clause 20 and a second dwelling entitlement would be created contrary to the Tweed LEP.

Clause 20(3) states that:

Neither clause 20 nor the Table to clause 11 prevents consent being granted:

- (a) To a subdivision of an area of land in Zone 1 (a), 1 (b), 7 (d) or 7 (1) to excise an allotment of at least one hectare to be used for the purpose of a dwelling house, but only if the consent authority is satisfied that each other allotment created by the subdivision is created for a public purpose, and*

Although the proposed subdivision excises an allotment of at least one hectare for a dwelling house the remainder of the land is not created for a public purpose.

- (b) To the erection of a dwelling house on the excised allotment, but only if no more dwelling houses will be erected on the area after its subdivision than the greatest number of dwelling houses that could have been erected on the area in accordance with subclause (2) immediately before its subdivision.*

As a result of the subdivision the primary dwelling house will be located on the excised allotment. Currently, the greatest number of dwellings that can be erected on the 42.61 hectares block of land is one. The site has a rural workers' dwelling located on it which needs to be associated with the primary dwelling for it to be compliant with the definition of a rural workers dwelling. As a result of the proposed subdivision it would create an additional dwelling entitlement which is not in accordance with Clause 20(3)(b). It is therefore considered that the proposed development contravenes Clause 20 of the Tweed LEP 2000 and is recommended for refusal.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

This clause requires 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.

It is considered that the proposed subdivision will result in the unnecessary fragmentation of land. This configuration may lead to establishing rural land use conflicts which will result in the rural character and amenity being compromised.

Clause 15 - Rivers, Streams and Wetlands

This Clause requires the consent authority to take into account the likely impact of the proposed development on rivers, streams and wetlands.

On the basis that the proposal is only for a subdivision that does not involve any change of use of the land or subdivision works, it is submitted that approval of the application would not create any additional impact to any river stream or wetland and would not be inconsistent with this Clause or any other relevant provisions of this Plan.

SEPP No. 1 - Development Standards

This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained therefore) the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.

As established, the proposed subdivision requires a variation to the 40 hectare minimum allotment size stipulated under Clause 20(2)(a) of the LEP.

Clause 20(2)(a) states:

(2) *Consent may only be granted to the subdivision of land:*

(a) *within Zone 1(a), 1(b2), 7(a), 7(d) or 7(l) if the area of each allotment created is at least 40 hectares*

The variation is required in relation to proposed Lot 1 being under the 40 hectare development standard.

The underlying objectives of the development standard are to prevent the fragmentation of rural land, ensure the scenic and natural environments are protected and maintain agricultural viability.

The Court has consistently emphasised that there is no single determinative test for assessing a SEPP 1 Objection. However, it has become usual practice in recent years to apply the “underlying object test” and to use the formulation suggested by Lloyd J in *Winten Property Group Limited v North Sydney Council (2001) 130 LGERA 79*.

In *Wehbe v Pittwater Council [2007] NSW LEC 827*, Chief Judge of the Land and Environment Court, Preston J recast the long standing 5 part test for consideration of a SEPP 1 Objection set out in *Winten Property Group Ltd v North Sydney Council (2001)*.

The Chief Judge suggests that a consent authority must be satisfied of three matters before a SEPP 1 Objection can be upheld:

- (1) That the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- (2) That the granting of consent is consistent with the aims of SEPP 1.
- (3) That Clause 8 matters (in SEPP 1) are satisfied, ie.
 - Whether noncompliance raises matters of State or Regional planning significance.
 - The public benefit of maintaining the planning controls.

The applicant has provided the following assessment against the three key matters:

"1. That the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The Chief Judge advised that the requirement to demonstrate that an objection is well founded and that the approval of the objection may be consistent with the aims of the policy could be satisfied in any one of the following ways:

- (i) *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
- (ii) *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*

- (iii) The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
- (iv) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- (v) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

We submit that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

Clause 20(1) of the Local Environmental Plan provides the following objectives in relation to subdivisions in zones 1(a), 1(b), 7(a), 7(d) and 7(l), which is directly associated with development standard in question.

- To prevent the potential for fragmentation of ownership of rural land that would;
 - i) Adversely affect the continuance or aggregation of sustainable agricultural units,**
- OR*
- ii) Generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner.*
- To protect the ecological or scenic values of the land.*
 - To protect the area of Tweed's water supply quality.*

The terms of Clause 20(1) of the LEP are not to prevent any fragmentation, rather it is to prevent only fragmentation that has potential to create certain adverse impacts.

The relevant questions to properly assess whether the objectives of the standard are achieved notwithstanding non-compliance with the standard are as follows:

- a) *Will the proposed subdivision result in fragmentation that has potential to adversely affect the continuance or aggregation of sustainable agricultural units?*
- b) *Will the proposed subdivision result in fragmentation which would generate pressure to allow isolated residential development in an uncoordinated manner?*
- c) *Will the proposed subdivision result in any adverse impact upon the ecological or scenic values of the land?*
- d) *Will the proposed subdivision result in any adverse impact upon the area of Tweed's water supply quality?*

The responses to these questions are provided as follows:

- a) ***Will the proposed subdivision result in fragmentation that has potential to adversely affect the continuance or aggregation of sustainable agricultural units?***

As indicated in Section 4.3 of the Statement of Environmental Effects, part of proposed Lot 2 is mapped as Regionally Significant Farmland and as being suitable for banana production. The whole of the mapped land will be contained within Lot 2 and will not be fragmented as a result of the subdivision and therefore the proposal will not result in fragmentation with the potential to adversely affect the continuance or aggregation of sustainable agricultural yields.

- b) ***Will the proposed subdivision result in fragmentation which would generate pressure to allow isolated residential development in an uncoordinated manor?***

The proposed subdivision will not result in any additional dwellings or dwelling entitlements. Therefore the proposal cannot be considered to generate any pressure to allow isolated residential development as the dwellings already exist.

- c) ***Will the proposed subdivision result in any adverse impact upon the ecological or scenic values of the land?***

The proposal does not alter the existing built form and does not require vegetation removal or landform changes. Therefore the proposal will not affect the ecological or scenic values of the land.

- d) ***Will the proposed subdivision result in any adverse impact upon the area of Tweed's water supply quality?***

The proposal is not located in the Tweed's water supply catchment and therefore will not affect the quality of the water supply catchment.

It is therefore submitted that the proposed development is consistent with the objectives for subdivision in the Rural 1(a) zone as set out in Clause 20(1) of Tweed LEP 2000.

*For the above stated reasons we submit that the objectives of the standard are achieved notwithstanding non-compliance with the standard. Following from the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827, we conclude that the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

2. That the granting of consent is consistent with the aims of SEPP 1.

The aims and objectives of the Policy (SEPP 1) are as follows:

“This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.”

Section 5(a)(i) and (ii) of the Environmental Planning and Assessment (EP&A) Act 1979 is stated inter alia:

“(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,”*

Compliance with the 40ha development standard would preclude a logical subdivision of the site to provide separate titles for each of the lawfully established dwellings.

The proposed subdivision will not create any additional dwelling entitlements and will not involve any site works. The proposal will not alter the current or future agriculture potential of the site because all land with high agricultural suitability will be contained within proposed Lot 2.

In this case, where the proposed development would not alter the status-quo, compliance with the development standard would hinder attainment of the EP&A Act’s object to promote orderly and economic

use and development of land in accordance with the zoning of that land and its physical capabilities.

3. That clause 8 matters (in SEPP 1) are satisfied, ie.

- *Whether noncompliance raises matters of State or regional planning significance.*
- *The public benefit of maintaining the planning controls.*

In considering whether the proposal creates any matters of Regional or State planning significance or raises any issues in relation to the public benefit of maintaining the standard the following points are relevant.

- *No change in land use results from the subdivision;*
- *No physical disturbance to the landform or vegetation results from the subdivision;*
- *Two lawful detached dwelling houses exist on the land;*
- *No additional dwelling entitlements will be created;*
- *The shape of each lot and common boundary location provides a logical and efficient layout, as the existing lot is already divided by Howards Road; and*
- *No impacts will be created by the proposal on the surrounding area.*

We conclude that the proposed two lot subdivision does not raise any matters of Regional planning significance and there is considered to be no public benefit in maintaining the standard."

Assessment of the applicant's submission

The applicants Objection to State Environmental Planning Policy was referred to the Department of Planning and Infrastructure for concurrence.

Concurrence was **not granted** by the Director General in this instance to permit the creation of proposed Lot 1 of 8,211m² for the following reason:

"Concurrence was not granted in this instance because the proposal will result in further fragmentation of rural land undermining the 40ha development standard of the zone. In this case the subdivision would result in a lot that will be 98% below the 40 ha subdivision standard.

Further, subdivision of a rural worker's dwelling is inconsistent with the intent of the definition of that type of dwelling. Approval would create a precedent for other rural worker's dwellings across the state and is not in the public interest."

As the Department of Planning and Infrastructure has not granted concurrence based on the fragmentation of rural land and there only being one dwelling entitlement currently, the proposed development is therefore recommended for refusal. The applicant provided an additional letter asking the Department of Planning and Infrastructure to reconsider their position. The Department responded on 25 January 2013 stating that *"The concerns with respect to this application remain. In particular, the Department does not support subdivision of land that would result in a rural workers dwelling being located on a separate lot to the one on which the principal residence that it is associated with is located."* As such the proposed development is recommended for refusal.

SEPP No. 44 - Koala Habitat Protection

The proposed development does not involve any clearing of land or physical works. It is therefore considered that Koala Habitat will not be impacted upon as a result of this proposal and this SEPP has therefore been complied with. No further assessment is required.

SEPP No. 55 - Remediation of Land

Clause 7 of this Policy provides that the consent authority must not consent to the carrying out of any development on land unless it has considered, among other things, whether the land is contaminated, based on a preliminary investigation of the land carried out in accordance with the Contaminated Land Planning Guidelines.

The Contaminated Land Planning Guidelines (Department of Urban Affairs and Planning, Environment Protection Authority, 1998) provide information relating to preliminary contamination investigations. In addition, Council has adopted a Contaminated Land Policy, which contains details of the information required to be submitted with applications for development.

The applicant has done an assessment against Section 3.4.1 of the Policy as shown below:

"Please specify all land uses to which the site has been put, including the current use.

Dwelling house and agriculture.

Is the proponent aware of uses to which properties adjoining the site have been put? If so, please specify.

Adjoining land uses are agricultural.

Do any of the uses correlate with the potentially contaminated activity set out in table 1 in schedule 1 of this policy?

Yes.

If the answer to 3 is yes – has there been any testing or assessment of the site and, if so, what were the results?

No.

Is the proponent aware of any contamination on the site?

No – the proposal does not involve any change in land use and lawful dwellings exist on each proposed lot.

The dwelling sites are unlikely to be contaminated and are suitable for the proposed development.

The proposed development does not involve any physical works. It is therefore considered that Contaminated Lands will not be impacted upon as a result of this proposal and this SEPP has therefore been complied with. No further assessment is required.

SEPP (Rural Lands) 2008

The land is zoned Rural 1(a) and therefore this Policy applies. The applicant has assessed the relevant clauses of the Policy as follows:

Clause 7 - Rural Planning Principles

The principles are stated and addressed as follows:

- (a) *The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

Dwelling houses exist on each lot and proposed Lot 1 (8211m²) is severed from the remainder of the parcel by Howards Road and is not a viable agricultural unit. Proposed Lot 2 will have an area of 41.7 hectares and will be potentially suitable for sustainable agriculture.

As indicated in Section 4.3, part of Lot 2 is mapped as containing land suitable for bananas in terms of agricultural suitability and is also identified under the Farmland Protection Project as containing Regionally Significant Farmland in the south western corner.

The whole of the higher value agricultural land will be contained within proposed Lot 2 and it will not be fragmented by the subdivision. Therefore, the proposal is unlikely to affect the continuance or aggregation of sustainable agricultural units as none presently exist.

Council's Response:

Council's assessing officer does not concur with this information.

- (b) *Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*

The proposed subdivision will not create any additional dwelling entitlements and as both dwellings presently exist, the proposed subdivision will make no difference to future activities on the site.

Council's Response:

Council's assessing officer does not concur with this information.

- (c) *Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*

As stated above, since the proposal relates to the subdivision of the two existing dwellings which have been established on the site for many years, it is considered that the proposal will not result in any significant impact on the rural community or create any material social or economic issues.

Council's Response:

Council's assessing officer does not concur with this information.

- (d) *In planning for rural lands, to balance the social, economic and environmental interests of the community,*

As no new dwelling entitlements will be created and both dwellings already exist, the proposal will not create any additional demand upon social, economic or environmental planning considerations.

Council's Response:

Council's assessing officer does not concur with this information.

- (e) *The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

The proposal does not involve any subdivision works or change in land use and is therefore not inconsistent with this principle.

Council's Response:

Whilst no physical changes are involved the proposed development is recommended for refusal.

- (f) *The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

Council's Response:

The application is recommended to be refused as the proposal would create the fragmentation of rural land which is out of character with the surrounding area. *The proposed subdivision will allow the creation of lots containing existing dwelling houses that are characteristic of the surrounding area.*

- (g) *The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

The existing dwellings are adequately serviced and no additional demand will be generated.

Council's Response:

The proposed development will not impact services and infrastructure as there are no additional dwellings being created.

- (h) *Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

No regional or local strategies are relevant.

Council's Response:

The proposed development has not been given concurrence from the Department of Planning and Infrastructure.

Clause 8 - Rural Subdivision Principles

The principles are stated and addressed as follows:

- (a) *The minimisation of rural land fragmentation.*

The proposed subdivision will not result in any additional dwellings and therefore will not affect the continuance or aggregation of sustainable agricultural units. Since the dwellings already exist and no new dwelling entitlements will be created, the proposed subdivision will not generate any additional pressure to allow isolated residential development.

Council's Response:

The application is recommended to be refused as the proposal would create the fragmentation of rural land which is out of character with the surrounding area.

- (b) *The minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*

The proposal does not alter the existing built form and therefore will not affect the potential for any additional residential and rural land use conflicts.

Council's Response:

The application is recommended to be refused as the proposal would create the fragmentation of rural land which is out of character with the surrounding area.

- (c) *The consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*

The site is remote from major urban centres and is generally not suitable for large scale rural residential development. Proposed Lot 1 is not a viable agricultural unit because of its size, shape and agricultural suitability and separation from the main parcel by Howards Road. Proposed Lot 2 (41.79 hectares) will continue to be a potentially sustainable agricultural unit.

Council's Response:

Council does not concur with this information.

- (d) *The consideration of the natural and physical constraints and opportunities of land,*

The proposed subdivision will retain the natural features of the site and will not require any subdivision work.

Council's Response:

The proposed subdivision will not impact the natural and physical constraints of the land.

- (e) *Ensuring that planning for dwelling opportunities takes account of those constraints,*

The proposed subdivision layout relates to the existing dwellings and the constraints of the site. The proposed development will not create any additional dwellings or dwelling entitlements and will not create any additional impacts on the natural features of the site.

Council's Response:

Council does not concur with this information.

Assessment of the applicant's submission

The proposed development is likely to cause undue fragmentation of rural land which is not in keeping with the surrounding locality. Additionally, there is currently only one dwelling entitlement on the land and if the subdivision was to be approved it would create an additional dwelling entitlement. Therefore the subdivision cannot be approved under this SEPP.

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

Draft Tweed Local Environmental Plan 2012 applies to the subject site. Within the Draft TLEP the land is zoned RU2 - Rural Landscape. The minimum lot size for the site is 40 hectares in the Draft TLEP. Clause 4.2 relates to subdivision of land within the RU2 - Rural Landscape zone as follows:

4.2 Rural subdivision [compulsory if clause 4.1 adopted and land to which Plan applies includes land zoned RU1, RU2, RU4 or RU6]

- (1) *The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow land owners a greater chance to achieve the objectives for development in the relevant zone.*
- (2) *This clause applies to the following rural zones:*
 - (a) *Zone RU1 Primary Production,*
 - (b) Zone RU2 Rural Landscape,**
 - (c) *Zone RU4 Primary Production Small Lots,*
 - (d) *Zone RU6 Transition.*
- (3) *Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.*
- (4) *However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.*
- (5) *A dwelling cannot be erected on such a lot.*

Note 1. *A dwelling includes a rural worker's dwelling (see definition of that term in the Dictionary).*

Note 2. *When this plan was made it did not include Zones RU4 and RU6.*

It is considered that the proposed development would contravene the intent of the Draft TLEP by causing fragmentation of rural land. Additionally it would create two allotments with dwellings located on them. The proposed development would not be permissible under the Draft LEP 2012 and is therefore recommended for refusal.

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

Tweed Development Control Plan

A5-Subdivision Manual

Section A5.5 - Rural Subdivision Guidelines and Development Standards apply to the site as the proposed is located within a rural zone. A number of criteria relate to the proposed development.

A5.5.2 Physical Constraints

Bushfire risk

The proposed development was referred to the NSW Rural Fire Service who provided conditions of consent to be included in the recommendation. It is considered that this constraint has been complied with.

Suitability for on-site effluent disposal

The development was referred to Council's Environmental Health Unit who requested further information in relation to the on-site effluent disposal. The requested information was as follows:

"Please provide a capability/design report to Council demonstrating that an on-site sewage management system is capable of operating on each proposed property as per the requirements of Environment and Health Protection Guidelines On-Site Sewage Management for Single Households (NSW Health, 1998), and Australian Standard AS/NZS 1547:2000. The capability/design report is required to be prepared by a suitably qualified wastewater consultant."

As the proposed development did not received concurrence from the Department of Planning and Infrastructure the information was not requested. If the application was to be approved this information would be required prior to a decision.

A5.5.4 Rural Subdivision Structure

Objectives

Facilitate rural subdivision that is consistent with zone objectives, provides land for uses that are appropriate to rural areas and protect rural character and amenity.

- Ensure the viability of agriculture by:
 - Protecting prime agricultural land from fragmentation and competing land uses;
 - Discouraging fragmentation of ownership that will adversely affect the continuance or aggregation of sustainable agricultural units;
 - Discouraging potentially incompatible residential development adjacent to or near agricultural land.

- Discourage isolated residential development, and the likely resultant demand to provide public amenities and services, in an uncoordinated and unsustainable manner.
- Discourage fragmentation of land needed of for long term urban expansion.

It is considered that the proposed development does not meet the objectives of this clause. The subdivision would result in fragmentation of ownership and creates an isolated residential block surrounded by rural/agricultural land. Therefore the proposed development is recommended for refusal.

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

Clause 92(a) Government Coastal Policy

Not applicable. The proposed development does not impact the Government Policy. No further assessment is required.

Clause 92(b) Applications for demolition

Not applicable. No demolition is proposed as a part of this application.

Clause 93 Fire Safety Considerations

Not applicable.

Clause 94 Buildings to be upgraded

Not applicable.

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

The site is not located within a coastal zone management area.

Tweed Shire Coastline Management Plan 2005

The site is not affected by the Tweed Shire Coastline Management Plan 2005. No further assessment is required.

Tweed Coast Estuaries Management Plan 2004

The site is not affected by the Tweed Coast Estuaries Management Plan 2004. No further assessment is required.

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

The site is not affected by the Coastal Zone Management Plan for Cobaki and Terranora Broadwater. No further assessment is required.

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

Context and Setting

It is considered that the proposed subdivision is not in keeping with the nature of the area. It will cause the fragmentation of rural land and creates an allotment that is 98% below the minimum allotment size. It will also create an additional dwelling entitlement.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The surrounding landuses/development is primarily for agricultural purposes. If the proposed subdivision is approved it creates a rural block of land that is well under the minimum and could create a precedent for future subdivisions of a similar nature in the area. It is therefore considered that the proposed development is refused.

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

Public Authority Submissions Comment

The proposed development was referred to the Department of Planning and Infrastructure for concurrence and to the NSW Rural Fire Brigade.

Department of Planning and Infrastructure

Concurrence was not granted by the Director General in this instance to permit the creation of proposed Lot 1 of 8,211m² for the following reason:

"Concurrence was not granted in this instance because the proposal will result in further fragmentation of rural land undermining the 40ha development standard of the zone. In this case the subdivision would result in a lot that will be 98% below the 40 ha subdivision standard.

Further, subdivision of a rural worker's dwelling is inconsistent with the intent of the definition of that type of dwelling. Approval would create a precedent for other rural worker's dwellings across the state and is not in the public interest."

NSW Rural Fire Service (RFS)

The proposal was referred to the NSW RFS as Integrated Development. The NSW RFS responded on 20 December 2012 with recommended conditions.

Public Submissions Comment

The proposed development was not required to be notified or advertised. As such there were no public submissions.

(e) Public interest

The proposed development is not in the public interest. The proposed development is for a two lot subdivision which does not comply with the minimum development standards (particularly lot size) contained within the Tweed Local Environmental Plan 2000.

The proposed development if approved may result in cumulative impacts. The creation of a freehold lot may encourage, or allow for further subdivision and non-rural development in the surrounding locality.

OPTIONS:

1. Refuse this application in accordance with the recommendation for refusal. Concurrence has not been issued therefore Council cannot approve the application.

CONCLUSION:

As a result of the Department of Planning and Infrastructure not issuing concurrence, Council cannot approve the application in its current form.

Having undertaken an assessment against Clause 20(2)(a) of the Tweed LEP 2000 taking into account the potential to consolidate fragmented parcels of land in single ownership, the proposed subdivision is not considered suitable for the location and therefore the proposed development is recommended for refusal.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

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

Council will incur costs as a result of legal action, however, upon resolution of the matter the Land & Environment Court may award costs.

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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20 [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 February 2013 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

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

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

DA No.	DA12/0243
Description of Development:	three lot subdivision (two residential allotments and one residue)
Property Address:	Lot 58 DP 1083567 Collins Lane, Casuarina
Date Granted:	18/2/2013
Development Standard to be Varied:	Clause 21A(2)(a) - Minimum lot size 40ha
Zoning:	7(f) Environmental Protection (Coastal Lands)
Justification:	Concurrence was granted by the Department. The land area of the 7(f) zone remains unchanged, which is currently undersized. No building works are to be permitted within the land zoned 7(f). Approving the variation does not undermine relevant policy/s. The variation was supported as it was demonstrated that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case and specifies the grounds of that objection.
Extent:	7(f) zone 13.50% or 857.79m ² . 2(e) zone 86.50% or 5496.21m ² . Total land area of 6354m ² .
Authority:	Director General of the Department of Planning

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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- 21 [PR-CM] Development Application DA12/0588 for Addition of Decks (Front and Side), Rear Enclosed Deck and Building Line Variation for Double Carport at Lot 1 Section 1 DP 30148 No. 2 Dobbys Crescent, Terranora

SUBMITTED BY: Building and Environmental Health

FILE NUMBER: DA12/0588 Pt1



Civic Leadership

SUMMARY OF REPORT:

An application has been lodged for alterations and additions to the existing dwelling house at 2 Dobbys Crescent Terranora for front and side decks, rear enclosed deck and a double carport to be constructed within the 30m building line to Terranora Road.

The rear of the property backs onto Terranora Road which is classified as a designated road and requires a 30m building setback under the provisions of part 5, clause 24 of the Tweed Local Environment Plan 2000 (*TLEP2000*).

The applicant has included an objection statement to the planning controls as permitted under State Environmental Planning Policy No. 1 (SEPP1) guidelines for the front and side decks, rear enclosed deck and a double carport which are proposed within the 30m building line to Terranora Road. Given the proposed SEPP1 objection is greater than 10% this development application has been referred to Council for determination in accordance with previous directions of the NSW Department of Planning and Infrastructure.

There is also a carport component which is part of the proposal that does not satisfy the mandatory control; Design Control 3 Setbacks front setbacks (building lines) of Tweed Development Control Plan (DCPA1) in relation to the front building line setback for the double carport.

The carport has been assessed as a front building line variation to the property's primary road frontage of Dobbys Crescent and is consistent with past Council development approvals for similar structures in the area.

The SEPP1 objection and the variation to the DCPA1 mandatory controls are considered to be worthy of support by Council.

RECOMMENDATION:

That:

1. **State Environmental Planning Policy No. 1 objection to Clause 24 of Tweed Local Environment Plan 2000 regarding setbacks to designated roads be supported and the concurrence of the Director-General of the Department of Planning be assumed.**

2. **Development Application DA12/0588 for addition of decks (front and side), rear enclosed deck and building line variation for double carport at Lot 1 Section 1 DP 30148 No. 2 Dobbys Crescent, Terranora be approved subject to the following conditions:**

GENERAL

1. **The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**
[GEN0015]
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 Deep Soil Zone (DSZ) identified on approved plans shall not incorporate any hard impervious surfaces, unless otherwise approved by the General Manager or his delegate.**
[GEN0285]
5. **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]
6. **The carport must not be enclosed to ensure adequate sight lines are maintained for safe vehicular access to and from the property.**

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. **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]
8. **The 75mm galvanised posts located 400mm off the front boundary are to be replaced with masonry or similar columns having a minimum dimension of 230 mm by 230 mm in order to be sympathetic to the design of the existing dwelling house and reduce the impact upon the streetscape. Details of the above column design are to be submitted to the PCA before the issue of the construction certificate.**

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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. 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]

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

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

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

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

15. **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]
16. **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]
17. **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]
18. **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]
19. **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]
20. **It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.**
- [DUR0415]
21. **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]
22. **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]

23. 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]

24. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

25. 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]

26. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR2245]

27. The additional rainwater drains must be connected to the existing rainwater disposal system; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.

[DUR2255]

28. The structure is to be sited at least one metre horizontally clear of sewer main on site and the carport slab must not impact upon the integrity of the sewer line

[DUR2645]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

29. 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]

30. 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]

31. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

USE

32. 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]

- 33. 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]

- 34. 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]

REPORT:

Applicant: Cobine Pty Ltd
Owner: Ms Francesca Radice
Location: Lot 1 Section 1 DP 30148 No. 2 Dobbys Crescent, Terranora
Zoning: 1(c) Rural Living
Cost: \$122,339

Background:

An application has been lodged to construct dwelling additions, consisting of front and side decks, a rear enclosed deck with a rear boundary setback of 5.059m to Terranora Road and a front building line variation for a double carport to the primary street frontage of Dobbys Crescent. The subject site is irregular in shape and has a depth of 33.712m at its deepest point and therefore the existing dwelling house also stands wholly within the 30m setback.

The subject land is zoned 1(c) Rural Living and is a corner allotment with a road frontage to Dobbys Crescent and a rear boundary to Terranora Road. The allotment has a moderate to steep slope from Dobbys Crescent to Terranora Road and due to the varying widths of the allotment, its unusual geometric shape and the fact that the allotment is a corner block all structures built on the allotment will be located within the 30m building line setback to Terranora Road.

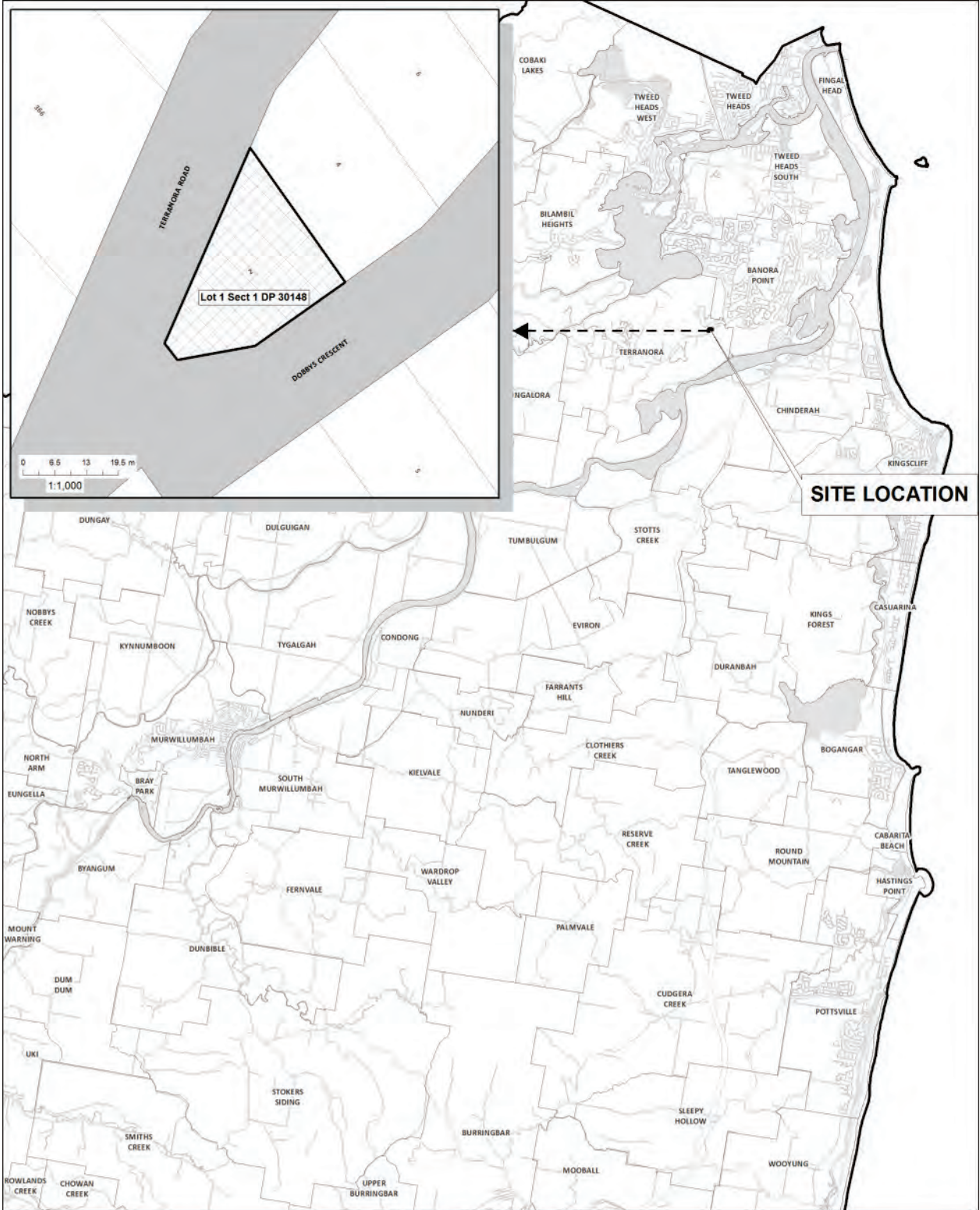
The rear enclosed deck is proposed to be setback 5.059m from Terranora Road and it is not physically possible for the proposed deck additions and carport to meet the 30m building setback to Terranora Road due to the slope, geometric shape, width and topography of the allotment. Vehicular access exists from Dobbys Crescent and the proposed carport cannot be located in a more favourable or alternate site position due to the above constraints and the location of the sewer pump well and associated drainage infrastructure.

As Terranora Road is classified as a designated road; Tweed Local Environmental Plan (TLEP2000) Part 5, Clause 24 prescribes a 30m building setback. The applicant has provided a SEPP1 objection statement detailing the reasons for a request to vary the 30m setback requirement to Terranora Road.

Due to the above constraints impacting on the allotment and the minor scale of the development and the fact that the proposal is comparable to existing approved development in the area it is considered that the additions and alterations will not adversely affect the amenity of the local environment, the streetscape or public domain of Terranora Road and Dobbys Crescent.

The SEPP1 objection is considered below in this report and the carport does not satisfy the mandatory controls of DCPA1 in relation to the front building line setback and this matter is also further considered in the report.

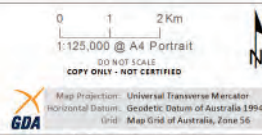
SITE DIAGRAM:



Locality Plan
 Lot 1 Section 1 DP 30148
 No. 2 Dobbys Crescent, Terranora

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Cadastral: 26 February, 2013
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 Boundaries shown should be considered approximate only.



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 Murwillumbah NSW 2484
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 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au

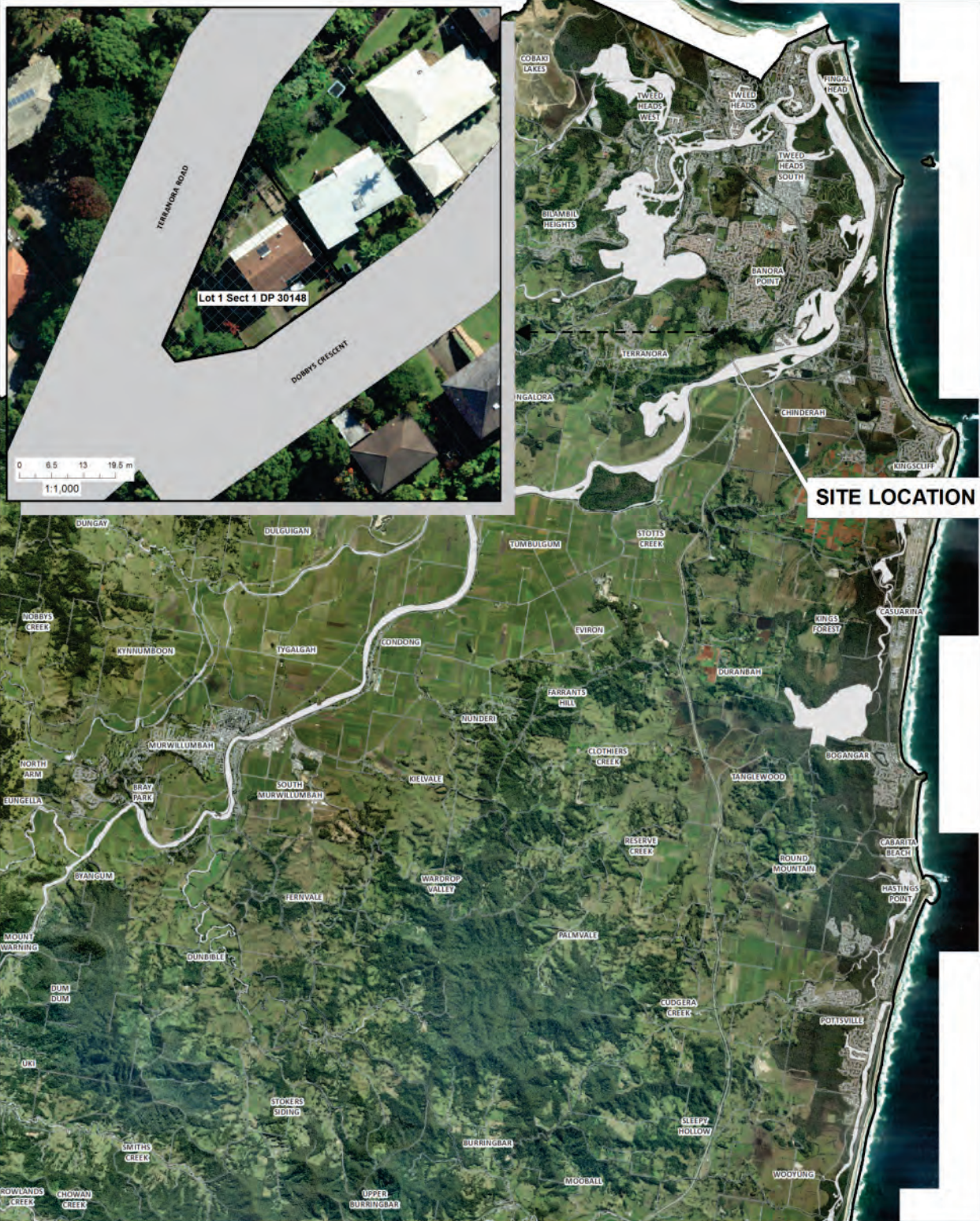


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Author: C. Liles - Information Technology Unit

Date Printed: 20 February, 2013

AERIAL PHOTOGRAPH:



Aerial Photography 2012

Lot 1 Section 1 DP 30148
No. 2 Dobbys Crescent, Terranora

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Cadastral: 26 February, 2013
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0 1 2 Km
1:125,000 @ A4 Portrait
DO NOT SCALE
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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geodetic Datum of Australia 1996
Grid: Map Grid of Australia, Zone 56

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Filename: E:\GIS_2013\0202013\0006\300100010\30148\Map_LocalityPlan.mxd

Author: L. Cook - Information Technology Unit

Date Printed: 26 February, 2013

DEVELOPMENT/ELEVATION PLANS:

VERIFICATION
Prior to construction commencement an independent verify all drawings and specifications for compliance with the relevant codes of practice and standards. The verify must be undertaken by a suitably qualified person who is not involved in the design or construction of the works.

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DATE
REVISED 04/11/13

RPD
LOT 2
PARISH OF TERRANORA
COUNTY OF RYDE
RPD SCHEDULE 2
SITE AREA 7.1001m²
SITE COVER 2.86%
SITE COVER 2.89%

Council Plans



Phone 077 5994 5004
14 Woodlands Way, Perlewood QLD 4214
CDBA: AFR 06 01 109 430
Email: office@cobine.com.au

CLIENT
MR & MRS RADICE
PROJECT
RADICE HOUSE ADDITIONS
LOCATION
2 DOBBYS CRES.
TERRANORA QLD

PROJECT NO
0051
STAGE
WD
DATE
NOV/11
SCALE
AS SHOWN @ A3
DRAWING TITLE
SITE PLAN

DRAWING NO.
A.02
TITLE
B
DRAWN
SP

GENERAL NOTES

SCOPE
The accompanying working drawings detail the necessary work and materials used for the construction of the works as described. These documents have been prepared only for the purpose of obtaining building approval & for construction when the owner's interest design intent. It does not detail the construction details or materials of construction detailing & construction methods. The owner must resolve these issues in consultation prior to & during the works.

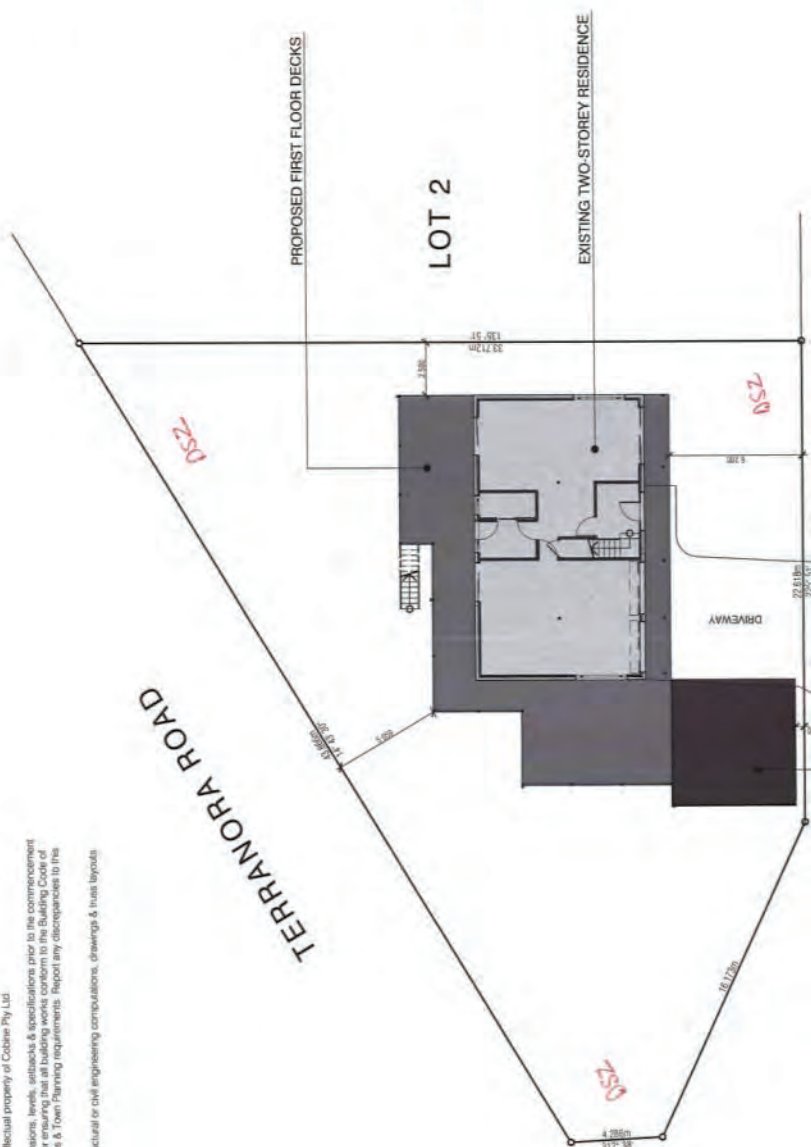
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VERIFICATION
Designs & subcontractors shall verify all dimensions, levels, setbacks & specifications prior to the commencement of the works or ordering materials & shall be responsible for ensuring that all building works conform to the Building Code of Australia, current Australian Standards, Building Regulations & Town Planning requirements. Report any discrepancies to this office.

CONSULTANTS
These documents shall be read in conjunction with any structural or civil engineering computations, drawings & plans layouts.

GENERAL LEGEND

- AC - air conditioner condenser unit
- BFC - bitumastic floor finish concrete
- BL - balustrade
- CBG - colorbond box gutter
- CC - colorbond cladding
- CG - colorbond gutter
- CJ - construction joint
- CP - concrete
- DP - downpipe
- DPS - downpipe with spreder
- DW - downpipe
- FC - form cement
- FCU - air conditioner fan coil unit
- FF - fidge/freezer
- FL - finished floor level
- FG - finished ground level
- FM - floor finish
- GB - gas bottles
- GD - gridded drain
- GP - gas pipe
- HR - hand rail
- HWS - hot water system
- LB - letter box
- LS - laundry chute
- NSL - natural ground level
- MW - microwave
- OF - overflow
- RH - range hood
- RL - reduced level
- S - sink
- SA - smoke alarm in comply with AS 3786
- SB - square hollow section
- SHS - square hollow section
- SL - skylight
- SPD - spoon drain
- STC - steel tiler
- TP - timber post
- UBO - under bench oven
- VB - vanity basin
- WC - washbasin
- WM - washing machine
- WR - walk in robe
- WO - wall oven



1 SITE PLAN
SCALE 1:200 (A3)

VERIFICATION
 Prior to construction commencement or installation of any work at site, the contractor shall verify the accuracy of all dimensions and levels on site. The contractor shall verify the accuracy of all dimensions and levels on site. The contractor shall verify the accuracy of all dimensions and levels on site. The contractor shall verify the accuracy of all dimensions and levels on site.

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AMENDMENT REGISTER
 ISSUE DESCRIPTION DATE
 4 PRELIM ISSUE 6/11/10

ELEVATION KEY NOTES

Provide control joints to comply with COA T161-1998. Joints with flexible caulking compound.
 LIGHTWEIGHT EXTERNAL WALL FINISHES
 Lightweight external wall finishes shall be installed in accordance with manufacturer's specifications.

pk
Council Plans

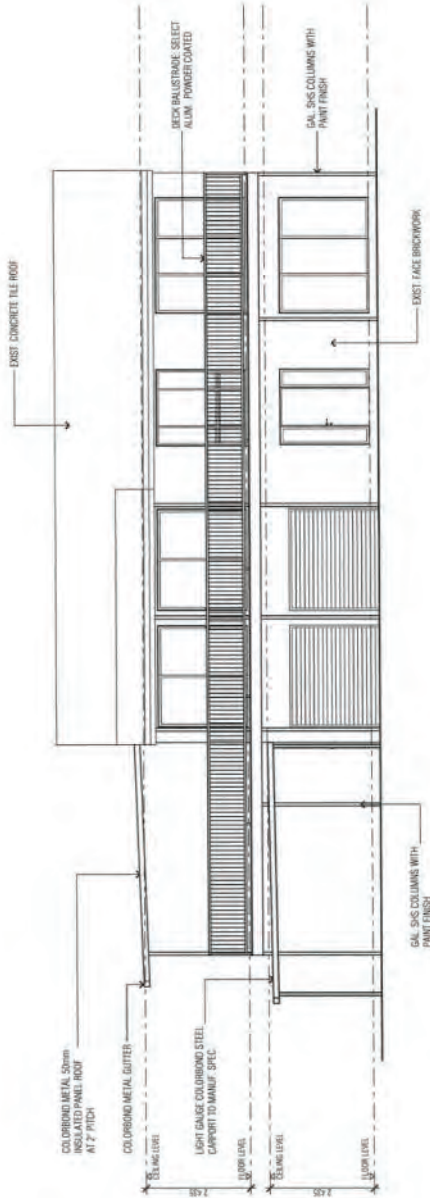


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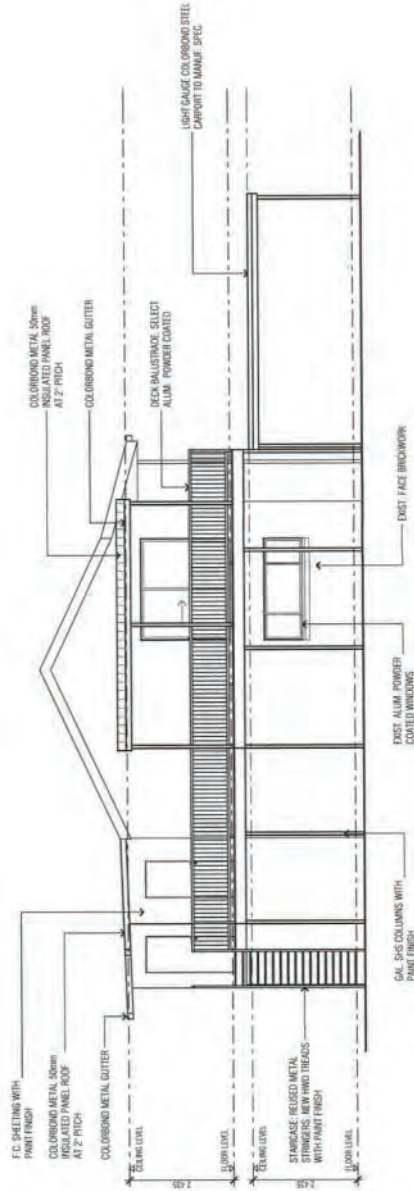
CLIENT: MR & MRS RADICE
 PROJECT: RADICE HOUSE ADDITIONS
 LOCATION: 2 DOBBYS CRES, TERRANORA QLD

PROJECT NO: 0051
 STAGE: WD
 DATE: NOV '11
 SCALE: AS SHOWN @ A3
 DRAWING TITLE: ELEVATIONS

DRAWING NO: A.08
 ISSUE: A
 DRAWN: SP



1 SOUTH-EAST ELEVATION
 SCALE 1:100 (A3)



2 SOUTH-WEST ELEVATION
 SCALE 1:100 (A3)

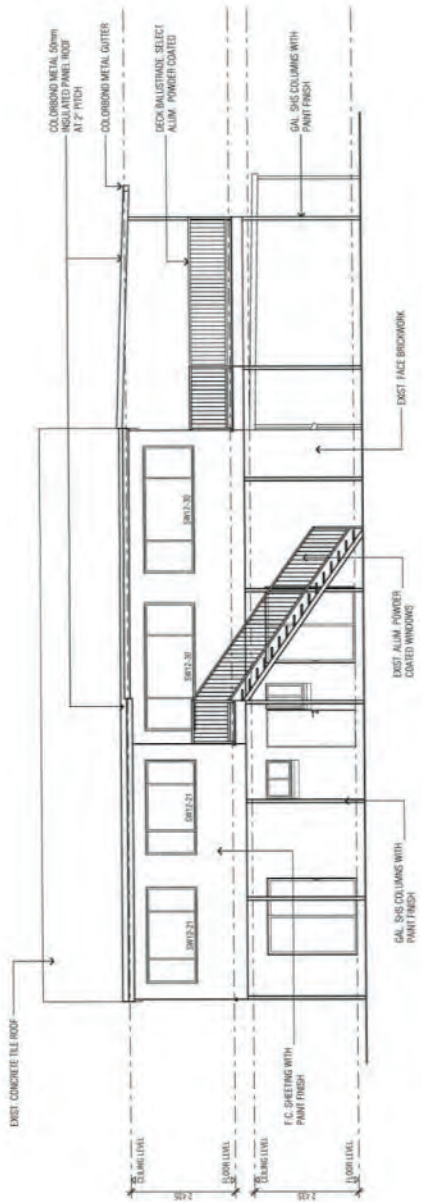
VERIFICATION
 Prior to construction commencement or installation of any of the above, the contractor shall verify the accuracy of the information on this drawing and ensure that any discrepancies are reported immediately to Cobine Pty Ltd for resolution.

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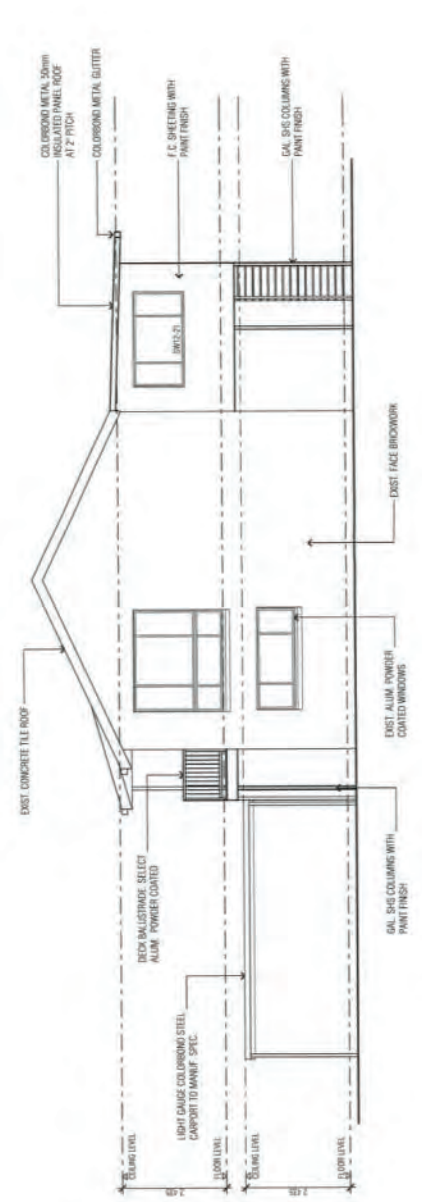
AMENDMENT REGISTER
 ISSUE DESCRIPTION DATE
 A PRELIM. NO ISSUE 01/11/12

ELEVATION KEY NOTES

Provide colour (paints to comply with CCA TM) - 1999, lined with fenestration coating component.
 LIGHTWEIGHT EXTERNAL WALL LININGS
 All specifications are to be confirmed in accordance with manufacturer's specifications.



3 NORTH-WEST ELEVATION
 SCALE 1:100 (A3)



4 NORTH-EAST ELEVATION
 SCALE 1:100 (A3)



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CLIENT: MR & MRS RADICE
 PROJECT: RADICE HOUSE ADDITIONS
 LOCATION: 2 DOBBYS CRES. TERRANORA QLD

PROJECT NO: 0051
 STAGE: WD
 SCALE: AS SHOWN @ A3
 DATE: NOV '11
 DRAWING TITLE: ELEVATIONS

DRAWING NO: A.09
 ISSUE: A
 DRAWN: SP

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

Development complies with the aims of the TLEP2000.

Clause 5 - Ecologically Sustainable Development

Development is ecologically sustainable; the additions and alterations and carport are located in a residential zone and meet the four principles of ecologically sustainable development as listed in clause 5.

Clause 15 - Essential Services

All essential services are provided and appear adequate.

Clause 16 - Height of Building

The proposed development complies with height restrictions permissible in the area.

Clause 17 - Social Impact Assessment

Normal residential influences are anticipated with the proposed development being a permitted landuse in the area.

Clause 35 - Acid Sulfate Soils

Council records show the site is located in Class 5 ASS area. ASS management plan not required.

Other Specific Clauses

None apparent.

Specific Clauses

None apparent.

State Environmental Planning Policies

SEPP No. 1 - Development Standards

A SEPP1 objection has been received from the applicant in relation to the 30m setback to Terranora Road, (*a designated road*) which is required by clause 24 of the TLEP2000. A variation to the required setback is requested to permit an enclosed deck to (which stands up to 5.059m from the Terranora Road boundary), front and side decks, rear enclosed deck and a double carport to be located within the 30m setback to Terranora Road.

Below is a copy of the applicants SEPP1 objection response:

"Clause 22 – Designated Roads

Clause 22 applies to the proposed development as the site has frontage to a designated road (Terranora Road). The consent authority must consider the listed matters in Clause 22 (4), as follows:

- (a) *The development (because of its nature, appearance cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a*

traffic hazard or materially reduce the capacity or efficiency of the designated road, and

Comment: *The site is located within an area with a Residential Character, with access from Dobbys Crescent. The site contains an existing dwelling, and the proposed development would not increase traffic flows from the site. The development would not cause a traffic hazard or reduce the capacity or efficiency of the road.*

(b) *The location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and*

Comment: *The development would be serviced by a standard driveway from Dobbys Crescent. The driveway crossover has been designed so that access to/from the property is convenient and meets safety requirements. No delays would occur through traffic. The driveway access is sufficiently removed from the intersection with Terranora Road.*

(c) *The development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*

Comment: *The development is not located where it would prejudice any future road improvements or realignments.*

(d) *Where the land is in Zone 1(a), 5(a), 7(a), 7(d), 7(f), or 7(l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and*

Comment: *Not applicable.*

e) *The development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*

Comment: *The development involves a carport and replacement of decks to a residential dwelling. Numerous residential dwellings exist along Terranora Road. The Terranora Road environment is not unsuited for residential development.*

(f) *The development would not detract from the scenic values of the locality, particularly from the point of view of road users, and where practicable, access to the land is provided by a road other than the designated Road.*

Comment: *The development will not detract from the scenic values of the locality.*

(g) *Where practicable, access to the land is provided by a road other than the designated road.*

Comment: *Access is provided via Dobbys Crescent, and not from Terranora Road.*

Clause 24 – Setbacks to Designated Roads

Clause 24 of the LEP requires 'other' development to have a setback of 30m to a Designated Road. This Development Standard is unnecessary and unreasonable in this instance, and an Objection under State

Environmental Planning Policy No. 1 is submitted to this Development Standard for the following reasons:

- *The site and surrounding sites are of a residential nature and size. Enforcing a 30m setback to Terranora Road is unreasonable as it would render the site and surrounding sites undevelopable.*
- *The site contains an existing dwelling and it would be unreasonable to restrict the upgrading of the dwelling and the replacement of decks due to the 30m setback requirement. The subject application does not intensify the development of the site, and the development standard is therefore unreasonable.*
- *There are many dwellings erected along Terranora Rd in close proximity to the subject site. These dwellings are within 30m of Terranora Rd. It would be unreasonable to restrict the subject development, when there are numerous precedents for development closer than 30m to the Designated Road.*
- *Approximately 400m to the east the zoning changes to a Residential zoning. Houses are permitted to be constructed to within 6.0m of Terranora Rd within the residential zoning.*
- *The application is to replace existing decks, with only a small part of the new deck extending closer to Terranora Road, by approx 1.5m only. Adequate setback will be retained. As such the setback requirement is unreasonable in this instance.*

For the above reasons, Council is requested to support the objection under SEPP 1 to allow the development with 30m of the Designated Road."

Response:

It is considered that the above submission by the applicant should be supported as the points listed in Clause 22(4)(a) to (g) have been met and the design, scale and type of development will have negligible impact to Terranora Road precinct and it is considered that the proposal meets acceptable residential planning principles.

SEPP No 71 – Coastal Protection

SEPP No. 71: Coastal Protection

The subject site falls within the coastal protection zone as identified under SEPP 71 and referral to the Department of Natural Resources is not necessary given the relatively minor nature of the proposal and its distance from sensitive coastal locations. Potential impacts of the development on public access to the foreshore, views, overshadowing of the foreshore, wildlife corridors, the suitability of the site for the development and any measures to reduce other adverse environmental impacts have been considered and having regard to these items, the property distance from any waterway or foreshore; and the existence of developments of similar design and scale on nearby and adjoining properties. It is considered that the proposed development is consistent with the matters for consideration under SEPP 71.

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has provided a **Basix Certificate** (*Cert No A152745*) as required under legislation and the development is conditional that the basix requirements are met during construction and prior to the occupancy certificate being issued for the property.

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

N/A

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

External Building Elements Part A - Dwelling Houses, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools

Public Domain Amenity

Streetscape

The proposed development is consistent with the establishment character of the area whilst being sympathetic to the surrounding developments.

The deck alterations and additions will be partially visible from Terranora Road due to the differences in elevation whilst the double carport proposed within the front 6 metre setback will be highly visible from Dobbys Crescent. The design of the carport is consistent with the other four carports which exist in the immediate locality.

Public Views and Vistas

The proposal will result in minimal view loss of public views and vistas given that the overall design does not exceed the overall height of the existing development.

Site Configuration

Impermeable Site Area

The area of the site is 788m², and therefore the maximum impermeable site area permitted at the completion of the development must be not greater than 60%. The existing and proposed development will create an impermeable area of approximately 33% of the site and will comply with the design control.

External Living Areas

The proposed deck additions and alterations located on the northern and western sides of the existing dwelling house will improve the amenity between internal and external living areas as well as increasing solar access to the living areas.

Landscaping

There is an established heavily landscaped area which exists on the down slopes existing on the northern and western sides of the subject property which also extends onto the adjoining road reserve. This application does not propose any removal of the aforementioned landscaping.

Topography, Cut and Fill

The existing dwelling house stands upon a level building platform and the areas to the northern and western boundaries have moderate to steep fall which has

been intensively landscaped. The proposal does not require any significant cut and fill.

Setbacks

A variation to the required 6 metre front building line setback is requested for a proposed double carport to be located 400mm off the front boundary due to the constraints of the site. The proposed double carport is to be located adjacent to the existing driveway as there is no alternate position on the property for the carport due to the position of a sewer pump well and associated drainage infrastructure, the slope and geometry of the property. The proposed carport is to be of an open design and access will be at 90 degrees off the existing driveway which negates the requirement for a two by two metre sight triangle. It is to be noted that there are four double carports located within the front 6 metre setback existing in Dobbys Crescent. It is recommended that a condition of consent be included requiring the proposed 75mm galvanised posts located 400mm off the dimension of 230mm by 230mm in order to be sympathetic to the design of the existing dwelling house and reduce the impact upon the streetscape. The carport support posts cannot be positioned 2m from the front boundary as vehicular access to the carport will be compromised due to vehicle turning circles and clearly would not allow the carport to be functional.

Car Parking and Access

The design control requires the proposed vehicle access and parking to be consistent with Section A2 of the Development Control Plan. Two off street car parking spaces exist behind the 6 metre front building line and vehicle access to these spaces is considered adequate. The proposal includes the construction of a double carport to be located 0.4 metres off the front boundary which can be considered under this control subject to assessment under Design Control 3 - Setbacks.

Building Amenity

Sunlight Access

Private open space for the existing dwelling house receives sufficient access to sunlight. The proposed decks alterations and additions have been located to the northern and western sides of the existing dwelling house in order to take advantage of the solar access, views to the Broadwater and the prevailing breezes. Also these deck areas will expand the versatility of the internal living areas of the existing dwelling house. The bulk and scale of the existing dwelling house and proposed additions is in keeping with character of dwellings already approved in the area.

Visual Privacy

The existing rear deck is proposed to be increased in depth and enclosed which will result in less privacy impact upon the adjoining property as the opportunity to overlook the neighbouring property will be minimised. It is to be noted that the dwelling house at No. 4 has a greater depth than that of the proposal and has been orientated to take advantage of the northern aspect which establishes a level of privacy.

Acoustic Privacy

The applicable control relates to air conditioning and other mechanical equipment. A condition of consent has been recommended stating that the noise

of an air conditioner, pump or other mechanical equipment shall not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item.

Natural Ventilation

The design of the dwelling house provides for adequate natural cross flow ventilation by the use of a breeze path that is orientated in an east-west direction.

Building Orientation

The deck additions and alterations and double carport have been sited on the property to optimise solar access and views as well as providing an acceptable street presentation.

External Building Elements

Roof

The design of the roof is consistent with the design requirements. A condition regarding the implementation of non-reflective roof materials has been recommended in the conditions.

Building Performance

The proposal is consistent with this design control. As discussed previously the proposal is consistent with the SEPP (Building Sustainability Index: BASIX) 2004.

Floor Space Ratio (FSR)

The maximum FSR applicable for this proposal is 0.65:1. The proposed dwelling is consistent with this design control having an FSR of approximately 0.20:1.

A11-Public Notification of Development Proposals

The carport component of the development was advertised in accordance with DCP A11 and no submissions have been received regarding the proposed development.

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

Not applicable.

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

Not applicable.

Tweed Shire Coastline Management Plan 2005

Not applicable.

Tweed Coast Estuaries Management Plan 2004

Refer to SEPP 71 comments above in this report.

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

The development is of such a scale that it will not impact upon Terranora Coastal Zone 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

Context and Setting

The property is within an established residential subdivision which has been specifically created for residential development. The proposed development is in keeping with the architectural style and residential character of the area.

Access, Transport and Traffic

Residential traffic movements to the property are via Dobbys Crescent and will not significantly impact upon the local area and streetscape and will not affect Terranora Road.

Flora and Fauna

Minimal impact is envisaged as the development is proposed upon established levelled areas of the site.

(c) Suitability of the site for the development

Surrounding Landuses/Development

It is considered that the site is suitable for the proposed development. The property is located within an existing residential area and utilities including reticulated water, public sewer and power are provided to the site. The design of the development is in keeping with the residential character of the site.

Site Orientation

Part of the proposed development will be replacing an existing rear deck which will be slightly increased in size and the rear boundary setback to Terranora Road will be 5.059m, refer to background section in the report above. The proposed decks have been located to the northern and western sides of the existing dwelling house in order to take advantage of the views of the Broadwater and the prevailing breezes. Also these deck areas will expand the versatility of the internal living areas of the existing dwelling house.

Topography

The site slopes from Dobbys Crescent to Terranora Road and the proposed carport is located adjacent to the existing driveway and vehicular access is achieved from this driveway to Dobbys Crescent. It should be noted that there is no suitable alternate for the carport due to the slope of the site and the location of a sewer pump and rising main sewer infrastructure located on the site.

Site Orientation

Part of the proposed development will be replacing an existing rear deck which will be slightly increased in size and the rear boundary setback to Terranora Road will be 5.059m, refer to background section in the report above. The proposed structures have adequate site orientation in relation to the existing dwelling house and the property boundaries.

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

Not applicable.

(e) Public interest

The development is not prejudicial to the public interest.

OPTIONS:

1. Council approves the development application subject to conditions; or
2. Council refuses the development application.

Council officers recommend option 1.

CONCLUSION:

The proposed site location and scale of the development is consistent with the objectives of clause 22 TLEP2000 and the primary and secondary objectives of TLEP2000 1(c) Rural Living zone. Site inspection and perusal of Council records confirms the validity of the SEPP1 objection to vary the rear deck building line to 5.059m from the Terranora Road boundary. It is therefore recommended that Council supports the development.

COUNCIL IMPLICATIONS:

a. Policy:

A SEPP1 objection with development near designated roads is considered on its merits in accordance with the requirements of Clause 22 and 24 of TLEP2000 and associated planning instruments.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

It is envisaged no legal implications will be apparent due to the type of residential development considered for approval; it is similar in type scale and design to previously approved structures in the local area and generally meets the planning requirements of DCPA1

d. Communication/Engagement:

The carport component has been advertised in accordance with DCPA11 Public Notification of Development Proposals.

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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22 [PR-CM] Development Application DA12/0565 for an Eight Lot Subdivision at Lot 58 DP 1083567 Collins Lane, Casuarina

SUBMITTED BY: Development Assessment

FILE NUMBER: DA12/0565 Pt1



Civic Leadership

SUMMARY OF REPORT:

The proposal seeks approval for an eight lot residential subdivision of a residue lot created from DA12/0243.

One of the eight lots (Lot 3) will have access from Collins Lane. Lot 3 is battle axe in shape with an area of 508m² and is burdened by a restriction to provide one visitor car parking space at the front of the lot. The requirement to provide one visitor car space within Lot 3 is due to Lot 3 having less than nine metres of road frontage which would provide for one car space. Lot 4 (497m²), Lot 5 (502m²) and Lot 6 (496m²), each have direct access from Dryandras Court. Lots 4 and 5 will have a shared driveway access and Lot 6 will have a separate driveway access. Lot 7 (677m²), Lot 8 (672m²), Lot 9 (707m²) and Lot 10 (1194m²) will all gain access from a proposed Right of Way (ROW) from Dryandras Court. Lots 7, 8 and 9 propose a restriction to provide one visitor car parking space at the front of each lot.

The number of existing on-street car parking spaces that are being removed by the proposed two vehicular footpath crossings for Lots 6 and ROW for Lots 7-10 (four car parking spaces), are to be replaced with the creation of additional car parking spaces (four car parking spaces) at the end of Dryandras Court. This is supported by Council's Traffic Engineer and subject to conditions.

A State Environmental Planning Policy No. 1 – *Development Standard* (SEPP 1) objection also accompanies the application. The objection is in respect of the planning standard identified within Clause 21A (2)(a) of the Tweed Local Environmental Plan 2000, specifically seeking variance to the 40 hectare minimum lot size development standard for the 7(f) Environmental Protection (Coastal Lands) zone.

The SEPP 1 objection relates to a small portion of the site adjacent to the eastern boundary which is zoned 7(f) Environmental Protection (Coastal Lands). The 7(f) zoned land which has a minimum lot size requirement of 40 hectares, represents approximately 16% or 857.79m² of the site, with the remainder of the site zoned 2(e) Residential Tourist, which has a minimum lot size requirement of 450m² representing approximately 84% or 5255m².

The application was referred to the NSW Department of Planning and Infrastructure requesting the Director-General's Concurrence. Concurrence was granted to vary the 40 hectare minimum lot size development standard subject to a condition being placed on the development consent to the effect that no residential, associated buildings or structures permitted on land zoned 7(f).

The purpose of this report is to have the application determined by a full Council as Council Officers do not have the delegation to determine a development application with a SEPP 1 objection greater than 10 per cent variation of the applicable development standard in accordance with the Department of Planning directive (circular PS 08-014).

It is considered that the subject application is suitable for approval, subject to various conditions.

RECOMMENDATION:

That Development Application DA12/0565 for an eight lot subdivision at Lot 58 DP 1083567 Collins Lane, Casuarina be approved subject to the following conditions:

GENERAL

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

- Overall Site Subdivision Layout - Plan 1A by Planit dated 01/13 Rev. 2.
- Proposed Eight Lot Subdivision - Plan 1C by Planit dated 01/13 Rev. 2.
- Car Parking Layout Concept by Planit dated 02/13.
- Proposed Sewer Reticulation Layout plan by Opus No. TW_N-T2013.01 sheet Rev.1 dated 21.9.12 - subject to relocation of the sewer main to avoid Lot 3.

[GEN0005]

2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.

[GEN0125]

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. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should adjustments be required to the sewer manhole, then application shall be made to Council's Community and Natural Resources Division for approval of such works.

[GEN0155]

5. If landscaping is proposed. A detailed plan of landscaping containing no noxious or environmental weed species and with a minimum 80% of total plant numbers comprised of local native species is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate. The Landscape Plan is to contain a detailed plant schedule indicating the location of all proposed planting and any existing vegetation to be retained on the site and including:

- Species listed by botanical and common names, with a minimum of 80% of plants constituting local native species;

- **Specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.**

[GENNS01]

6. **No residential, associated buildings or structures are permitted on land zoned 7(f) Environmental Protection (Coastal Lands).**

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. **Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.**

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

8. **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]

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

[PCC0465]

10. **All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.**

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

11. **All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.**

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted as part of the construction certificate application.

[PCC0485]

12. A Traffic Control Plan in accordance with AS1742 and the latest version of the RTA publication "Traffic Control at Work Sites" shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

13. The proponent shall submit plans and specifications with an application for construction certificate for the following civil works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils Development Design and Construction specifications.

OTHER

- (a) Provision of water connections generally as per "Proposed Water Reticulation Layout" plan by Opus No. TW_N-T2013.01 sheet 4 Rev. 1 dated 21.9.12 - except that the depicted water service lines for Lots 7 to 10 shall follow the route of the Right of Way as depicted on plans by Planit.
- (b) Construction of sewer infrastructure generally as per "Proposed Sewer Reticulation Layout" plan by Opus No. TW_N-T2013.01 sheet 3 Rev.1 dated 21.9.12 - subject to:
- Relocation of the sewer main to avoid Lot 3.
 - The sewer junctions for Lots 8 and 9 will be required to extend beyond the 'Easement for Services' to avoid possible future conflicts with conduits for other services.
 - **OPTION:** To avoid extra works within the 7(f) zone, the sewer connection for Lot 7 could be provided at the western side of the lot, via a short dead-end line coming from the manhole within Lot 9 (ie: relocated out of Lot 8).

Note: sewer main construction will need to be of sufficient depth to enable internal house service lines to fall to the connection points, primarily regarding Lots 8 and 9 but also as an option for Lot 7, as this would be against the fall of the land: site filling is necessary as per the following requirement.

- (c) Site filling to facilitate fall to the Collins Lane road frontage for Lot 3. This is to enable stormwater infiltration surcharges to gravitate to the street. Note that excessive filling is to be avoided, as sewer connections for Lots 8 and 9 (at least) will be located at the high side of those lots.
- (d) The driveway within the access handle for lot 3 is to be constructed as part of the subdivision works, as well as a concrete area for the off-street visitor car parking space within the allotment.
- (e) Construction of a 4.5m (minimum) wide concrete driveway within the Right of Way over lots 8, 9 and 10, generally as depicted on Plan No. 1C by Planit dated 01/13.

- (f) Provision of appropriate conduits to cater for all services to lots 7, 8 and 9, within the Right of Way (overlapped by an Easement for Services).
- (g) Construction of appropriate off-street visitor parking spaces within Lots 7, 8 and 9 generally as depicted on Plan No. 1C by Planit dated 01/13.
- (h) Proposed Lot 6 is required to have a concrete vehicular footpath crossing constructed at the western side of the lot frontage
- (i) The construction of the two vehicular footpath crossings for Lots 6 and 7-10 will necessitate some removal of existing on-street pavement marking (for car parking), and accordingly will require appropriate new marking or signage to easily delineate the two driveways amongst the existing marked parking bays.
- (j) The Dryandras Court frontage will require submission of a landscaping plan.
- (k) The footpath area of the Collins Lane frontage is to be turfed.
- (l) Construction of four (4) replacement car parking spaces at the end of the cul-de-sac of Dryandras Court as per e-mail advice from Planit dated 14.2.2013 and attached plan by Planit 'Car Parking Layout Concept' dated 02/13.
- (m) Provision of an area for refuse bin enclosure and letterboxes, for use by Lots 7, 8 and 9 within Lot 10, is to be addressed by the construction certificate.
- (n) Compliance of the Right of Way with Section 4.1.3(2) of Planning For Bushfire Protection will need to be verified prior to issuing a construction certificate.

[PCC0875]

14. Prior to the issue of a Construction Certificate for civil works, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) Copies of compliance certificates relied upon
- (b) Four copies of detailed engineering plans and specifications, prepared in accordance with Development Design Specification D13 - particularly Section D13.09. The detailed plans shall include but are not limited to the following:
 - Earthworks
 - Roadworks/furnishings
 - Stormwater drainage
 - Water supply works
 - Sewerage works
 - Landscaping works
 - Sedimentation and erosion management plans

- Location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

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 works

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

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

[PCC1145]

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, evidence of registration of the adjoining subdivision that dedicates Dryandras Court as public road, must be provided.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

18. 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]

19. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-
- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
 - (c) WorkCover Regulations 2000

[PCW0025]

20. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to the issue of the Subdivision Certificate.

[PCW0375]

21. Civil work in accordance with a development consent must not be commenced until:
- (a) A Construction Certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:
 - (i) The consent authority, or
 - (ii) An accredited certifier, and
 - (b) The person having the benefit of the development consent:
 - (i) Has appointed a principal certifying authority,
 - (ii) Has appointed a Subdivision Works Accredited Certifier (SWAC) to certify the compliance of the completed works. The SWAC must be accredited in accordance with Tweed Shire Council DCP Part A5 - Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:
 - C4: Accredited Certifier - Stormwater management facilities construction compliance
 - C6: Accredited Certifier - Subdivision road and drainage construction complianceThe SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to commencement of works, and
 - (iii) Has notified the consent authority and the council (if the council is not the consent authority) of the appointment,

- (iv) A sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and
- (c) The person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

Note: For subdivisions creating 5 new allotments or less, OR the value of new public infrastructure is less than \$30,000, then the SWAC may be substituted for an Institute of Engineers Australia Chartered Professional Engineer (Civil College) with National Professional Engineers Register (NPER) registration.

[PCW0815]

- 22. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

- 23. 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 to the satisfaction of the Principal Certifying Authority. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

- 25. 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]

- 26. 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 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]

- 27. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.**

[DUR0745]

28. During filling operations,

- **No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.**
- **All fill and cut batters shall be contained wholly within the subject land.**
- **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 and to the satisfaction of the Principal Certifying Authority.**

and upon completion,

- **All topsoil to be respread and the site to be grassed and landscaped including battered areas.**

[DUR0755]

- 29. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.**

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

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

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

[DUR0795]

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

[DUR0815]

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

[DUR0985]

33. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

34. 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]

35. 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]

36. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.

[DUR1075]

37. The existing concrete footpaths are to be saw cut and removed to facilitate the construction of the concrete driveway accesses.

[DUR1745]

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

[DUR1795]

39. 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]

40. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:

Right of Way/Driveway works

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Formwork/reinforcement
- (e) Final inspections - on maintenance
- (f) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Final inspection - on maintenance
- (h) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

The fee for the abovementioned inspections shall be invoiced upon completion of all civil works, and subject to the submission of an application for a 'Subdivision Works Compliance Certificate'.

[DUR1895]

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

[DUR1905]

42. 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]

43. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

44. 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]

45. 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]

46. No acid sulfate soils to be disturbed without the prior written approval of Council.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

47. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

48. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP6: 7 ET @ \$12150 per ET \$85,050

South Kingscliff Water Levy: 7 ET @ 282 per ET \$1,974

Sewer Kingscliff: 7 ET @ \$5838 per ET \$40,866

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

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

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

[PCC0265/PSC0165]

49. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

- (a) **Tweed Road Contribution Plan:**
- | | |
|--------------------------------------|-----------------|
| 45.5 Trips @ \$1155 per Trips | \$52,553 |
| (\$1145 base rate + \$10 indexation) | |
| S94 Plan No. 4 | |
| Sector7_4 | |
| LCA4 - Casuarina: | \$7,690 |
| 45.5 trips at \$169 per trip | |
| (\$168 base rate + \$1 indexation) | |
- (b) **Shirewide Library Facilities:**
- | | |
|-------------------------------------|----------------|
| 7 ET @ \$816 per ET | \$5,712 |
| (\$792 base rate + \$24 indexation) | |
| S94 Plan No. 11 | |
- (c) **Bus Shelters:**
- | | |
|-----------------------------------|--------------|
| 7 ET @ \$62 per ET | \$434 |
| (\$60 base rate + \$2 indexation) | |
| S94 Plan No. 12 | |
- (d) **Eviron Cemetery:**
- | | |
|-------------------------------------|--------------|
| 7 ET @ \$121 per ET | \$847 |
| (\$101 base rate + \$20 indexation) | |
| S94 Plan No. 13 | |
- (e) **Extensions to Council Administration Offices
& Technical Support Facilities**

7 ET @ \$1812.62 per ET (\$1759.9 base rate + \$52.72 indexation) S94 Plan No. 18	\$12,688.34
(f) Casuarina Beach/Kings Forest Community Facilities: 7 ET @ \$2203 per ET (\$2153 base rate + \$50 indexation) S94 Plan No. 19	\$15,421
(g) Casuarina Beach/Kings Forest Open Space: 7 ET @ \$1245 per ET (\$717 base rate + \$528 indexation) S94 Plan No. 19	\$8,715
(h) Cycleways: 7 ET @ \$460 per ET (\$447 base rate + \$13 indexation) S94 Plan No. 22	\$3,220
(i) Regional Open Space (Casual) 7 ET @ \$1064 per ET (\$1031 base rate + \$33 indexation) S94 Plan No. 26	\$7,448
(j) Regional Open Space (Structured): 7 ET @ \$3730 per ET (\$3619 base rate + \$111 indexation) S94 Plan No. 26	\$26,110

[PCC0215/PSC0175]

50. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 5 prior to the issue of the subdivision certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads
(trip one way)

\\$Unit the unit cost attributed to maintaining a road as set out in Section 7.2 (currently 5.4c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.6

[PSC0185]

51. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the public infrastructure works (minimum as tabled in Councils Fees and Charges current at the time of payment), which will be held by Council for a period of 6 months from the date on which the plan of subdivision is registered.

It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

52. A bond to ensure acceptable plant establishment and landscaping performance at time of handover to Council shall be lodged by the Developer prior to the issue of the Subdivision Certificate. The bond shall be held by Council for a period of 12 months from the date of issue of the Subdivision Certificate and may be utilised by Council during this period to undertake essential plant establishment or related plant care works, should non compliance occur. Any balance remaining at the end of the 12 months establishment period will be refunded.

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

[PSC0235]

53. Prior to the issue of a subdivision certificate, a certificate of compliance shall be submitted to Council by the Developers Subdivision Works Accredited Certifier (SWAC) or equivalent, verifying that the placed fill has been compacted in accordance with the requirements of AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments" and is suitable for residential purposes.

The submission shall include copies of all undertaken test results.

[PSC0395]

54. All approved landscaping requirements must be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Landscaping must be maintained at all times to the satisfaction of the General Manager or delegate.

[PSC0485]

55. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

56. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) All drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) The plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

[PSC0735]

57. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

58. Prior to the issue of the Subdivision Certificate, certification from a Fire Protection Association Australia (FPA Australia) accredited Bushfire Planning And Design (BPAD) certified practitioner, must be submitted to the PCA, confirming that the subject development complies with the Rural Fire Service's General Terms of Approval imposed under Section 100B of the Rural Fires Act 1997 on the consent.

[PSC0830]

59. The creation of easements for services, rights of carriageway and restrictions as to user (including restrictions associated with planning for bushfire) as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) The existing Restrictions on Title over this site numbered 9, 12 and 13 as created by DP1083567, as well as the Positive Covenant (No. 18), are to be reiterated on the 88B instrument over all relevant lots created by this subdivision.

- (c) The existing Restriction on Title No.15 (per 88B instrument annexed to DP 1083567) relating to compulsory use of the site for multi-unit tourist accommodation, is to be extinguished.
- (d) A Restriction on Title OR Positive Covenant shall be created over Lots 3, 7, 8 and 9 for a designated off-street visitor parking space.
- (e) Creation of a 6m / 9m Right of Way over Lots 8, 9 and 10.
- (f) Creation of an appropriate easement for bin enclosures and letterboxes over Lot 10, benefitting Lots 7, 8 and 9.
- (g) Creation of an Easement for Services over Lots 8, 9 and 10. The location of future water meters for Lots 7, 8 and 9, over Lot 10, must also be covered by this easement.
- (h) Positive Covenant over the subject land (as applicable) to ensure that the required provisions of the "Planning for Bushfire Protection 2006 Guidelines and the General Terms of Approval of the Consent as imposed under Section 100B of the Rural Fires Act 1997 are enforced in perpetuity.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway / easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

- 60. Submit to Council's Property Officer for approval an appropriate plan indicating the street/road address number to both proposed and existing lots. In accordance with clause 60 of the Surveying and Spatial Information Regulation 2012 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each new lot in the deposited plan.

[PSC0845]

- 61. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

- 62. Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 Development Consent No. DA06/1289 dated 24 January 2008 shall be surrendered by lodgement of the prescribed information, suitably executed, PRIOR to the issue of a Subdivision Certificate.

[PSC0875]

- 63. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) Original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and

application fees in accordance with the current Fees and Charges applicable at the time of lodgement.

- (b) All detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

64. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-
- (a) Compliance Certificate - Right of Way / Driveways
 - (b) Compliance Certificate - Water Reticulation
 - (c) Compliance Certificate - Sewerage Reticulation
 - (d) Compliance Certificate - Drainage

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

65. The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.

[PSC0925]

66. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and sewerage system installed and to be dedicated to Council including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

67. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

68. The production of written evidence from the local telecommunications supply authority certifying that the provision and commissioning of underground telephone supply at the front boundary of the allotment has been completed.

[PSC1165]

69. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation and energising of underground electricity (residential and rural residential) has been provided adjacent to the front boundary of each allotment; and
- (b) The reticulation includes the provision of fully installed electric street lights to the relevant Australian standard - if necessary. Such lights to be capable of being energised following a formal request by Council.

Should any electrical supply authority infrastructure (sub-stations, switching stations, cabling etc) be required to be located on Council land (existing or future), then Council is to be included in all negotiations. Appropriate easements are to be created over all such infrastructure, whether on Council lands or private lands.

Compensatory measures may be pursued by the General Manager or his delegate for any significant effect on Public Reserves or Drainage Reserves.

[PSC1185]

70. The subdivision certificate for DA12/0243 must be issued prior to, or in conjunction with, the subdivision certificate for this proposal.

[PSCNS01]

71. The existing Restriction on Title (No. 15 per 88B instrument annexed to DP 1083567) relating to compulsory use of the site for multi-unit tourist accommodation, is to be extinguished.

[PSCNS02]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The development proposal is to comply with the subdivision layout identified on the plan prepared by Planit Consulting, Plan No. 1B (rev: 02), dated 01/13.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the issue of subdivision certificate and in perpetuity, the entire area of proposed Lots 3 - 10 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Property access roads (including the proposed right of way to Lots 7-10) shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006', except that dedication of the right of way as a public road is not required.

General Advice - consent authority to note

Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

Future development on lots within this subdivision that are not mapped as bushfire prone land may still be subject to the impacts from bushfire on surrounding land. Council should consider assessment of future development application on these lots against the requirements of s. 79C of the Environmental Planning and Assessment Act, 1979 and AS3959 Construction of building in bushfire prone areas.

To aid in fire fighting activities, future development on proposed Lots 7-10 should maintain unobstructed pedestrian access to the rear of the property.

REPORT:

Applicant: Heaven Forbid Pty Ltd

Owner: Heaven Forbid Pty Ltd

Location: Lot 58 DP 1083567 Collins Lane, Casuarina

Zoning: 2(e) Residential Tourist and 7(f) Environmental Protection (Coastal Lands)

Cost: Not Applicable

Background:

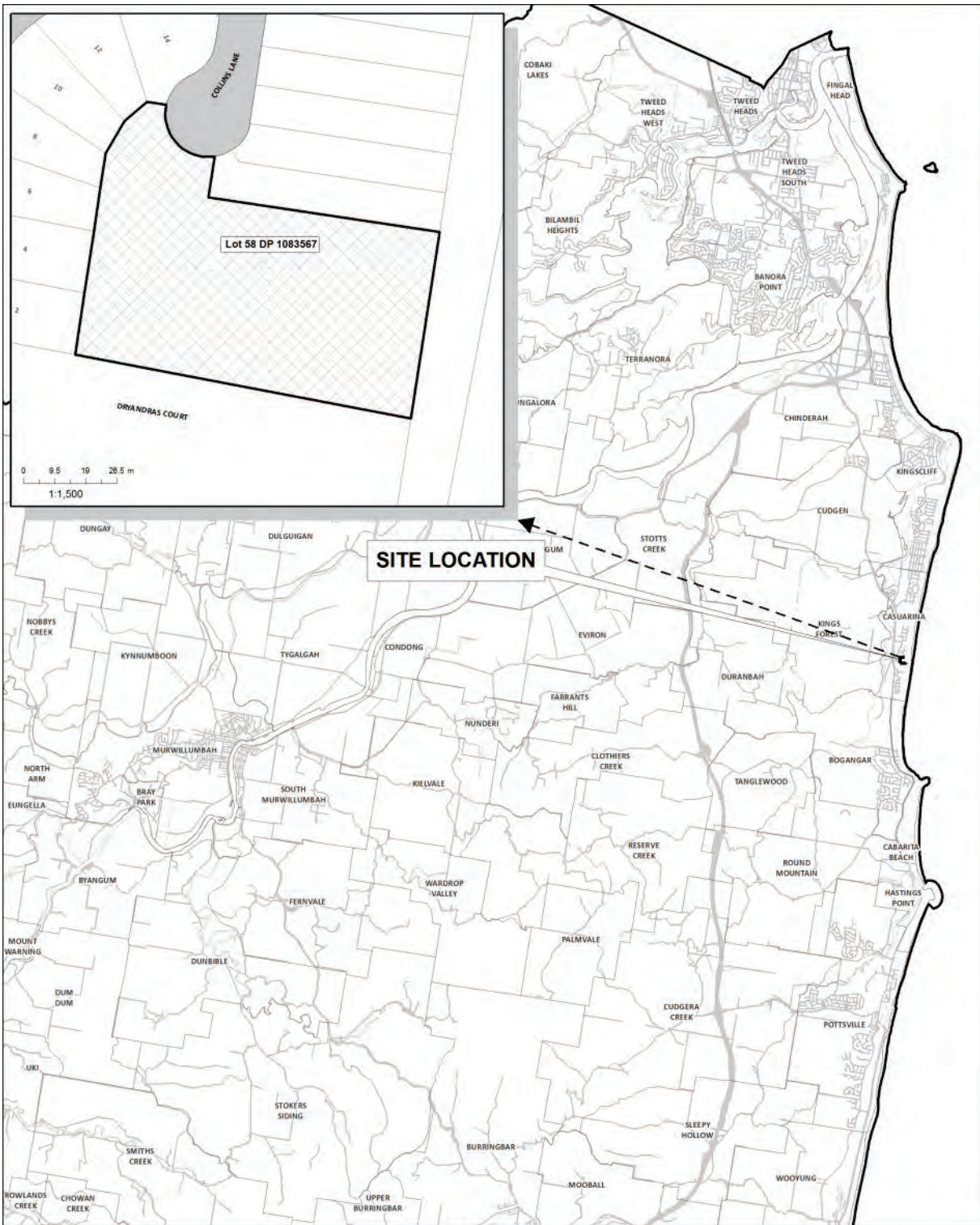
The subject site obtained development approval for the construction of 92 tourist accommodation units within a three storey configuration (DA06/1289). The proposal included a swimming pool on the ground level with basement car parking for 99 vehicles with vehicular access provided from the proposed extension of Casuarina Way. The proposal involved a mixture in bedroom numbers, 81 x 1 one bedroom units, 8 x 2 bedroom units and 3 x 3 bedroom units. The applicant has advised that due to current market conditions this consent is not viable and that a traditional subdivision would better suit the current market conditions. Development Consent (DA06/1289) is required to be surrendered subject to consent Condition No. 52 of Development Consent DA12/0243 requiring the voluntary surrender of DA06/1289 prior to issue of a Subdivision Certificate.

Council has recently (14 February 2013) approved development application DA12/0243 for the subdivision of Lot 58 DP 1083567 into three lots, two of the lots for immediate residential use with the third lot a residue lot. The residue lot created from DA12/0243 is the subject of this development application (DA12/0565) to be subdivided into eight residential lots.

The reason for two separate development applications to Council (as opposed to one staged application) is that the second application (DA12/0565) required access from Dryandras Court and Dryandras Court had not at that time been dedicated to Council ownership and the current land owner had not granted owners consent. Owners consent has now been granted, therefore the subject development application (DA12/0565) can be determined by Council.

Accordingly the application currently before Council is an eight residential lot subdivision of the residue lot created from DA12/0243.

SITE DIAGRAM:



Locality Plan
 Lot 58 DP 1083567
 Collins Lane, Casuarina

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Cadastral: 27 February, 2013
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 Boundaries shown should be considered approximate only.

0 1 2 Km
 1:125,000 @ A4 Portrait
 DO NOT SCALE
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Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geocentric Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 56



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TWEED
 SHIRE COUNCIL

DEVELOPMENT/ELEVATION PLANS:



SCALE: 1:500 (A3)
 DRAWN: 27
 DATE: 07/13
 FEEL: CE

COLLINS LANE, CASUARINA BEACH
 OVERALL SITE SUBDIVISION LAYOUT

PLANET CONSULTING

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

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”*. Clause 4 further aims to provide a legal basis for the making of a Development Control Plan (DCP) to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire’s environmental and residential amenity qualities.

The subject development application is considered suitably in keeping with the above, as it is not considered likely to result in a reduction of residential amenity for nearby residential properties or the shire as a whole.

Clause 5 - Ecologically Sustainable Development

Clause 5 of the TLEP 2000 relates to 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 subject site is an existing infill site and therefore the proposed development is considered to be in keeping with the Ecologically Sustainable Development (ESD) principles.

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 mostly zoned 2(e) Residential Tourism and partly zoned 7(f) Environmental Protection (Coastal Lands), the primary objectives of which are outlined below.

The proposed subdivision is considered consistent with the primary objective of the zone as it will be for residential use.

Other relevant clauses of the TLEP 2000 have been considered elsewhere in this report and it is considered that the proposed subdivision generally complies with the aims and objectives of each.

The proposal is not considered to contribute to any unacceptable cumulative impact in the community due to the established residential nature of the local area.

Clause 11 - Zone Objectives

The site is part zoned 2(e) Residential Tourist and 7(f) Environmental Protection (Coastal Lands).

2(e) Residential Tourist Zone

Primary objective

- *To encourage the provision of family-oriented tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motels, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short-term accommodation and day tourist facilities.*

Secondary objective

- *To permit other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use.*

The proposed development for an eight lot residential subdivision within the Casuarina Beach Estate is considered to be consistent with the objectives of the 2(e) zone.

7(f) Environmental Protection

Primary objectives

- *To identify land susceptible to coastal erosion and protect it from inappropriate development.*
- *To protect and enhance the scenic and environmental values of the land.*

Secondary objective

- *To allow for other development that is compatible with the primary function of the zone.*

The proposed subdivision is considered to be appropriate in the 7(f) zone as any future residential dwelling/structure will be required to be situated entirely within the 2(e) zone and no buildings or associated structures will be permitted in the 7(f) zone. The approved use of all allotments will be residential, which is consistent with the surrounding land uses.

Clause 15 - Essential Services

The proposal can be adequately serviced by way of existing water and sewer mains within the locality, subject to compliance with the provisions of Tweed DCP Section A5 and conditions of consent.

The proposal is considered to be consistent with the provisions of Clause 15 of TLEP 2000.

Clause 16 - Height of Building

A 3 storey height limit applies to the site. No buildings are proposed as part of this application. The proposal is considered to be consistent with the provisions of Clause 16 of TLEP 2000.

Clause 17 - Social Impact Assessment

Having regard to the provisions of DCP Section A13, a detailed social impact assessment is not required.

Clause 21A

Clause 21A requires a minimum 40 hectares for land zoned 7(f) Environmental Protection. The proposed development site incorporates an approximate 15m wide strip of land zoned 7(f) along the eastern boundary of the site, approximately 16% of the site or 857.79m². The area in question does not meet the 40 hectare requirement and as such, the applicant has lodged a SEPP 1 Objection with the application, specifically seeking variance to the minimum lot size development standard for the 7(f) zone. Further assessment in terms of the SEPP 1 Objection is detailed later in this report.

Clause 27 - Development in Zone 7(f) Environmental Protection (Coastal Lands)

The objective of Clause 27 is to protect land that may be susceptible to coastal erosion processes from inappropriate development.

It is considered that the proposed eight lot Torrens title subdivision will not impact on the behaviour of the sea, beach or dune, landscape or scenic quality of the locality, and any native vegetation.

Although the 2100 Coastal Hazard line is located within the development site (approximately 8m from the eastern property boundary), the 2100 Coastal Hazard line is within the 20m wide 7(f) zone. As such, no development is allowed within the 7(f) zone, including earthworks or vegetation removal is not permitted to take place that could influence coastal erosion processes. Therefore, the proposed development is considered to satisfy the provisions of Clause 27.

Clause 35 - Acid Sulfate Soils

The subject site is identified as possessing Class 4 Acid Sulfate Soils. Council's Environmental Health Unit has advised that the Statement of Environmental Effects (SEE) that accompanied DA06/1289 included an Acid Sulfate Soils Management Plan (ASSMP) (Cardno, 12 October 2006). The Environment and Health Services Report prepared for DA06/1289 outlined that the ASSMP was reviewed and considered to be adequate. A condition was recommended requiring compliance with the ASSMP.

The proposal requires infrastructure connections throughout the site, which is claimed by the applicant not to exceed 1.5 metres in depth.

Due to no works being proposed beyond 2 metres and that the site is highly disturbed, it is considered that no further assessment is required in this regard subject to conditions. It is considered that the proposal complies with the requirements of Clause 35 of the TLEP 2000.

Clause 39 - Contaminated Lands

The site is existing residential land and is part of the greater Casuarina Beach Estate. Council Environmental Health Unit has advised that in accordance with a Council Resolution of 21 November 2001, no further testing for contamination was necessary. It is considered the proposal complies with the requirements of Clause 39 of the TLEP 2000.

Clause 39A - Bushfire Protection

The subject land is identified as being within a bushfire hazard area. As per the provisions of the Rural Fires Act 1997 and pursuant to Section 100B of the Act a permit is required for subdivisions on land subject to bushfire hazard.

The NSW Rural Fire Services has given their general terms of approval for the development and appropriate conditions of consent have been imposed.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 29A: Natural areas and water catchment

Clause 29A relates to the clearing of natural vegetation in environmental protection areas. The proposed development does not propose any vegetation removal within the 7(f) zone.

Clause 32B: Coastal Lands

The proposal is considered not to negate the objectives of the following policies;

- (a) The NSW Coastal Policy 1997;
- (b) The Coastline Management Manual, and
- (c) The North Coast: Design Guidelines.

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 hazard areas

Before granting consent to development on land affected or likely to be affected by coastal processes, the council shall:

- (a) Take into account the Coastline Management Manual;*
- (b) Require as a condition of development consent that disturbed foreshore areas be rehabilitated, and*
- (c) Require as a condition of development consent that access across foredune areas be confined to specified points.*

The proposal is for subdivision of existing residential allotments within the Casuarina Beach Estate. All foreshore rehabilitation and beach access points have been undertaken/established as part of the parent subdivision. The proposal has no direct implications or relevance in this regard.

As noted above, the 2100 Coastal Hazard line is located within the residue lot (approximately 8m from the eastern property boundary). No development is

allowed within the 7(f) zone, therefore no earthworks or vegetation removal will take place that could influence coastal erosion processes. The applicant states:

“The proposal is for subdivision of an existing residential allotment within the Casuarina Estate. All foreshore rehabilitation and beach access points have been undertaken/established as part of the parent subdivision. The proposal has no direct implications or relevance in this regard.”

The proposal is consistent with the objectives of the Coastline Management Manual, a condition is recommended requiring disturbed foreshore areas be rehabilitated and access across foredune areas be confined to specified points.

Clause 43: Residential development

The provisions of Clause 43 of the REP relate to residential development on urban zoned land. The provisions state:

- (1) *The council shall not grant consent to development for residential purposes unless:*
 - (a) *It is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,*
 - (b) *It is satisfied that the proposed road widths are not excessive for the function of the road,*
 - (c) *It is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,*
 - (d) *It is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and*
 - (e) *It is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.*

Site erosion will be minimised throughout the construction phase and enforced via conditions of consent. The density of the proposed development has been maximised (in terms of low density residential development) without adversely affecting the environmental features of the land.

Clause 81: Development adjacent to the ocean or a waterway

- (1) *Council shall not consent to a development application for development on land within 100 metres of the ocean or any substantial waterway unless it is satisfied that:*
 - (a) *There is a sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development,*

The proposal will not permanently reduce or affect access to or along the foreshore open space.
 - (b) *Buildings to be erected as part of the development will not detract from the amenity of the waterway, and*

No buildings are proposed as part of this development however, the future dwellings would be assessed to ensure that they do not detract from the amenity of the waterway.

(c) *The development is consistent with the principles of any foreshore management plan applying to the area.*

The proposal is consistent with the objectives of the Coastline Management Manual, a condition is recommended requiring disturbed foreshore areas be rehabilitated and access across foredune areas be confined to specified points.

(2) *Nothing in sub-clause (1) affects privately owned rural land where the development is for the purpose of agriculture.*

The site is not for the purpose of agriculture.

SEPP No. 1 - Development Standards

A SEPP 1 objection accompanies the application. The objection is in respect of the planning standard identified within Clause 21A (2)(a) of the Tweed Local Environmental Plan 2000, specifically seeking variance to the 40 hectare minimum lot size development standard for the 7(f) zone.

The 7(f) zoned land represents approximately 16% of the site and the remainder of the site is zoned 2(e) Residential Tourist which has a minimum lot size requirement of 450m². It is proposed as part of this subdivision to include the 7(f) zoned land within proposed lots 7, 8, 9 and 10.

A SEPP 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.

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.

The applicant has adopted the first option being the objectives of the standard are achieved notwithstanding non-compliance with the standard has been adopted. Which states:

21A Subdivision in Zone 7 (f)

(1) Objectives

- *To protect the ecological or scenic values of coastal lands,*
- *To protect land that may be susceptible to coastal erosion processes from inappropriate development.*

In this regard, the applicant notes the following:

“As discussed above and confirmed by judgments supported by the Land & Environment Court, the ability of a proposal to attain the objective of the standard and its intent are fundamental to the appropriateness of applying the standard in the first instance. Specifically the objective of Clause 21A seeks to protect the ecological or scenic values of coastal lands and protect land that maybe susceptible to coastal erosion processes from inappropriate development.

With reference to the above objective, it is noted that the site is located within the Central Precinct of the Casuarina Beach Estate. The proposed subdivision has been designed to replicate the existing layout with regard to the ‘beach front’ allotments and is clearly representative of the established subdivision pattern.

In this regard the established subdivision pattern provides ‘beach front’ residential allotments (inclusive of the subject site) which incorporate a part 2(e)/7(f) zoning. This configuration sees all 7(f) zoned land within the existing residential allotments provide areas less than 40 hectares. An effective visual representation of this situation can be found within Councils zoning maps, an extract is provided right:

Despite the lot size variation all existing ‘beach front’ allotments within Casuarina Beach achieve land uses generally in accord with the objectives for the 7(f) zone. This is achieved by way of the regulatory requirements of Tweed Development Control Plan 2008 Section B5 and 88b Covenants which enforce no development and strict landscaping standards (native coastal dune species) in these areas. By virtue of the proposal applying these existing controls the subdivision will effectively duplicate the established environmental and scenic characteristics of both the adjoining ‘beach front’ allotments and that of the subject property. No adverse impacts will result to the established environmental character nor will development be permit on land subject to coastal erosion hazard.

The proposal meets the objectives of the development standard notwithstanding the non compliance with minimum lot size.”

Comment:

Council agrees with the applicant in that compliance with the development standard not possible, and that the zone objectives are complied with. It is considered that the objectives of Clause 21A will be maintained by the proposed development, despite the minimum 40ha requirement not being met. As noted elsewhere in this report, there is no development proposed within the 7(f) zone and conditions of consent will prohibit any structures within the zone.

Therefore, it is Council’s opinion that the objectives of the standard (particularly relating to the protection of the ecological values of the land) are achieved, notwithstanding non-compliance with the standard. Land susceptible to coastal erosion processes will be protected from inappropriate development, by way of restrictions of use applied to each new allotment.

It is considered that strict compliance with the minimum lot size of 40ha for the 7(f) zone is unreasonable and unnecessary in this instance.

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 and Assessment Act 1979*; and**

The objectives 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 applicant has noted the following:

"It is noted that the variation requested is done so with particular reference to the content and wording of the objective to the standard. Accordingly, we have broken down the request for variation in to three (3) specific headings, each of which is identified within the objective proper.

An analysis in this context has been carried out as follows:-

Is the development appropriate to its location and surrounding development??

It is contended that the development responds in the positive in relation to this question. In this regard, the key elements to consider are defined as follows:-

- 1. What is the character of the locality;*
- 2. What elements form or shape development in the locality;*
- 3. Will the development appear out of character with surrounding development; and*
- 4. Will the development translate into excessive or avoidable impacts?*

With reference to the above objective, it is noted that the subdivision partner of part 2(e) / 7(f) zoned allotments is well established within the Casuarina Estate. The intent objectives of the 7(f) zone as it relates to the Casuarina Estate has been achieved by way of the regulatory requirements of Tweed Development Control Plan 2008 Section B5 and 88b Covenants which enforce no development and strict landscaping standards (native coastal dune species) in these areas. The proposal will not alter this approach and will emulate the existing character of the locality'.

Is the development appropriate to the environmental characteristics of the land??

Despite the lot size variation all existing 'beach front' allotments within Casuarina Beach achieve land uses generally in accord with the objectives for the 7(f) zone. This is achieved by way of the regulatory requirements of Tweed Development Control Plan 2008 Section B5 and 88b Covenants which enforce no development and strict landscaping standards (native coastal dune species) in these areas.

By virtue of the proposal applying these existing controls the subdivision will effectively duplicate the established environmental and scenic characteristics of both the adjoining 'beach front' allotments and that of the

subject property. No adverse impacts will result to the established environmental character.

The SEPP No.1 Objection is considered to warrant support in that flexibility in planning controls is achieved and imposing compliance with the development standard is clearly a hindrance to the objects as listed in s 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.”

Comment:

The proposal provides for the subdivision of a residue allotment into eight residential Torrens title subdivision in an existing subdivision that incorporates a development with access to utility services and is within close proximity to community facilities. The subject allotment has been identified for development since the creation of the Casuarina Beach Estate.

The SEPP 1 Objection is considered to warrant support in that flexibility in planning controls is achieved and approval of the development would not hinder the attainment of the above 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 Director-General's concurrence has been granted to vary the 40 hectare minimum lot size development standard, subject to no residential, associated buildings or structures permitted on land zoned 7(f). As such, the proposed non-compliance with clause 21A of the Tweed LEP 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 particular case, as only a minor portion of the site (16%) is zoned 7(f) Environmental Protection (Coastal Lands) and the proposed subdivision will have no impact upon that particular zone. That is, the area of land zoned 7(f) will remain unchanged, with all new development required to be located entirely within the 2(e) zoned land.

The streetscape and amenity of the locality will remain relatively the same, noting that the subject site is infill development within a well established residential precinct of Casuarina Beach estate.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with clause 21A of the Tweed LEP 2000 is considered to be justified in this instance and is not likely to result in an adverse planning precedent as it is localised. As such, the granting of this application is unlikely to impact upon public benefit.

Conclusion

Given that the three principles set by Chief Justice Preston have been met, strict compliance with the development standard under clause 21A is considered unreasonable and unnecessary in this instance. As such, the SEPP 1 Objection warrants support.

In addition, the Director-General's Concurrence has been granted to vary the 40 hectare minimum lot size development standard subject to no residential, associated buildings or structures permitted on land zoned 7(f).

The Department of Planning advised that concurrence was granted in this instance for the following reasons:

- "i. The majority of the lot is zoned 2(e) Residential Tourist and is clearly intended for residential purposes;*
- ii. The proposed subdivision is appropriate to separate the land intended for residential development from the remainder of the current allotment; and*
- iii. The proposal is unlikely to cause any detrimental impacts to the surrounding area.*

Concurrence was granted on the basis that no structured works will be undertaken in the 7f) – or E2 zone."

SEPP No. 55 - Remediation of Land

The land has been sand mined in the past and areas of radiation have been discovered in the Casuarina Beach area. In relation to this development, Council's Environmental Health Unit are satisfied that on the basis of the information submitted to Council, that further investigation is not required for radioactive material.

SEPP No 71 – Coastal Protection

Clause 8 of the SEPP identifies matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development will be considered compatible with existing and approved development for the locality upon completion of the proposed subdivision works.

Clause 18(2) requires a master plan if subdivision of land is proposed within the sensitive coastal zone or the subdivision of residential land into more than 25 lots, unless the Minister has waived the need for a master plan. As the proposal is for less than 25 lots (being eight lots, plus the two approved lots equates to 10 lots in total) correspondence from the Department of Planning and Infrastructure regarding a master plan requirement is not required.

SEPP (State and Regional Development) 2011

The proposed development is not required to be determined by the Joint Regional Planning Panel (JRPP) therefore the application can be determined by Council.

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

Draft Tweed LEP 2010

Under the Draft LEP 2010, the subject site is zoned R1 – General Residential and E2 Environmental Conservation. The proposed development is considered to be consistent with the objectives of both zones.

Clause 4.1 of the Draft LEP 2010 relates to minimum subdivision lot sizes and refers to the Lot Size Map. This map identifies the same minimum lot sizes as the current LEP 2000. That is, the R1 land currently zoned 2(e) is identified as

Lot Size code G, which requires 450m²; the E2 land currently zoned 7(f) is identified as Lot Size code AB2, which requires 40ha.

Clause 4.6 of the Draft LEP 2010 relates to exceptions to development standards, to allow a degree of flexibility. The proposed subdivision is consistent with clause 4.6 in that: the applicant has lodged a written request that seeks to justify the contravention of the development standard (SEPP 1 Objection); Council is satisfied that the written request adequately addresses all matters; the proposal will be in the public interest; and concurrence has been granted.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

The applicant was able to demonstrate that a dwelling could comply with Section A1 of Council's Tweed Development Control Plan for proposed Lot 3.

A2-Site Access and Parking Code

The proposal complies with Council's policy.

Council's design specifications also require that a minimum 9m kerb frontage is provided for each lot within a cul-de-sac arrangement, unless alternative provision for parking is made.

Proposed Lot 3 is a battleaxe allotment and meets the minimum requirements in regards to access handle width (4m). Therefore the lack of the 9m frontage in regards to Lot 3 is considered acceptable as the application proposes alternative provision for onsite parking and will be enforced via a consent condition - requiring an 88B restriction over Lot 3 for a designated off-street visitor parking space. The driveway within the access handle is to be constructed as part of the subdivision, as well as a concrete area for the off-street car parking space within the allotment.

Proposed Lots 4 and 5 will gain access from Dryandras Court.

Proposed Lots 4 and 5 will gain access via the shared use of an existing 8m wide concrete vehicular footpath crossing.

Proposed Lot 6 will have a concrete vehicular footpath crossing constructed at the western side of the lot frontage. Usually this would not be done at subdivision stage but due to the existing on-street marked parking spaces, and necessary separation distance to be provided to the shared driveway access for Lots 7 to 10, it will be required to be constructed at subdivision stage.

Proposed Lots 7 to 10 will gain access to Dryandras Court via a shared Right of Way (ROW) varying in width from 6m to 9m. A 4m wide concrete driveway will meander within this ROW.

The construction of the two vehicular footpath crossings for Lots 6 and 7-10 will necessitate some removal of existing on-street pavement marking (for car parking), as well as new marking or signage to easily delineate the two driveways amongst the existing parking bays. This can be addressed at construction certificate stage.

The number of existing on-street car parking spaces that are being removed by the proposed two vehicular footpath crossings for Lots 6 and 7-10, are to be replaced with the creation of additional car parking spaces at the end of

Dryandras Court. This is supported by Council's Traffic Engineer and subject to conditions.

A5-Subdivision Manual

Lot size and solar orientation

Regarding the relevant provisions governing lot size and geometric requirements, all allotments are compliant meeting both the 450m² minimum size and providing sufficient width and length to accommodate the required 10m by 15m building envelope and winter solar access and summer sun deflection.

Geotechnical/Earthworks/Landforming

The site is currently cleared and grassed. An existing 8m wide concrete cross over is on the Dryandras Court frontage, and fences are present on all boundaries. The land is generally flat with a gentle slope towards the south and east. Existing ground levels range from RL 8.4m to RL 7.8m along the western boundary, with a gentle slope towards the eastern and southern boundaries where ground levels range from RL 6.5m to 5.5m. Average gradients for the site range from 2.6% in the west-to-east direction and 1.3% in the north-to-south direction. No major bulk earthworks are proposed. The land has been previously filled in conjunction with prior development of the entire Casuarina estate. The existing land grading is appropriate for a single larger scale development over the site – but not for a subdivision.

A consequence of the site being subdivided is that stormwater management is now more difficult to satisfactorily achieve for individual lots, in accordance with the regime adopted consistently over the Casuarina estate. Most sites have been filled/graded to fall to the street, where roofwater infiltration pits – which are usually located in the front yards – can surcharge in large storm events and overflows can gravitate to the street. Some filling of the site will be necessary to facilitate fall to the street for relevant Lots (1 and 6). All new allotments will be required to infiltrate roof water, as per the rest of the Casuarina estate. An existing 88B restriction currently imposes this requirement, which will be required to be reiterated (for clarity) on the 88B instrument for this subdivision. Appropriate consent conditions will be imposed accordingly.

Road Network/Horizontal/Vertical Alignment, Cross Section

Collins Lane is classed as an Access Street and has a pavement width of 7m with roll over kerb and guttering. Collins Lane terminates in a cul-de-sac head at the northern boundary of the subject lot. Dryandras Court will be classed as an Access Street also, and has a pavement width of 7.8m and roll over kerb and guttering. Both roads have flat vertical and horizontal alignment. The roads are relatively new and the pavement is in good condition. No roadworks are required as a consequence of this subdivision proposal.

Bus routes/Shelters

The nearest bus route is located on Casuarina Way. All proposed lots within the subdivision are located within 400m of the existing bus shelters situated on Casuarina Way.

Access

Access to proposed Lot 3 is via the cul-de-sac in Collins Lane. Proposed Lots 4, 5 and 6 will gain access from Dryandras Court. Proposed Lots 7 to 10 will gain

access to Dryandras Court via a shared Right of Way (ROW) varying in width from 6m to 9m. A 4m wide concrete driveway will meander within this ROW, which must be widened to 4.5m to comply with A5.4.12 Lot Layout: Access to lots.

Battleaxe allotments/Cul-de-sac parking

Proposed Lot 3 is a small residual battleaxe allotment and meets the minimum requirements in regards to access handle width (4m). Council's design specifications also require that a minimum 9m kerb frontage is provided for each lot within a cul-de-sac arrangement, unless alternative provision for parking is made. Proposed Lot 3 will create a small battleaxe lot accessing Collins Lane, within which the applicant will provide a designated off-street parking area. This is considered to be an acceptable alternative solution and will be enforced via an 88B restriction on that future subdivision. A concrete area for this off-street car park is to be constructed within the allotment.

Pedestrians/Footpaths/Cycleway

The Collins Lane frontage has an existing 1.2m wide concrete footpath.

The Dryandras Court frontage has an existing 2m wide concrete footpath.

With regard to the treatment of the footpath areas, advice from Recreation Services is that the Collins Lane frontage will be required to be turfed, and that no street trees are necessary. The Dryandras Court frontage will require submission and approval of a landscaping plan.

Traffic Generation/Assessment

Traffic generation has not been addressed in the development application, but it is considered that the proposed subdivision will not have any detrimental effect on the surrounding road network.

Parking/Manoeuvring

The provision of appropriate visitor parking is usually addressed by the construction of new roads for subdivisions, which provide ample on-street parking. However the creation of multiple lots that don't have an actual street frontage creates an issue – especially when the lots are not generously sized.

To address this, provision for a designated off-street visitor parking space within Lots 3, 7, 8 and 9 has been nominated. This is considered to be an acceptable alternative solution and will be enforced via a consent condition - requiring an 88B restriction over those lots for a designated off-street visitor parking space. Construction of a concrete area for the off-street car parking space within those allotments will be a requirement of this consent.

Lawful point of discharge

The subdivision is an infill subdivision with all major surrounding stormwater infrastructure installed. Stormwater is managed mainly by infiltration into the existing sandy soils, with most overland flows gravitating to the south-east and collected in existing gully pits located in Dryandras Court. The stormwater is then directed towards existing infiltration basins located to the east of the subject land. Minor filling will be required to ensure proposed Lots 1 and 2 – as well as future Lot 3 - drain towards Collins Lane. Most of the properties within the Casuarina estate have been graded to fall to the street, where roofwater infiltration pits –

which are usually located in the front yards – can surcharge in large storm events and overflows can gravitate to the street.

The alternative of providing an inter-allotment stormwater drainage line, and associated swale drain, would have a detrimental impact on the developable areas of the lots, particularly proposed Lot 3, due to its small size and irregular battleaxe shape. Therefore site filling to facilitate this stormwater management regime will be a condition of consent. All new allotments will be required to infiltrate roof water, as per the rest of the Casuarina estate. An existing 88B restriction currently imposes this requirement, which will be required to be reiterated (for clarity) on the 88B instrument for this subdivision.

Water Supply

Council's reticulated potable water supply is available to the area. Recommended conditions of consent shall require the provision of service in accordance with Council's standards.

There are no concerns raised regarding new connections for each proposed lot.

Lots 7, 8, 9 and 10 will be serviced via an Easement for Services located at the rear of those lots, overlapping with the Right of Carriageway. Water service conduits for Lots 7, 8 and 9 will be required to be laid beside the driveway as part of the subdivision works, due to the minimal area available for provision of services within the ROC/Easement for Services. The location of the water meters for Lots 7, 8 and 9 will be covered by an easement.

Recommended conditions of consent shall require the provision of service in accordance with Council's standards.

Sewer

Council's piped sewer infrastructure is available within the area. There is an existing sewer manhole in the north-eastern corner of the site, and a 225mm gravity main is located along the eastern boundary of the subject lot in the 7(f) environmental zone. Due to the excessive depth of the sewer main it is classified as a trunk main, and individual property connections directly from this main are not permissible.

Matters for mention:

- To avoid extra works within the 7(f) zone, the sewer connection for Lot 7 could be provided at the western side of the lot, via a short dead-end line coming from the manhole within Lot 9 (ie: relocated out of Lot 8).
- The sewer junctions for Lots 8 and 9 will be required to extend beyond the 'Easement for Services' to avoid possible future conflicts with conduits for other services.

Recommended conditions of consent shall require the applicant to provide a service to all lots in accordance with Council's standards.

Electricity

Electricity services are currently provided to the area via Country Energy underground infrastructure. Recommended conditions of consent shall require the applicant to provide services in accordance with the standards of the supply authority.

As Lots 7, 8 and 9 have no street frontage but will be benefited by an Easement for Services, it will be a condition of consent that appropriate conduits be laid within this easement to cater for all service provisioning of those lots, as part of the subdivision works. This is necessary as the Easement for Services overlaps with the Right of Carriageway, with minimal room available for all required conduits. These comments also apply for the following telecommunication provisioning.

Telecommunication

Telecommunication services are currently provided to the area via Telstra underground infrastructure. Recommended conditions of consent shall require the applicant to provide services in accordance with the standards of the supply authority.

Waste/Refuse collection

Lots 7, 8, 9 and 10 are being provided with a designated bin enclosure area within the Right of Carriageway over Lot 10. This arrangement has been accepted by Council's waste contractors Solo Resource Recovery per Solo Resource Recovery letter dated 22.5.2012.

A11-Public Notification of Development Proposals

The proposed development was notified for a period of 14 days from 24 December 2012 to 18 January 2013. Council did not receive any submissions in relation to this application.

B5-Casuarina Beach

The proposed subdivision is not inconsistent with the plan, with the proposed subdivision layout consistent with established subdivision pattern within the Casuarina locality.

The applicant proposed the following comment in relation to Section B5:

"The site has been approved for the development of ninety two (92) one (1) bed tourist accommodation units under development consent DA06/1289. As demonstrated through other developments within Casuarina and surrounding areas demand no longer exists for such proposals and development of such a product on the site is commercially unviable.

Subdivision of the site is consistent with a number of existing approvals issued within Casuarina for allotments that were identified for medium density purposes within the Casuarina master plan. Councils support for lower density development within Casuarina has again been demonstrated within the recently determine consent DA11/0444. This proposal has seen the redevelopment of lots previously approved for medium density uses within the master plan subdivided into low density residential allotments in response to market conditions.

The proposal is consistent with the established approach and will enable the timely, orderly and economic development of the land."

B9-Tweed Coast Strategy

Section B9 provides a broad overview of major strategic planning issues relevant to the Tweed Coast generally.

The proposal is generally consistent with B9 and does not contravene the intended urban structure, centres hierarchy or design principles relating to the Tweed Coast.

B25 – Coastal Hazards

The Aim of this Section are:

- *To provide guidelines for the development of the land having regard to minimising the coastal hazards risks (a function of likelihood and consequence) to development on land in proximity to the Tweed Coast.*
- *To establish if the proposed development or activity is appropriate to be carried out, and the conditions of development consent that should be applied if it is to be carried out, having regard to the coastal hazard lines established in the Tweed Coastline Hazard Definition Study 2001 (as amended).*
- *To minimise the risk to life and property from coastal hazards associated with development and building on land that is in proximity to the Tweed Coast.*
- *To maintain public access to public land on the Tweed Coast.*

The subject site is partially located within the 2100 hazard line shown on the mapping to Section B25. This subdivision will propose Lots 7, 8, 9 and 10 located partially within the 2100 hazard line. As the proposal will be replicating all existing covenant restrictions and will be subject to the provisions of Section B5 of the TDCP 2008. No structures other than coastal themed fencing will be permitted within the parts of the allotments which fall within 2100 hazard line.

The proposal does not compromise the provisions of Section B25 of the TDCP 2008.

(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 considered to be consistent with the relevant provisions of the NSW Government Coastal Policy 1997.

Clause 92(b) Applications for demolition

Not Applicable.

Clause 93 Fire Safety Considerations

Not Applicable.

Clause 94 Buildings to be upgraded

Not Applicable.

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

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. This management plan is applicable to the proposed

development. Appropriate conditions of consent have been applied to ensure that the proposal will comply with the provisions of the management plan.

Tweed Coast Estuaries Management Plan 2004

This Plan relates to the Cudgen, Cudgera and Mooball Creeks and is therefore not applicable to the proposed development.

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

This Plan relates to the Cobaki and Terranora Broadwater's and is therefore not applicable to the proposed development.

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

The proposal is considered not to create significant impacts on the natural and built environments or social or economic impacts in the locality.

Context and Setting

The proposal is considered compatible with the existing density and character of surrounding Casuarina Beach development and locality.

(c) Suitability of the site for the development

The property is/can be fully serviced by all necessary infrastructure (water, sewer, stormwater, electricity and telecommunications), and has easy access to main roads. The site and surrounding properties are zoned for residential development. It is therefore considered that the site is suitable for the proposed development.

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

The proposed development was notified for a period of 14 days from 24 December 2012 to 18 January 2013. Council did not receive any submissions in relation to this application.

Department of Planning and Infrastructure

As noted previously within this report, the Director-General's concurrence has been granted to vary the 40 hectare minimum lot size development standard, subject to no residential, associated buildings or structures permitted on land zoned 7(f).

NSW Rural Fire Services

The subject land is identified as being within a bushfire hazard area. As per the provisions of the Rural Fires Act 1997 and pursuant to Section 100B of the Act, the proposed subdivision was referred to the NSW RFS as Integrated development. The NSW RFS has granted a bushfire safety authority, subject to conditions of consent which have been applied.

(e) Public interest

The proposed development is generally consistent with the applicable environmental planning instruments and the Tweed Development Control Plan. The development is therefore considered to be in the interest of the general public.

OPTIONS:

1. Approve the development application with conditions; or
2. Refuse the development application and provide reasons.

Council officers recommend Option 1.

CONCLUSION:

The proposed development is consistent with the applicable environmental planning policies. The proposal is considered not to result in adverse cumulative impacts on the natural or built environments, with the site suitable for the development.

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:

- 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.

23 [PR-CM] Development Application DA11/0254.05 for an Amendment to Development Consent DA11/0254 for a Shed at Lot 3 DP 211196 No. 385 Terranora Road, Banora Point

SUBMITTED BY: Building and Environmental Health

FILE NUMBER: DA11/0254 Pt1



Civic Leadership

SUMMARY OF REPORT:

At its meeting on 21 June 2011 Council approved a development application for the construction of a shed ancillary to an existing residence on the subject allotment. The plans for the approved development application designate a part one; part two storey shed structure, for storage and garage use with associated shower and toilet facilities.

Pursuant to the requirements of Council's Tweed Development Control Plan (DCP) 2008 - Section A11, it was determined by Council officers that advertising or notification of the proposal was not warranted.

The approval included an objection under the provisions of State Environmental Planning Policy No. 1 (SEPP No. 1) due to the building alignment from Terranora Road (which is a designated road) being less than 30 metres as stipulated under part 5, clause 24 of the Tweed Local Environment Plan 2000 (TLEP 2000). The setback of the approved shed to Terranora Road is 10m to the wall with a masonry feature fin wall encroaching 3m closer to the road.

A key factor in Council's previous support of the encroachment of this front building line restriction was that the site at that time had a relatively dense range of vegetation which was expected to provide a substantial screening of the views of the shed along the site's Terranora Road frontage.

A condition of consent was also imposed to restrict any habitable, commercial, or industrial use of the shed.

Following the initial development consent, the site owner sought a Construction Certificate approval from a private certifier for the shed in November 2011, who was then appointed as the Principal Certifying Authority for its construction. In early 2012 Council received a number of complaints from adjoining owners regarding the commencement of construction, involving alleged unauthorised earthworks and vegetation removal, primarily along the site's frontage to Terranora Road. Council officers investigated these issues, and whilst it was determined that no action was necessary for the vegetation removal, the owner was instructed to seek amended approvals for the unauthorised earthworks and retaining wall.

Throughout 2012 the owner proceeded with the construction of the shed. Further complaints were received from adjoining owners, raising further concerns that the emerging shed structure was not being built and used in accordance with the plans of the original DA consent.

Council officers responded to these concerns with the issue of a Penalty Infringement Notice to the owner in November 2012 for a failure to respond to Council's earlier direction to seek approval for the construction of a retaining wall and other works in the frontage of the subject site. The officers also requested that a Section 96 application be lodged for the apparent differences in the emerging shed construction with the plans of the original DA consent. These differences included relatively minor changes to the external building appearance (windows, doors and masonry feature wall), and a separately partitioned area on the upper level of the shed, for which the owner has advised that this area will be used as an office. The owner was also asked to provide further clarity regarding apparent changes to the overall height and envelope of the shed structure. A stop work order was also issued at the time relating to the unauthorised works.

A Section 96 application was lodged by the owner in November 2012. In accordance with Section 96 of the Act, adjoining and surrounding owners were notified of the application. A total of 7 written submissions were received, objecting to both the original DA and current Section 96 application on a variety of grounds, including a loss of views, visual impact of the size, scale, building style on the sites Terranora Road frontage, loss of amenity through the removal of existing vegetation, traffic safety of the new driveway construction, and a querying of the permissibility of the use of the shed in its emerging form.

In terms of the concerns regarding the use of the proposed shed, Council has received written advice from the owner of the subject property dated 7 March 2013, confirming his intentions to cease an existing tenancy arrangement, and that he would move back the existing dwelling house. This action satisfies the ancillary arrangement between the dwelling house and the shed. In terms of the proposed office use in the shed, the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 currently allows for such a use to be exempt, if it satisfies either of the home business, home industry or home occupation definitions. The home business definition appears to best suit the owners proposed office use in the shed.

Through the amended plans and further clarification of details sought from the owner, the Council officers have assessed and taken account of the concerns raised by adjoining and affected owners, as well as the relevant provisions of the Act and Council's planning controls, and have concluded that the amended building design of the owner's Section 96 application will not result in any substantial increase in planning impacts to that compared with the plans of the original DA consent.

It is therefore recommended that Council supports the Section 96 application, subject to amendments to the conditions of the original DA consent.

RECOMMENDATION:

That:

PART A

- 1. Development Application DA11/0254.05 for an amendment to Development Consent DA11/0254 for a shed at Lot 3 DP 211196; No. 385 Terranora Road, Banora Point be approved and the consent be amended as follows:**

1. **Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:**
 - 1A. **The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 120400 sheets A1.00(C), A1.03(A), A2.00(B), A3.00(B), A3.01(B) prepared by Local Office Architecture and dated Oct. 2012, except where varied by the conditions of this consent.**
2. **Add the following new Condition No. 29A under the heading PRIOR TO ISSUE OF OCCUPATION CERTIFICATE:**
 - 29A. **Prior to the issue of an occupation certificate established landscaping shall be provided to the site to the satisfaction of Council's General Manager or his delegate in accordance with Landscape Plan No. A1.03(A) prepared by Local Office Architecture and dated October 2012.**
3. **Add the following new Condition No. 31A under the heading USE:**
 - 31A. **The partitioned area at the eastern end of the shed shall not be used for any purpose other than storage ancillary to the dwelling or a home business without the consent of Council.**

PART B

A penalty infringement notice be issued to the owner of the property for carrying out building work which is not in accordance with the approved development consent.

REPORT:

Applicant: Mr J Turner
Owner: Turner Property Developments Pty Ltd
Location: Lot 3 DP 211196; No. 385 Terranora Road, Banora Point
Zoning: 1(c) Rural Living
Cost: N/A

Background:

Site Details

The allotment is zoned 1(c) Rural Living under the Tweed Local Environmental Plan 2000 (TLEP 2000), is located on the southern side of Terranora Road, contains an existing two storey dwelling house and swimming pool and slopes downhill from Terranora Road.

The allotment has a frontage to Terranora Road which under the provisions of the TLEP 2000 is classified as a designated road.

The allotment encompasses an area of 2586m² and is accessed from Terranora Road.

Original Development Consent

At its meeting on 21 June 2011 Council approved a development application for the construction of a shed ancillary to an existing residence on the subject allotment. The plans for the approved development application designate a part one; part two storey shed structure, for storage and garage use with associated shower and toilet facilities.

The plans showed a maximum building height of the shed varying between 5-6 metres along the front elevation and 7-8 metres along the rear elevation, although it was difficult to determine a precise height measurement, given the variances between the plan scale and dimensions provided, as well as a reference in the Statement of Environmental Effects stating a "height varying from 7m to 8.6m". The actual maximum height control of Tweed Local Environmental Plan 2000 is measured in number of storeys, for which the proposed part one, part two storey shed complied with the LEP maximum of three storeys.

The total floor area of the approved shed was approximately 245m².

Pursuant to the requirements of Council's Tweed Development Control Plan 2008 - Section A11, it was determined by Council officers that advertising or notification of the proposal was not warranted. Table 1 of the DCP provides guidance for these requirements based on the zone of the land and the development type. In terms of the Rural Living 1(c) zone, a relevant extract of Table 1 is provided below:

Zone	Type of Development	Type of Notification or Advertisement
Rural 1(a), 1(b) and 1(c)	subdivision comprising 5 or more lots all other development except for:- environmental facility dwelling houses and additions sheds, garages and structures ancillary to the agricultural use of the land located on properties greater than 5 hectares in area which are located more than 50 metres from any adjoining property boundary rural workers dwellings development which may be classified as exempt or complying development advertisements/signs agriculture development listed in Clause 7.2	Letter to adjoining or affected owners

It is the officers' interpretation of this Table that as the proposed shed was applied for under DA11/0254 as ancillary to the existing residence, and that the reference to "sheds, garages and structures ancillary to the agricultural use of the land ..." is therefore not relevant to the subject proposal, which negated the need to notify the DA. It was also recognised at the time of the original DA that there was existing vegetation on the site which was expected to substantially screen any visual impact of the shed's appearance along the site's Terranora Road frontage.

The approval included an objection under the provisions of State Environmental Planning Policy No. 1 (SEPP No. 1) due the building alignment from Terranora Road (which is a designated road) being less than 30 metres as stipulated under part 5, clause 24 of the Tweed Local Environment Plan 2000 (TLEP 2000). The setback of the approved shed to Terranora Road is 10m to the wall with a masonry feature fin wall encroaching 3m closer to the road.

A key factor in Council's previous support of the encroachment of this front building line restriction was that the site at that time had a relatively dense range of vegetation which was expected to provide a substantial screening of the views of the shed along the site's Terranora Road frontage.

A condition of consent was also imposed to restrict any habitable, commercial, or industrial use of the shed.

Emerging Compliance Issues During the Construction of the Shed

Following the initial development consent, the site owner sought a Construction Certificate approval from a private certifier for the shed in November 2011, who was then appointed as the Principal Certifying Authority for its construction. In early 2012 Council received a number of complaints from adjoining owners regarding the commencement of construction, involving alleged unauthorised earthworks and vegetation removal, primarily along the site's frontage to Terranora Road. Council officers investigated these issues, and whilst it was determined that no action was necessary for the vegetation removal, the owner was instructed to seek amended approvals for the unauthorised earthworks and retaining wall.

Throughout 2012 the owner proceeded with the construction of the shed. Further complaints were received from adjoining owners, raising further concerns that the emerging shed structure was not being built and used in accordance with the plans of the original DA consent.

Council officers responded to these concerns with the issue of a Penalty Infringement Notice to the owner in November 2012 for a failure to respond to Council's earlier direction to seek approval for the construction of a retaining wall and other works in the frontage of the subject site. The officers also requested that a Section 96 application be lodged for the apparent differences on the emerging shed construction with the plans of the original DA consent. These differences included relatively minor changes to the external building appearance (windows, doors and masonry feature wall), and a separately partitioned area on the upper level of the shed, for which the owner has advised that this area will be used as an office. The owner was also asked to provide further clarity regarding apparent changes to the overall height and envelope of the shed structure. A stop work order was also issued at the time relating to the unauthorised works.

Complaints were also received from adjoining owners in respect of the erection of timber fencing along the southern and eastern boundary of the site, as well as to separate the shed and the existing residence within the subject site. This complaint was referred by Council officers to the PCA for the construction. The PCA advised that the fencing has been erected as Exempt Development under the Exempt and Complying Development State Environmental Planning Policy (SEPP) which allows for fencing behind the building alignment to be built up to a maximum height of 2.2 metres on sloping sites.

Details of the Section 96 Application

A Section 96 application was lodged by the owner in November 2012.

It contained the following modifications from the original consent:

- Garage doors repositioned;
- Sliding door from front elevation removed and replaced with four louvered windows with architectural hood over;
- Two additional windows to east elevation and two additional windows to west elevation to upper level;
- One window to upper floor (south elevation) changed to sliding door;
- Window to ground floor east elevation removed and two sliding doors added;
- Internal wall to upper level repositioned and additional internal walls included;
- Shower toilet and basin repositioned;

- Deck to south eastern corner of shed upper level included (partly completed);
- Concrete floor over storage area changed to timber floor;
- Void for internal stairs from upper level to lower level provided;
- Width of masonry feature fin wall increased by one metre;
- Existing mature vegetation, which would have provided effective visual screening of the shed, has been removed from the front of the site contrary to the advice given in the statement of environmental effects which was submitted in support of the original development application. A Landscaping Plan has been submitted with the Section 96 application which proposes some re-planting for screening purposes along the sites Terranora Road frontage; and
- A maximum building height depicted more accurately, with a height ranging from 5 to 5.8 metres along the front elevation up to 7.7 metres along the rear elevation.

The modified plans for the main part of the shed at both upper and lower level still remains as storage/garage purposes. A separately partitioned area on the upper level of the shed also forms part of the modified proposal. The owner of the site has advised Council that this area will be used as an office, most likely in the form of a home business.

The proposed deck is regarded as being inconsistent with the use of the shed and its retention is not supported.

The Applicant has submitted amended plans which have identified that this deck will be converted to an awning to provide weather protection to the doors beneath.

This awning will be fitted with a sloping metal roof and will therefore be incapable of being used as a deck.

A balustrade has been proposed to protect the sliding doors to the southern side of the upper level.

There are no changes to the floor plan of the lower level and subsequently an amended plan has not been provided. The changes to external windows and doors on this level are identified on the amended elevations.

SITE DIAGRAM:



Locality Plan
 Lot 3 DP 211196;
 No. 385 Terranora Road, Banora Point

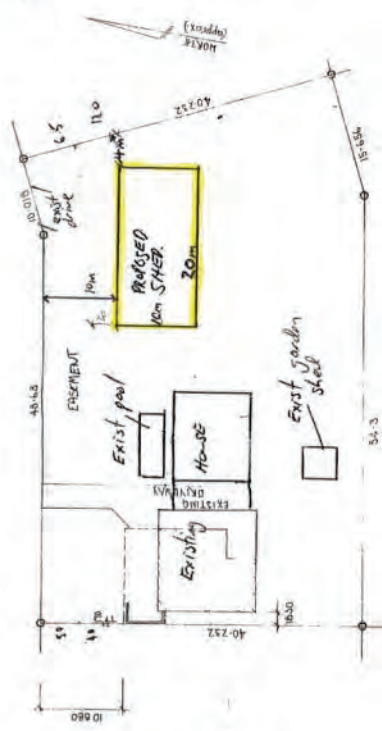
<p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) 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 approximate only. It should not be used for survey or construction purposes and prior to any excavations a 'Call before you dig' enquiry must be made by calling 1500. The information contained on this document remains valid for 30 days only from the date of supply.</p>	<p>Cadastre: 31 December, 2012 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</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>	
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APPROVED PLANS UNDER DA11/0254:

Justin Erner 0421336733

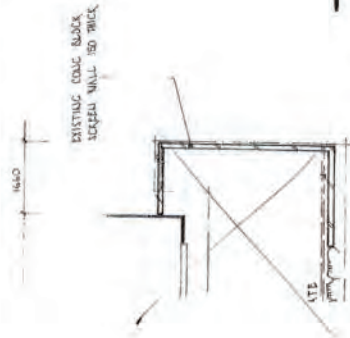
TERRANORA ROAD

1:500



site plan

NOTE: ALL DIMENSIONS TO BE DISCUSSED BY MATHEW TO BE DISCUSSED BY PROFESSOR JOINTED-PIPER, TFO PER GO TO COUNCIL APPROVAL. ALL DIMENSION LINES TO BE DRAWN AND DIMENSIONS COVERED.



EXISTING CONCRETE BLOCK SCREW WALL 150 THICK

ASBESTOS FIBRE GLASS ROOFING

DOWNGOUND TRAPDOOR IN-TILE STEEL ROOF OR SIMILAR

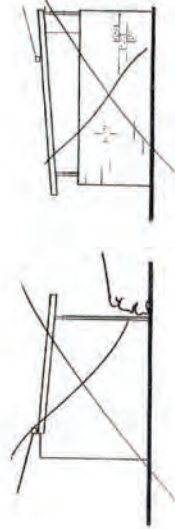
EXISTING SOCIAL WALL

FOUNDATIONS

3100

1640 (70)

elevation to road

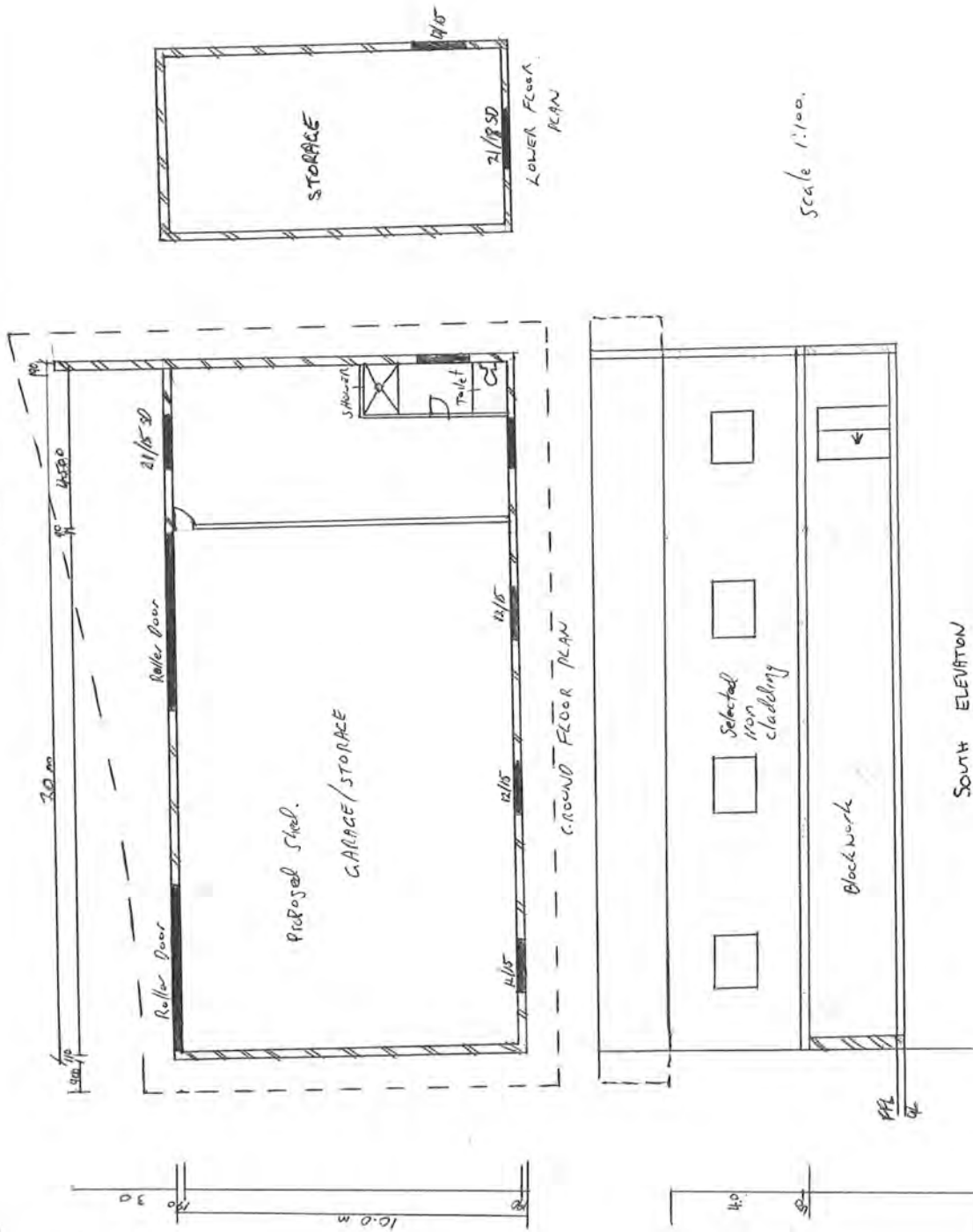


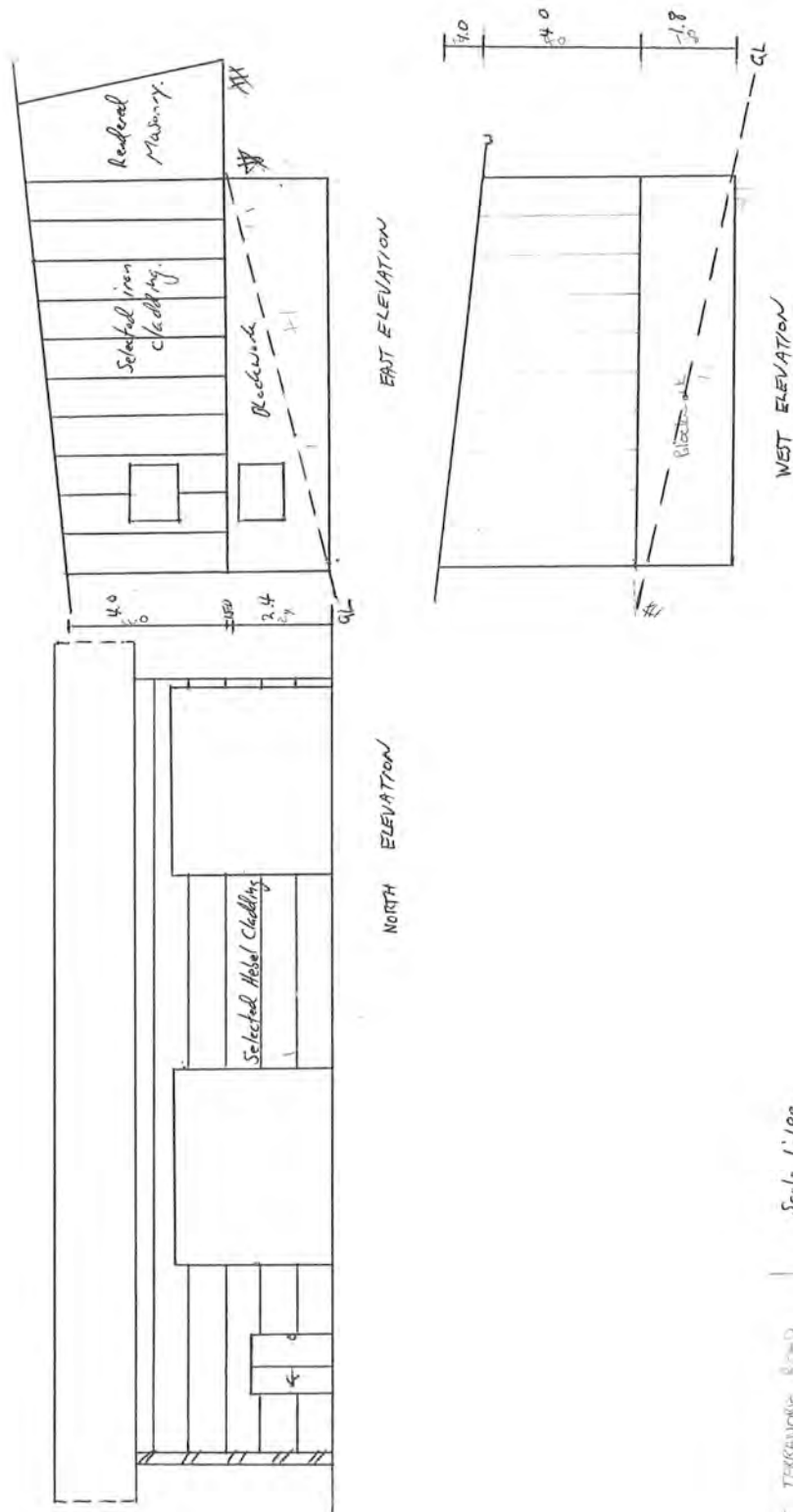
end elevations

3.47% 1:600 150

OK TO SUBMIT
Cristine Ross
May 29 2011 8 AM

IN

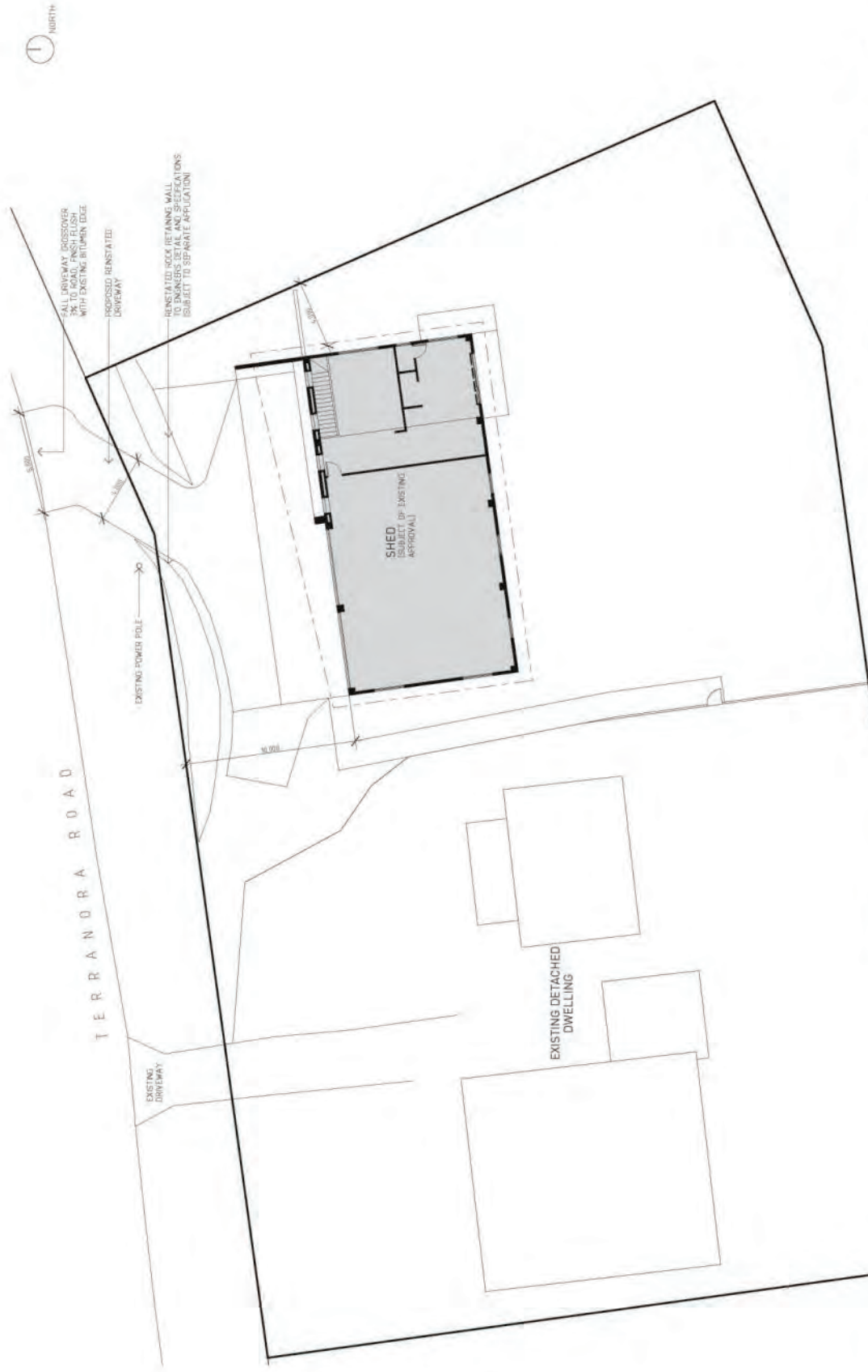




Scale 1:100.

355 TERRANORA ROAD
MANGA POUA LOT 3 D221186
PROPOSED CARPORT - STONSCIE
MR JUSTIN TUMBLE 17-5-11

AMENDED PLANS:



LOCAL OFFICE ARCHITECTURE
 PO BOX 526
 COOLANGUBA NSW 2217
 m: 0428184107
 e: cameron@local-office.com.au

TRANSFORMAL
 A1.00
 ISSUE C

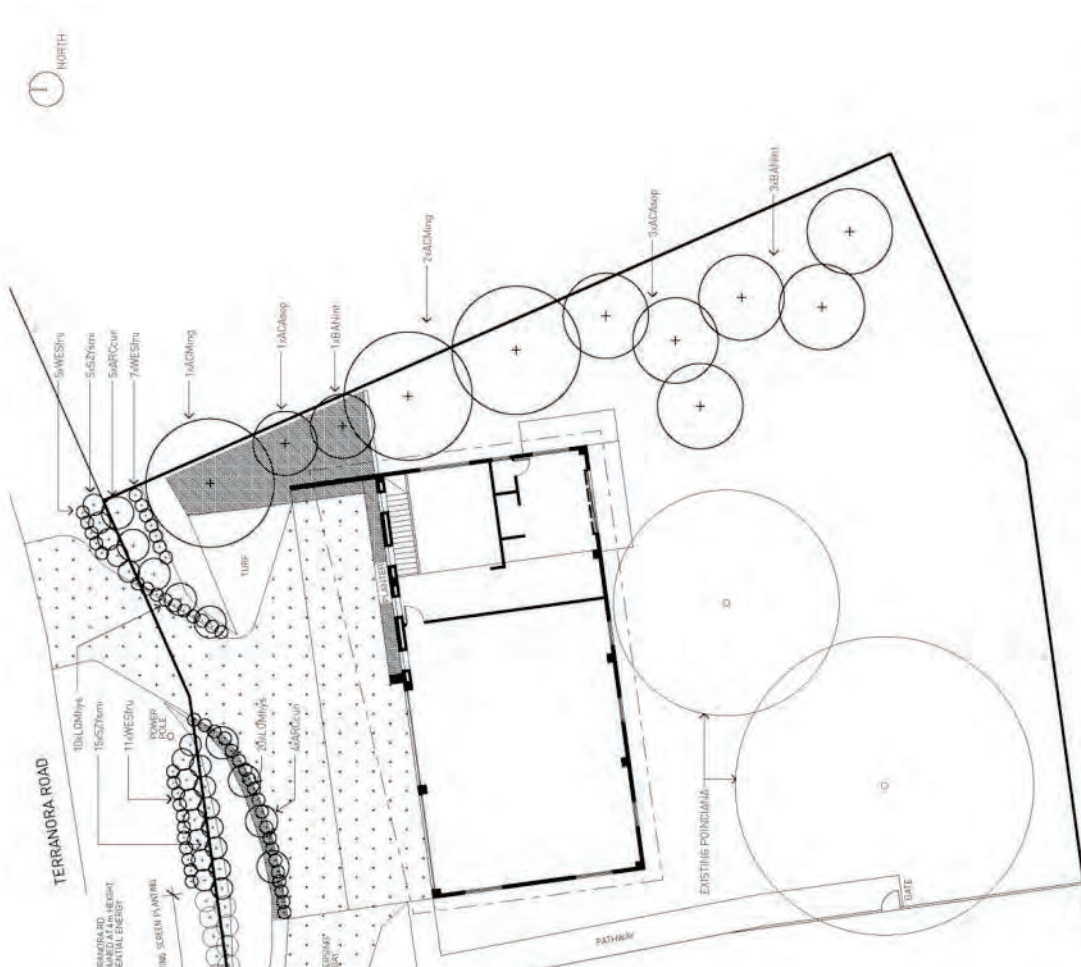
DRAWING
SITE PLAN
 PROJECT NO: 1204/00
 SCALE: 1:200 @ A3
 DATE: OCT 2012

PROJECT
TERRANORA ROAD SHED
 385 TERRANORA RD
 TERRANORA

AMENDMENTS SUMMARY
 DATE ISSUE AMENDMENT
 07/11/2012 # ISSUE FOR SECTION 94 NOTIFICATION
 07/11/2012 # ISSUE FOR DRIVEWAY APPLICATION
 29/08/2012 # REVISED ISSUE FOR SECTION 94 NOTIFICATION ADDRESS

DISCLAIMER
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CLIENT
JUSTIN TURNER



NOTE: THE PLANTING SCHEDULE AND FRANKING IS TO MAINTAIN A LEVEL OF COMPLIANCE WITH ESSENTIAL ENERGY REQUIREMENTS.

APPROX. AREA OF EXISTING SCREEN PLANTING

LANDSCAPE LEGEND

- Concrete
- Turf
- Gravel
- Planting Bed

PLANT SCHEDULE

Code	Qty	Scientific Name	Common Name	Height	Width	Planting Size
9	ARCCoH	Archontophoenix cunninghamiana	Bargulow Palm	8000	2000	250mm
4	ACCaSp	Acacia sophorae	Coastal Wattle	3000	3000	150mm
3	ACMaSp	Acacia ligens	Red Apple	5000	3000	75mm
4	BANHih	Banksia integrifolia	Coast Banksia	5000	3000	150mm
20	SYZem	Syzygium smithii	Friescreen	3000	1500	40mm
45	LDMHya	Lomandra longica	Creek-Mat-rush	1000	800	75mm
30	WESFu	Washingtonia frutescens	Coastal Rosemary	1000	1000	150mm

Ground Covers

CLIENT: JUSTIN TURNER

DATE: 20/12/2013
 SCALE: A
 ISSUED FOR: 500 1000 1500 1000 1500 1000

REVISIONS: None
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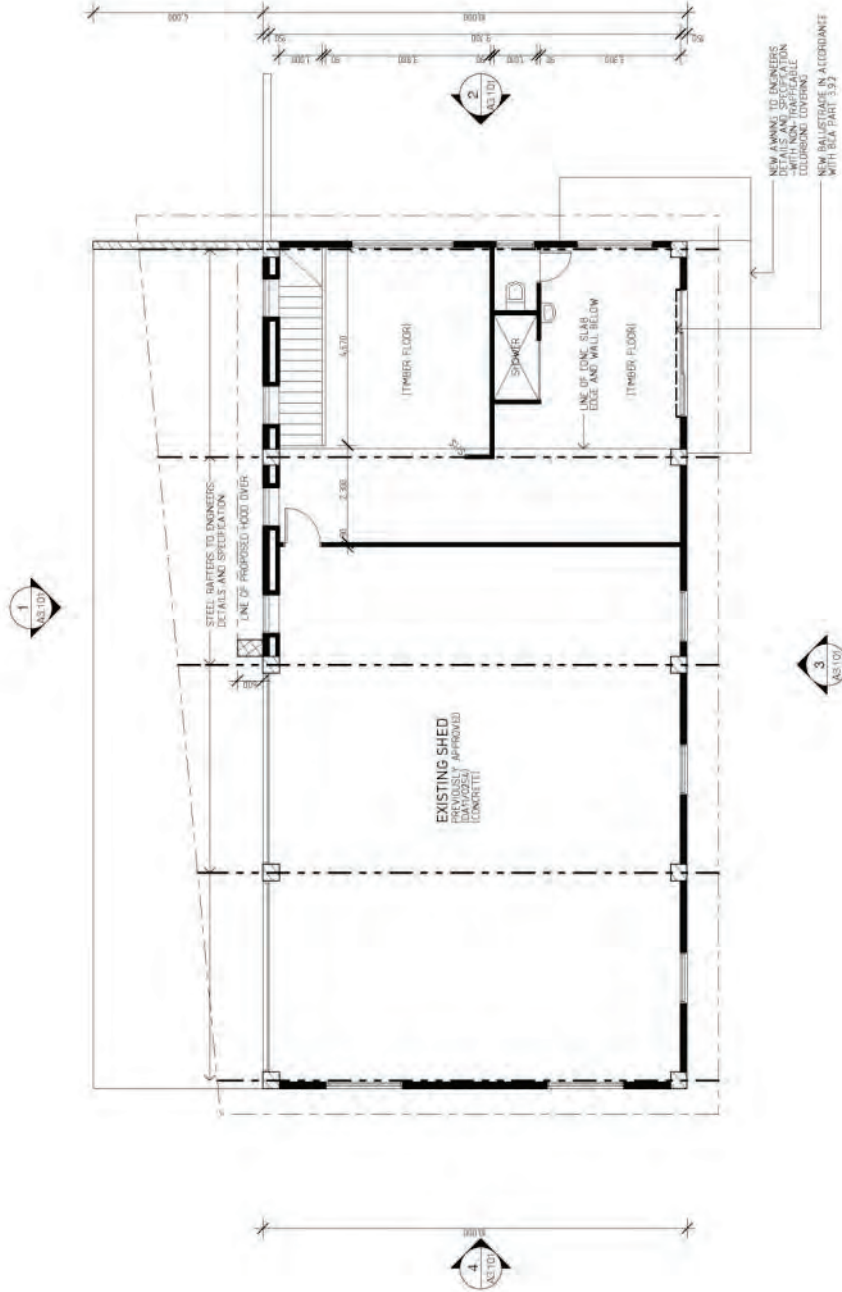
PROJECT: TERRANORA ROAD SHED
 ADDRESS: 385 TERRANORA RD TERRANORA

DRAWING: LANDSCAPE PLAN
 PROJECT NO: 120400
 SCALE: 1:200 @ A3
 DATE: OCT 2012

REVISION NO: A1.03
 ISSUE: A

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DRAWING NO. A2.00
ISSUE B
PROJECT NO. 120400
SCALE 1:100 @ A3
DATE OCT 2012

PROJECT TERRANORA ROAD SHED
ADDRESS 385 TERRANORA RD TERRANORA

ADDITIONAL REVISIONS
 01/11/2012 A ISSUED FOR SECTION 16A MODIFICATION
 29/02/2013 B REVISED ISSUE FOR SECTION 16A MODIFICATION

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 ISSUE **B**

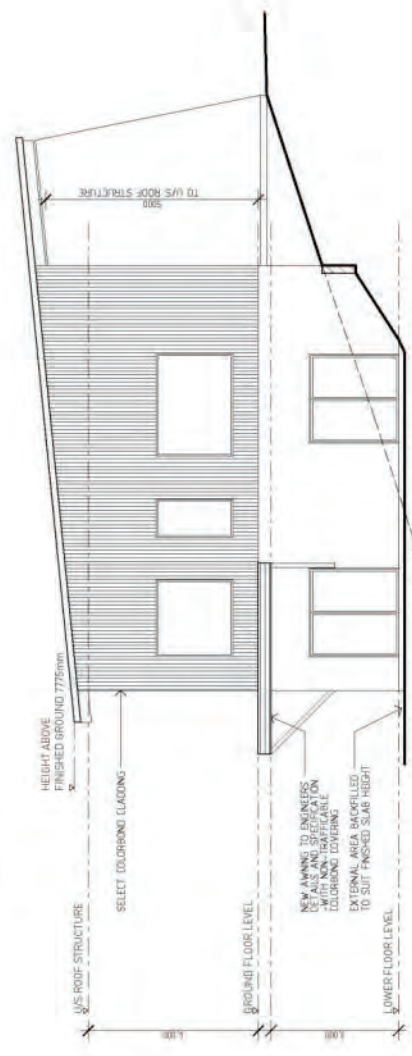
DRAWING **ELEVATIONS 1**
 PROJECT NO. **120400**
 SCALE **1:100 @ A3**
 DATE **OCT 2012**

PROJECT **TERRANORA ROAD SHED**
 ADDRESS **395 TERRANORA RD
 TERRANORA**

AMENDMENTS REGISTER
 DATE 01.11.2012
 ISSUE A ISSUE FOR SECTIONS & MODIFICATION
 DATE 21.03.13 ISSUE B REPOSED CURB FOR SECTION IN MODIFICATION

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A3.01
 ISSUE **B**

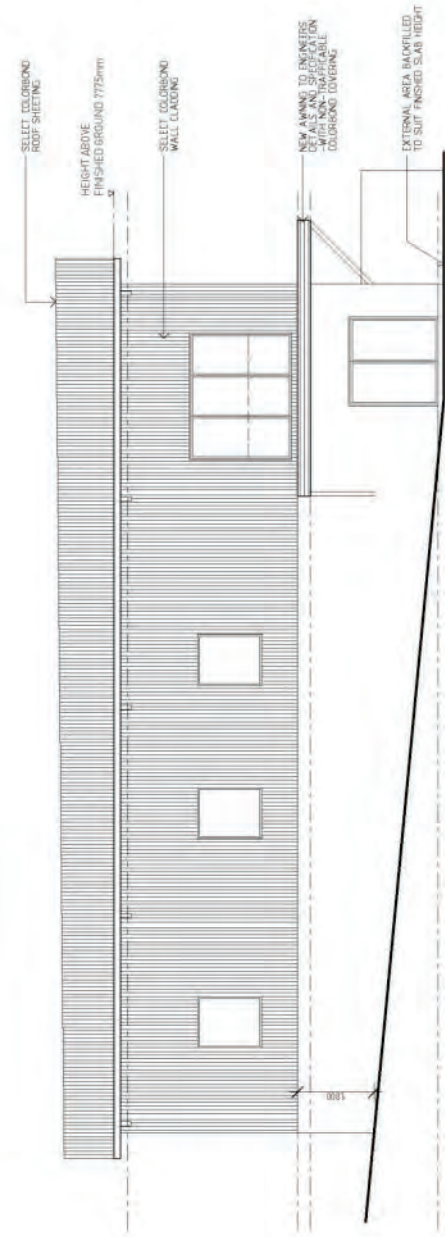
DRAWING
ELEVATIONS 2
 PROJECT NO: **120400**
 SCALE: **1:100 @ A3**
 DATE: **OCT 2012**

PROJECT
TERRANORA ROAD SHED
 ADDRESS
**385 TERRANORA RD
 TERRANORA**

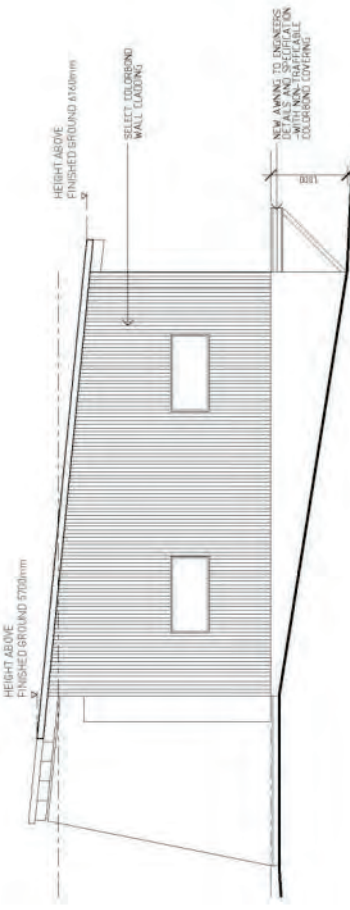
AMENDMENTS REGISTER
 DATE
 08/11/2012
 27/12/2012
 ISSUE FOR SECTION 6A MODIFICATION
 REVISED ISSUE FOR SECTION 6B MODIFICATION

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ELEVATION 3
 SCALE 1:100



ELEVATION 4
 SCALE 1:100

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

The proposed modifications are considered to be consistent with the aims and objectives of Tweed LEP 2000.

Clause 8 – Consent Considerations

The site is zoned 1(c) Rural Living under Tweed LEP 2000. The modified proposed shed is ancillary to the primary residence on the site, and is therefore considered to be permissible under this zoning. A home business use of part of the shed is also permissible under this zone.

The proposed modification is considered acceptable under clause 8 as the proposed use is consistent with the primary objective of the 1(c) Rural Living zone, other aims and objectives of the Tweed LEP 2000 and is unlikely to have an unacceptable cumulative impact.

Clause 11 – The zones

The proposed modification is considered to be permissible and consistent with the objectives of the 1(c) zone.

Any habitable, commercial or industrial use of the shed will need to be the subject of separate approval by Council.

Clause 16 - Height of Buildings

The allotment is subject to a three storey height limit under the LEP.

The modified shed proposal is part one storey and part two storey, which satisfies the LEP height limit.

Clause 24 - Setback to Designated Roads

Terranora Road in this location is a designated road which requires a 30m building setback.

The original approval of the shed was issued by Council after consideration of a SEPP1 variation to this control with a building setback to Terranora Road of 10m to the front wall of the shed with a feature masonry fin wall standing 7m from the front boundary.

The application to modify the consent includes the extension of the feature masonry fin wall a further 1.0m closer to the front boundary.

Due to the position of the shed partly below road level the extension of this fin wall 1.0m closer to the front boundary is not considered likely to have any significant impact on the scenic attractiveness of the locality from the road.

In terms of the road traffic safety aspect of this setback variation and new driveway access from Terranora Road, Council's Engineering and Operations Division are satisfied that the subject proposal will generate minimal concerns.

Clause 35 - Acid Sulfate Soils

The subject allotment has been identified as being affected by Class 5 Acid Sulfate Soils (ASS).

Works carried out in soils which are affected by Class 5 acid sulphate require special consideration where any works within 500m of Class 1, 2, 3 or 4 land which are likely to lower the water table below 1.0m AHD in adjacent Class 1, 2, 3 or 4 land.

The allotment is located about 390m from land which is identified as Class 2 ASS however the proposed modifications to the consent will have no impact on the watertable and therefore will satisfy the objectives of this part.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

SEPP No. 1 - Development Standards

A SEPP No. 1 objection to the 30m building alignment was previously approved by Council. A further SEPP1 objection is not required for a Section 96 application.

SEPP No 71 – Coastal Protection

The subject site falls within the coastal protection zone as identified under SEPP 71 however it is considered that the proposed modification is consistent with the matters for consideration under SEPP 71.

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

The draft Tweed Local Environmental Plan 2012 has been publicly exhibited and is a relevant consideration for development applications and Section 96 applications under Section 79C of the Act.

The proposed shed is permissible under the R5 Large Lot Residential zone of the Draft LEP. The maximum height limit of the Draft LEP for this site is 9 metres. The amended design complies with this requirement.

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

Tweed Development Control Plan (TDCP)

A1-Residential and Tourist Development Code

The original application was assessed under Part A of Section A1 of the DCP, although it is acknowledged that these controls are primarily relevant to residential developments in more built up parts of the Shire.

The DCP controls most relevant to sheds are contained with Design Control 9 - Outbuildings. These controls provide restrictions on the scale and orientation of such structures, although greater flexibility is provided for structures in large lot rural and agriculturally zoned land.

It is considered that the scale and orientation of the proposed shed are consistent with the controls of Design Control 9, and other broader aims and objectives of the DCP.

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

Clause 92(a) Government Coastal Policy

This has been previously assessed. The proposed modifications will have no adverse impact on the aims and objectives of the policy.

Clause 93 Fire Safety Considerations

The proposed modifications raise no fire safety considerations.

Clause 94 Buildings to be upgraded

The proposed modifications do not warrant any upgrading of the existing building.

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

Not applicable.

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

Context and Setting

The size, height and location of the proposed shed are considered to be appropriate in terms of other similar structures approved in this locality. This part of Terranora contains a great mix of more traditional agricultural structures, as well as more contemporary, denser residential development.

Access, Transport and Traffic

The issue of traffic safety impacts have been thoroughly assessed by Council's Engineering and Operations Division, and a new driveway to the shed has been approved by Council's Planning and Infrastructure Unit under application DWY12/0198.

Flora and Fauna

Prior to the emerging construction of the shed, the subject site had substantive vegetative cover, including mature trees, much of which have been since been removed. The owner of the site claims that much of the removal of the vegetation along the site's frontage was carried out by a contractor of Essential Energy to address safety concerns relating to the overhead power lines.

Council's DA Unit compliance officers investigated complaints about the vegetation loss in early 2012. In terms of the Tweed Tree Preservation Order 2011, the officers determined that there was no evidence of the removal of koala food trees or habitat. It was also determined that there appeared to be no contravention of Tweed Tree Preservation Order 1990, noting that both TPOs provide for an exemption from gaining Council approval for the clearing of vegetation within 8 metres of a Council approved building or building site. It was therefore concluded that no further compliance action was considered necessary for these actions.

In terms of the amended proposal, it is recognised that the owner has submitted a Landscaping Plan that involves the re-planting of mature trees and other landscaping features.

(c) Suitability of the site for the development

Surrounding Land uses/Development

The allotment contains an area of 2586m² and is zoned 1(c) Rural Living. Adjoining allotments contain dwellings on large semi-rural allotments, some with sheds however not as large as the shed on the subject lot.

Topography

The site slopes downhill from Terranora Road and the walls of the lower level of the shed were originally designed to be retaining walls.

These walls are now exposed with alternate retaining walls used.

This will impact on the appearance of the eastern elevation only. However as this part of the shed is not readily visible from the roadway this modification is considered to be of little impact on the streetscape or appearance to Terranora Road.

Site Orientation

The orientation of the shed on the site will be unchanged by the modifications.

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

In accordance with the requirements of Section 96 of the Act, adjoining and surrounding owners were notified of the application. A total of 7 written submissions were received.

The main issues raised in these objections are addressed below:

- ***Original development application not notified despite SEPP 1 objection***

As explained in an earlier section of this report, Council officers determined that the advertising or notification of the original DA was not warranted in terms of the requirements of Tweed DCP 2008 Section A11. It was also recognised at the time of the original DA that there was existing vegetation on the site which was expected to substantially screen any visual impact of the shed's appearance along the site's Terranora Road frontage.

- **Two storey shed, 6m high will dwarf existing dwelling houses and will have a severe visual impact on the local area.**

The location of the shed partly below road level and the above screening was considered to be adequate to minimise the impact of the shed on the streetscape.

The dwelling houses which have been constructed on number 373 and 375 Terranora Road which adjoin this site, have a lesser building alignment than the shed and are more prominent in the streetscape than the shed.

- **Original assessment made no mention of the visual impact of the shed.**

The original assessment was carried out on the undertaking in the Statement of Environmental Effects that existing established dense landscaping across the front of the site would be retained. This was expected to provide effective screening of the shed.

In association with the proposed level of the shed below road level it was considered unlikely that the shed would result in any significant adverse visual impact.

- **The original application contained false information which misrepresented the size of the shed.**

Whilst the information in the original DA could have been presented by the applicant in a clearer fashion, there were sufficient dimensions, scale height and setback details to determine the application.

It was evident in the construction of the shed that it was not being built in accordance with the approved development consent.

Council officers have taken appropriate compliance action and have required a Section 96 application to provide due process to assess and consider the plan modifications.

- **The size and design of the shed is inconsistent with the local area.**

This aspect was considered with the original application.

The zoning of the allotment is rural living.

Allotments in this zoning are larger than normal residential allotments and large sheds are consistent with the objectives of the zone to suit the needs of property owners for additional storage, hobbies etc.

- **Structure being built as a dwelling not a shed due to internal partitions, air conditioning, gas bottles, rear deck & bi-fold door access to deck.**

The shed was originally approved with a partitioned area at the eastern end which included a bathroom. The applicant is a builder and wanted an office area where he could do paperwork etc and has the bathroom for ancillary use.

There is no kitchen or laundry nor is there any provision to install these fixtures.

The 'office area' has been provided with air conditioning for the comfort of the occupants.

The gas bottles are to power a hot water system for the shower which has been previously approved.

A condition was imposed on the original development consent that the building was not to be used for any 'habitable, commercial or industrial purpose'.

The rear deck off the office area has not been approved and will not be supported.

The Applicant has submitted amended plans which identify this deck being modified to become an awning which will provide weather protection for the doors to the lower storage level.

The amended plans identify that a metal roof will be provided to the framework of the deck which will eliminate the possibility of the awning being used as a deck.

The amended plans identify that a balustrade, which complies with part 3.9.2 of the Building Code of Australia, will be permanently fixed over the opening in the eastern wall which provided access to the former deck.

- **A fence has been erected between the shed and existing dwelling which effectively subdivides the allotment and makes it easier to use the shed as a separate dwelling.**

The owner has previously leased the existing dwelling on site to a family who own a dog and the fence was erected to provide a 'dog safe' yard for the tenants.

Amended plans have been submitted which identify a pathway between the shed and fence with a gate in the fence which provides a physical connection between the existing dwelling and the shed.

No application has been made to subdivide the allotment.

The owner has recently advised that he will now reside in the dwelling house on the allotment.

- **The existing dwelling on site has been leased which lends weight to the suspicion that the Applicant will live in the shed.**

The Applicant has advised that he will be moving into the dwelling on the property to facilitate the use of the shed as being ancillary to the residential use of the dwelling.

The shed has no kitchen or laundry and is therefore not suitable for residential habitation.

- **The structure looks like an architecturally designed contemporary dwelling not a shed**

The applicant advised that he did not want to construct an industrial type shed on the property as this would detract from the streetscape therefore, as a builder, he wanted something more contemporary and attractive as an example to his clients of the standard of work that he carries out.

There is no Council policy which states that a shed cannot have a contemporary appearance.

- **The proposal will have a significant impact on coastal and river views.**

The site originally contained significant mature vegetation along the front property boundary which screened the site from Terranora Road and surrounding properties. This vegetation would also have resulted in views to the ocean from properties on the opposite side of Terranora Road being restricted.

It is only since the removal of this vegetation that the concerns about coastal views have emerged.

Had this vegetation been retained, as undertaken in the application, the view of the ocean and river (and shed) would have been restricted.

The shed was originally approved with an approximate height of 5.0m above finished ground level to the underside of the roof framing at the front elevation. The modified plans identify that this height is relatively consistent with the original approval, although slightly higher in some parts.

Properties on the opposite side of Terranora Road to the subject site are likely to experience some impact on existing views to the coast as a result of the construction of the shed, however any loss of view will be partial only, and the vast majority of the previously available view will still be accessible.

The increased depth of the masonry feature fin wall by one metre is not considered likely to have a significant impact on views.

It is therefore considered that the proposed modifications to the consent will have no significant additional impact on views and that the structure generally will satisfy established principles of view sharing.

- **The proposal will create a precedent in the area.**

Each application is considered on its merits and therefore it is considered that no precedent will be created.

- **The second driveway to the property is dangerous**

The driveway to the shed was assessed and approved by Council's Planning and Infrastructure Engineer through application DWY12/0198.

Council's Planning and Infrastructure Engineer advised an objector that:

"A second access to a property may be approved if it leads to a structure, ie: dwelling, garage, shed or carport provided compliance with Council specifications is met.

In this instance, the sight line when exiting the property to the right is 119 metres and to the left is 205 metres.

This is consistent with requirements for an 80kph speed environment while Terranora Road is posted at 60kph.

The new access, when formed square to the road edge will be a minimum of 33 metres from the existing access, while Council requires a minimum of 6 metres.

From inspection, it appears that vehicles enter and leave the property in a forward direction, and there is a sealed road shoulder 2.7m wide at this location to provide a safe buffer for turning vehicles. These aspects are favourable in considering the safety issues that you raise."

- **The structure is inconsistent with the original approval and the modifications should be subject to a new development application..**

The relevant scale and extent of the revised design of the proposed shed are considered to be appropriate for assessment under Section 96 of the Act, as opposed to the need to require a new DA.

- **Front façade changed increasing partitioned space at eastern end.**

The front façade of the shed has been changed by:

- Moving the eastern end vehicular door closer to the western door, and
- Deleting the sliding door and replacing it with 4 x panels of louvered windows, and
- Constructing an architectural hood over the louvered windows.

The partitioned space at the eastern end has been increased in width from 4.5m to 6.97m.

The applicant has advised that this area will be used as a home business office.

The removal of the sliding door would make the partitioned area less attractive for use as a dwelling as the only access to the building at ground level is via the vehicular doors.

- **Contemporary features added which are inconsistent with shed.**

The contemporary features such as architectural hood over the front louver windows, fin wall to eastern elevation and colour scheme were intentional features by the applicant to make the shed not look like an industrial building.

These features are considered to be aesthetically pleasing and do not (on their own) render the building suitable for use as a residence.

Council has no policy which mandates that a shed cannot have a contemporary appearance.

- **Shed has no relationship to existing dwelling on site due to its character and style.**

The applicant has attempted to provide a modern contemporary building in lieu of a utilitarian metal shed.

- **Additional retaining walls added.**

The eastern end of the shed was designed to be used as a retaining wall however due to the installation of additional doors to this elevation an alternate retaining wall has been constructed from the front wall of the shed to the eastern property boundary.

The impact of this is that the ground floor level at the eastern end is more prominent however due to the sloping ground and the level of this part of the structure below road level it will have minimal impact on the streetscape.

- **Original application dishonest – why weren't additional windows and doors shown**

The applicant advised that the additional windows and doors were offered to him by the window manufacturer at a significantly reduced price as they were part of a cancelled order and he decided to install them to provide more light and ventilation to the structure.

The additional windows and doors were offered after the application was approved and after commencement of construction of the shed.

- **Landscape screening at front of site removed**

The original development consent for the shed was issued on the undertaking in the Statement of Environmental Effects that the landscaping across the front of the site would be retained.

The applicant advised that the landscaping was removed for the construction of a retaining wall inside the front property boundary to allow for a driveway.

The applicant has further advised that he was prepared to reinstate landscaping to this area to Council's satisfaction.

A landscape plan has been submitted which identifies the reinstatement of landscaping across part of the front of the site and along the eastern property boundary.

- **Send wrong message to community – build what you want and seek modification later.**

The completed structure is not significantly different to the structure which was approved under the original development consent.

The location, size, height and footprint of the building are relatively unchanged and the external cladding is unchanged.

The only external changes are to the number and position of windows and doors and the architectural hood. The applicant has advised that the partly constructed rear deck will be converted into a metal roofed awning to provide weather protection to the doors beneath.

The colour of the shed was not identified at approval stage however a condition of consent was imposed that the wall and roof cladding have a low reflectivity where they would cause a nuisance to the occupants of buildings with a direct line of sight to the shed.

The application to modify the consent was made under part 96 1(A) of the Environmental Planning and Assessment Act 1979 which permits the consent to be modified by Council if:

- 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, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

The applicant is therefore within their rights to submit an application to modify the development consent as the above prerequisites have been satisfied.

- **The section 96 modification should be refused and the original development consent revoked due to misleading information.**

The proposed modifications to the original proposal are not considered to be significantly different from the original approval.

Changes to window and door locations do not significantly change the overall appearance or impact of the structure on the community.

The applicant advised that the shed will be used for storage and the partitioned area for office use and subsequent inspection by Council Officers has not revealed any departure from this advice.

There is no conclusive evidence that the shed will be used as a dwelling therefore the information contained in the application is considered to be accurate.

Under the provisions of part 3.8.3 of the Building Code of Australia a Class 1 building (dwelling) **must** be provided with:

- i. A kitchen sink and facilities for the preparation and cooking of food;
- ii. A bath or shower;
- iii. Clothes washing facilities, comprising at least one wash tub and space in the same room for a washing machine; and
- iv. A closet pan and wash basin.

The shed does not contain a kitchen or laundry facilities and therefore cannot be considered as a dwelling.

The proposed modifications are considered to be reasonable and the application is considered to be worthy of support.

The original development consent was lawfully approved by Council and there is no provision or justification available to Council to revoke the original development consent.

- **Increase in traffic due to use of shed as dwelling.**

The shed is not approved or intended for use as a dwelling therefore the claim of additional traffic generation is speculative only.

- **Shed has no increased parking or turning facilities.**

The floor area of the shed, which is available for vehicular access is about 120m² which would provide adequate area for parking.

The concrete apron in front of the shed contains adequate manoeuvring area for vehicles to turn.

Council's Planning and Infrastructure Engineer, who issued the approval for the additional driveway, advised that vehicles can enter and leave the site in a forward motion.

- **Building is too close to Terranora Road creating traffic hazard.**

Terranora Road is a Council designated roadway which requires a 30 metre building alignment.

The shed was approved at a Council meeting on 21 June 2011. The application warranted a variation under the provisions of SEPP No. 1 due to the 10m building line which was supported by Council.

Dwelling houses at 373 and 375 Terranora Road, which are adjacent to the subject site, have lesser building setbacks from the front boundary than the shed.

- **Additional driveway creates unsafe precedent.**

The additional driveway was approved by Council's Planning and Infrastructure Engineer under application DWY12/0198 after consideration of the merits of the application.

Each application is considered individually and on its merits therefore no precedent is created.

- Excavation for the shed is partly on the adjoining allotment, boundary fence constructed over property boundary, no rainwater disposal or sediment control.

These matters are not relevant to the application to modify the original consent.

The excavation and fencing issues are civil matters between the relevant property owners and not a matter for Council to become involved in.

The issues concerning rainwater disposal and sediment control have been referred to the Private Certifier (Principal Certifying Authority) for follow up action as these matters were included in the original conditions of consent and are the responsibility of the Certifier to pursue.

(e) Public interest

The public interest has been thoroughly examined in this report by consideration of all objections and it is considered that approval of this application would not result in any adverse public interest issues.

OPTIONS:

That Council:

1. Approve the Section 96 application in respect of the modifications to the original conditions of consent; or
2. Refuse the Application, providing reasons for any refusal.

Council officers recommend Option 1.

CONCLUSION:

Following the receipt of various complaints, Council officers have responded to a number of compliance issues in respect of the construction of the approved shed for this site. In this regard, it is noted that the construction is being managed by a private certifier.

The revised plans and "as built" form reflect a structure which are relatively consistent with the scale, height and form of the original approved plans.

It is therefore considered appropriate for Council to support the approval of the amended application.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Refusal of the application may result in an appeal by the applicant in the Land and Environment Court.

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.

24 [PR-CM] Planning Proposal PP12/0001 - No. 420-434 Terranora Road, Terranora

SUBMITTED BY: Planning Reforms

FILE REFERENCE: PP12/0001 Pt1



Civic Leadership

SUMMARY OF REPORT:

This report seeks Council's conditional support for Planning Proposal PP12/0001 No. 420-434 Terranora Road, Terranora. The planning proposal seeks to rezone Lots 2-8 in DP 28597 from 1(b1) Agricultural Protection to 2(a) Low Density Residential under Tweed Local Environmental Plan (LEP) 2000 and R2 Low Density Residential under the Standard Instrument LEP, to permit the construction of a dwelling on each lot.

The request as lodged with Council consists of seven allotments, none of which have a dwelling entitlement, and which are heavily constrained, requiring further investigations to ensure that constraints such as effluent disposal, water supply, stormwater management, access to Terranora Road, and visual impact are adequately addressed to progress this rezoning.

Consistent with the intention of the Gateway planning process to minimise up-front costs to the proponent, it is proposed that, should the landowner agree to enter into a planning agreement, (which guarantees planning outcomes and ensures that critical constraints are addressed to the satisfaction of Council prior to public exhibition), that Council will forward the proposal to the Department of Planning and Infrastructure for an initial Gateway Determination.

Whilst the Gateway determination does not infer concurrence or latent approval of the proposal, it does provide guidance on mandated studies and public consultation requirements should the proposal proceed this far. However, should agreement with the landowner regarding a planning agreement not be reached prior to sending the Planning Proposal to the Gateway, there will be no certainty about planning outcomes, such as provision of sewerage. If this cannot be achieved the planning proposal should not be supported and the rezoning should not proceed to the Gateway.

While this request and Planning Proposal is for seven vacant allotments, an additional four allotments adjoin the site and Terranora Road, which have all previously been developed and contain residential dwellings. These 11 allotments form a remnant of land not zoned at the time that Area E, which adjoins the northern boundary, was rezoned to 2(c) Urban Expansion.

Whilst this planning proposal does not include the four adjoining developed sites, it is considered logical for these sites to be included; however, because these landowners were not included in the original rezoning request, and have not been consulted at this time, it is proposed that the planning proposal as per the initial request be presented to the Gateway for an initial determination, and that discussions with affected landowners for inclusion of the

additional four sites commence and be considered as part of a subsequent review of the Planning Proposal post-Gateway, with a further report being presented to Council.

RECOMMENDATION:

That:

- 1. Council provides conditional support for Planning Proposal PP12/0001 to rezone Lots 2–8 DP 28597 from 1(b1) Agricultural Protection to 2(a) Low Density Residential under Tweed Local Environmental Plan (TLEP) 2000, subject to Recommendations 2, 3, 4 and 5 below;**
- 2. Council officers enter into negotiations with the owner of Lots 2-8 DP 28597, 420-434 Terranora Road, Terranora, for the preparation of a Planning Agreement pursuant to s 93F of the *Environmental Planning and Assessment Act 1979*, which ensures that development of vacant allotments does not occur until such time as critical constraints affecting the site, the number and configuration of allotments are addressed to the satisfaction of Council, and prior to public exhibition of the Planning Proposal, and that ongoing maintenance and management requirements are secured within the planning agreement; and**
- 3. Should the landowner agree in writing to enter into a planning agreement as described in '2' above, that the draft Planning Proposal attached to this Council Report be amended to incorporate an acknowledgement of this concurrence and that the Planning Proposal be forwarded to the Department of Planning and Infrastructure for an initial Gateway Determination; and**
- 4. Should the proponent not agree in writing to enter into a planning agreement prior to forwarding the Planning Proposal to the Department of Planning and Infrastructure for an initial Gateway Determination, that the planning proposal not be referred for a Gateway Determination.**
- 5. Should any one of the critical constraints affecting the site not be resolved to the satisfaction of Council, that the planning proposal not be placed on public exhibition and a further report be prepared for Council's consideration detailing any prevailing issues.**
- 6. Consultation with the landowners of the four adjoining properties, Lot 1 DP 28597, Lots 9, 10 and 11 DP 28597 commence regarding their inclusion within a revised planning proposal post receipt of the initial Gateway Determination for Lots 2-8 DP 28597, and a further report be prepared for Council's consideration detailing the specifics of the consultation and recommendations for proceeding with the rezoning of those properties.**
- 7. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance.**

REPORT:

Background

A request was received on 13 July 2012 from Planit Consulting on behalf of the landowner Mrs Julie Stone for a rezoning of Lots 2-8 DP 28597, No. 420-434 Terranora Road, Terranora, from 1(a1) Agricultural Protection to 2(a) Low Density Residential.

The site consists of seven allotments fronting Terranora Road, each with an area of less than 900m² with a total combined area of 6,020m². None of the lots enjoy an entitlement for the erection of a dwelling.

The site is located approximately 1.8 km to the east of Terranora Village. The site is vacant and slopes steeply to the north away from Terranora Road. The land is surrounded to the north by the Area E urban release area, which has previously been rezoned from Agricultural Protection and non-urban zones to 2(c) Urban Expansion under Tweed LEP 2000. The land to the south has been developed as large lot rural residential subdivision, known as 'Azure'.

An additional four adjoining allotments (one to the east and three to the west), each of which contains a residential dwelling, make up the remainder of remnant allotments not rezoned as part of the Area E residential rezoning, making a total of eleven lots zoned 1(b1) Agricultural Protection north of Terranora Road covering a total area of 1.005 hectares. Refer to Figure 1 Site Locality, and Figure 2 relationship to adjoining land.

In accordance with Council's Schedule of Fees and Charges 2012-2013 and competitive tender process, a Contract for Service was issued to GHD who were successful in tendering for review of the original request, preparation of the draft Planning Proposal and Council Report. Their assessment of the request and Planning Proposal as endorsed by the Planning Reform Unit project manager follows.

Site Context

The Area E urban release area lies directly to the north and downslope of the site. Area E has been zoned 2(c) Urban Expansion and a Development Control Plan has been endorsed but not adopted by Council. Refer to Figure 3 LEP 2000 zones. Figure 4 Proposed Zoning under Tweed LEP 2000 shows the potential rezoning outcome of this planning proposal.

The site was not considered during the environmental, suitability and capability investigations into 'Area E'; as a result, planning strategies such as the Far North Coast Regional Strategy (FNCRS) 2006 and Tweed Urban and Employment Land Release Strategy (TUELRS) 2009 have also excluded the site from their mapping.

The rezoning of Area E excluding the subject site has effectively resulted in a small, fragmented (previously subdivided) rural zoned pocket of land surrounded by existing and proposed residential and rural residential development. The subject site cannot be reasonably, economically or productively used for agricultural uses, nor developed for residential uses due to existing allotment size restrictions and lack of dwelling entitlements.

The proponent has argued that the proposal is justified as the existing zoning is anomalous and that the site's omission from Area E was an oversight. It is also claimed that the attainment of the objectives of the *Environmental Planning and Assessment Act 1979*, primarily the orderly and economic development of the site, is restricted by the existing zoning.

A review of the request to prepare a planning proposal has been undertaken by GHD and Council, with a discussion of the issues presented below:

FIGURE 1: LOCALITY PLAN:



Figure 1. Locality Plan
 Lots 2-8 DP 28597
 Terranora Road, Terranora

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FIGURE 2: AERIAL VIEW OF THE SUBJECT SITE AND PROPOSED ADDITIONAL ALLOTMENTS

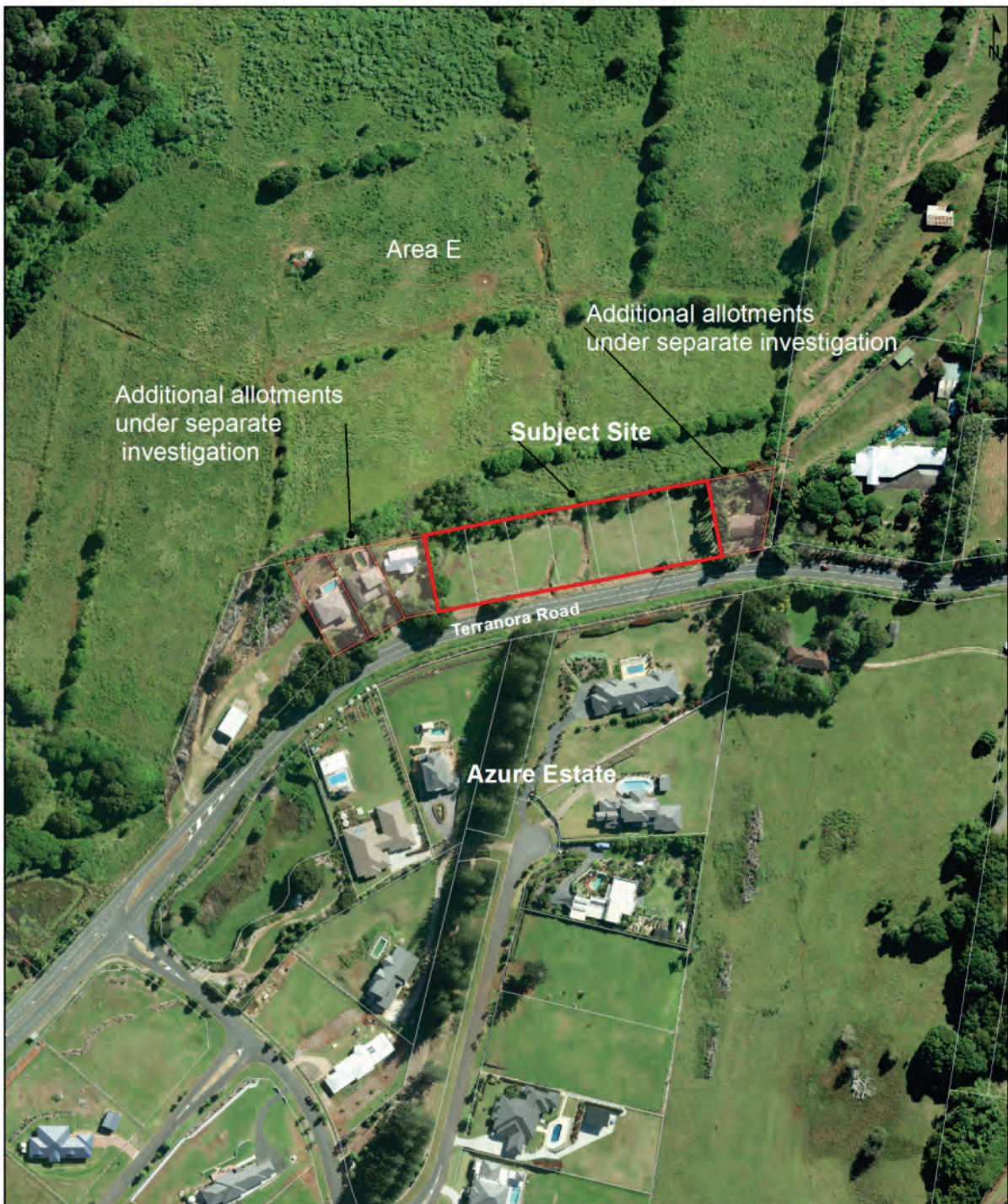


Figure 2. Aerial View of subject site and proposed additional allotments
 Lots 2-8 DP 28597
 Terranora Road, Terranora

<p><small>SOURCE: Aerial imagery taken May 2012 by AAM</small></p>	<p><small>Cadastral: 06 March, 2013 © Land and Property Management Authority (LPMA) & Tweed Shire Council Boundaries shown should be considered approximate only</small></p>	<p>Legend</p> <ul style="list-style-type: none"> Subject parcels Additional Allotments Proposed for Inclusion
<p><small>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 damage) 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 1100. The information contained on this document remains valid for 30 days only from the date of supply.</small></p>	<p>GDA Coordinate System <small>MGA Zone 56 Datum - GDA 94</small></p> <p><small>Date/Printed: 06 March 2013 Author: C. Lewis - Information Technology Unit Filepath: Z:\GIS_data\0062011 to 9006400\0064000\AERIAL_AEP.mxd</small></p>	<p>0 12.5 25 50 M</p> <p>1:2,596</p> <p><small>DO NOT SCALE COPY ONLY - NOT CERTIFIED</small></p>
		<p><small>Civic and Cultural Centre 3 Tumbulgum Road Murwillumbah NSW 2484</small></p> <p><small>PO Box 816 Murwillumbah NSW 2484</small></p> <p><small>T (02) 6670 2400 1300 292 872 F (02) 6670 2429 W www.tweed.nsw.gov.au E planning@tweed.nsw.gov.au</small></p>

FIGURE 3: TWEED LOCAL ENVIRONMENTAL PLAN 2000



Figure 3. Tweed Local Environmental Plan 2000

Lots 2 - 8 DP 28597
Terranora Road, Terranora

ZONING	RESIDENTIAL	BUSINESS	INDUSTRIAL	ENVIRONMENTAL PROTECTION	NATIONAL PARKS & NATURE RESERVES
RURAL 1(a) Rural 1(c) Rural Living 1(b1) Agricultural Protection 2(c) Urban Expansion 1(b2) Agricultural Protection	2(a) Low Density Residential 2(b) Medium Density Residential 2(f) Tourism 2(c) Urban Expansion 2(d) Village 2(e) Residential Tourist	3(a) Sub-Regional Business 3(b) General Business 3(c) Commerce & Trade 3(d) Waterfront Enterprise 3(e) Special Tourist (Jack Evans Boat Harbour)	4(a) Industrial SPECIAL USES 5(a) Special Uses OPEN SPACE 6(a) Open Space 6(b) Recreation	7(a) Environmental Protection (Wetlands and Littoral Rainforest) 7(d) Environmental Protection (Scenic / Escarpment) 7(f) Environmental Protection (Coastal Lands) 7(g) Environmental Protection (Habitat)	8(a) National Parks and Nature Reserves DEFER defer Subject parcels
ADDITIONAL CONTROLS Clause 37 (Transmission Line Corridor) Clause 38 (Future Roads) Clause 41 (Heritage Conservation Area)	Clause 52 (Cobaki)A Clause 52 (Cobaki)B Clause 52 (Existing and Future Dam Areas)	Clause 52 (Minimum Lot Sizes) Clause 52 (Stormwater and Fill) Clause 53 (Schedule 3 Item)	Clause 52 (Pottsville)	Cadastre: 06 March, 2013 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.	

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Datum: GDA 94
Date Printed: 08 March, 2013
Author: C. Lees - Information Technology Unit
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FIGURE 4: PROPOSED TWEED LOCAL ENVIRONMENTAL PLAN 2000

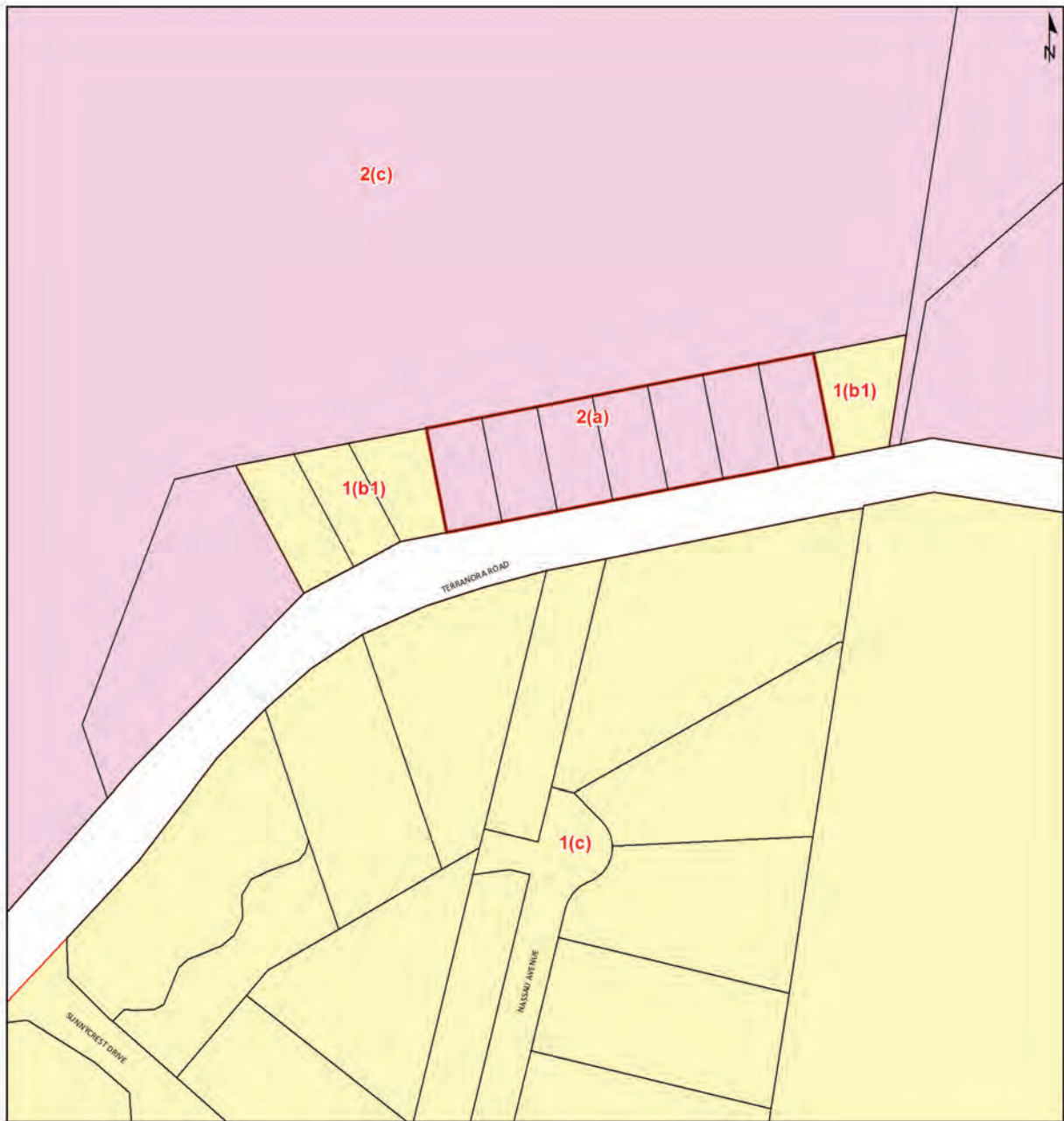


Figure 4. Proposed Tweed Local Environmental Plan 2000
 Lots 2 - 8 DP 28597
 Terranora Road, Terranora

ZONING RURAL 1(a) Rural 1(c) Rural living 1(b1) Agricultural Protection 1(b2) Agricultural Protection	RESIDENTIAL 2(a) Low Density Residential 2(b) Medium Density Residential 2(f) Tourism 2(c) Urban Expansion 2(d) Village 2(e) Residential Tourist	BUSINESS 3(a) Sub-Regional Business 3(b) General Business 3(c) Commerce & Trade 3(d) Waterfront Enterprise 3(e) Special Tourist (Jack Evans Boat Harbour)	INDUSTRIAL 4(a) Industrial SPECIAL USES 5(a) Special Uses OPEN SPACE 6(a) Open Space 6(b) Recreation	ENVIRONMENTAL PROTECTION 7(a) Environmental Protection (Wetlands and Littoral Rainforest) 7(d) Environmental Protection (Scenic / Escarpment) 7(f) Environmental Protection (Coastal Lands) 7(j) Environmental Protection (Habitat)	NATIONAL PARKS & NATURE RESERVES 8(a) National Parks and Nature Reserves DEFER defer Proposed Zone 2(a)
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ADDITIONAL CONTROLS

Cadastre: 06 March, 2013
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Coordinate System
 MGA Zone 56
 Datum - GDA 94

Date Printed: 08 March 2013
 Author: C. Lees - Information Technology Unit
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Scope of Planning Proposal and Consultation with Adjoining Landowners

The request as presented addresses only 7 of 11 remnant rural zoned residential scale allotments along the northern side of Terranora Road. The seven allotments, subject of this planning proposal, request are all vacant; however, one allotment to the east, and three to the west contain existing dwellings have not at this stage been included in this planning proposal.

Consistent with the objective of the *Environmental Planning and Assessment Act 1979* which seeks to promote and coordinate the orderly and economic development of land, it is considered reasonable to include all remnant allotments in the planning proposal. However, at this time, landowners of the adjoining developed allotments have not been notified, and therefore, in line with Council's guidelines which promote consultation and engagement, it is considered appropriate that the original planning proposal be presented for an initial Gateway Determination and that discussions with adjoining landowners commence regarding having all eleven sites included in a revised Planning Proposal post-Gateway.

It should be noted, that due to the extent and significance of constraints affecting the site, which have not been addressed at this stage, and as discussed below, there is no guarantee that all constraints affecting the site can be addressed, and as such, until such time as these constraints are addressed to the satisfaction of Council, a final decision regarding whether the Planning Proposal should be amended to include these additional allotments, and/or proceed to public exhibition cannot be made.

Assuming a Gateway Determination to proceed is received, and investigations into constraints affecting the subject site have been concluded; should they demonstrate an ability of the site to be developed as proposed, or not, and discussions with adjoining landowners concluded, a separate report will be presented to Council.

Constraints affecting the site

Constraints affecting the seven vacant allotments are significant and have the potential to prevent rezoning of the site; these constraints include:

- Lack of connection to Council's reticulated sewerage mains;
- Water supply;
- Stormwater management;
- Access to Terranora Road, and to a lesser degree
- Visual amenity and scenic impact.

Sewerage

No reticulated sewerage or trunk drainage service is currently available to service the site. It is proposed that a two stage approach to managing wastewater disposal be applied, initially through a pressure sewer system pumping across Terranora Road into the system now servicing the Azure Estate on the top side of the road. Once adjoining development within Area E, on the downslope side of the site commenced, the Azure Estate line would be decommissioned and a gravity feed line connected into Area E; however, it is likely to be some time before development within Area E could reach a point where this site could be connected.

The sewerage system currently servicing adjoining development, including Azure Estate, is currently under stress both in the gravity system and in the downstream pumping systems. Development of a computer model of the entire catchment to Banora Point Wastewater Treatment Plant is currently in progress which would enable Council to better consider the

effects of added loads.

The downstream pumping stations and associated pressure and gravity mains are also under stress and may require significant upgrades before further loading can be added. In addition, there are reaches of the sewerage system within the catchment that are overloaded and an investigation into augmentation options has recently been initiated. This study should be completed within the next month and enable Council to better assess the ability of the site to be connected to this system.

If Council were to permit this style of system, it would be on a temporary basis until gravity sewerage reticulation became available in Area E. It would therefore be incumbent on any development of the site to provide the necessary gravity sewerage system within the subject land at development so that the system can be switched over and the pumped system decommissioned at some future date.

Until such time as Council's internal investigations into the capacity of the local reticulated sewerage system is completed, it is not possible to make an assessment of the ability of the proposed development to be connected.

Further investigations by the proponent are required into the ability of any development proposed for the site to be connected to Council's reticulated sewerage system along with resolution of other matters as listed below. Any solution acceptable to Council should be covered in a planning agreement to be prepared by the Council and at the proponent's cost which ensures that development does not occur until such time as connection to Council's sewerage mains is possible.

Should there be no option to provide a sewerage connection, then rezoning of the sites should not proceed.

Water Supply

The proponent asserts that water supply and sewerage services can be provided but has not provided detailed information on available capacity.

A 200 mm water main exists in Terranora Road at the frontage to the site and a domestic level supply could be made available to each lot. It is noted that the seven lots are rated as two individual properties and have been paying a water access charge. Accordingly, should more than two of the lots require a water service, Local Government Act S64 charges would apply to five of the seven lots.

Council's Water Unit has advised that there is overloading of the Rayles Lane Small Reservoir which has a theoretical supply for about 500 persons but currently has a load equivalent to 1000 persons. There is no current back-up generator and it is conceivable that it may run dry during a power failure coinciding with peak demand. The addition of this site would exacerbate this situation but Council's Water Unit intends to investigate solutions to this problem in the coming years as sections of Area E adjoining Terranora Road, and immediately adjoining the downslope side of this site, may also require service from the reservoir.

Further investigations into the ability of the site to be connected to Council's water supply will be required and resolved to the satisfaction of Council prior to public exhibition.

Stormwater

A significant upstream catchment discharges runoff onto the site through a 300mm pipe located under Terranora Road. Because of the soil type, slope and lack of vegetation in the flow lines, overland flow through the site has created significant gullies and scour areas as seen in Figure 6 below.

FIGURE 6: EXISTING SCOURED DRAINAGE LINE BELOW PIPE OUTLET UNDER TERRANORA ROAD



Recent heavy rain resulted in runoff from the catchment sheeting across Terranora Road at this location for a distance of more than 30 metres prior to scouring the shoulder of the road and entering the subject site. Management of surface flows must be addressed in any final proposal for the site and prior to any rezoning of the site.

The current proposal shows drainage lines from the 300mm pipe and sheet flow crossing the road running through the central allotment, the same allotment within which it is proposed to construct the site access, plus a potential dwelling house.

The engineering report accompanying the planning proposal request proposes upgrading the road drainage to cater for a major (100 year ARI) event, and continuing this piped system around the driveway structure and through the site. This approach is hard to justify under Council's adopted drainage specifications and Subdivision Manual, which aim to preserve overland flow paths and not alter catchments significantly. Such alterations to the flow regime may also have significant downstream impacts by concentrating sheet flow, and further constrain the development of the already urban zoned land to the north.

Maintenance of the proposed drainage line would be problematic given the retaining walls and changes in grade that would be encountered.

As the planning proposal is contingent on such major drainage work, it is not supported in its current form.

Further investigations are required to address the risk of locating a house in an overland flow path. In addition, the design of the proposed shared driveway access conflicts with this outlet and means that the preservation of overland flow paths is not possible.

In addressing access to the site and stormwater management issues, modifications would need to be made to the planning proposal to facilitate a drainage easement through the site which could accommodate both low flows through the existing 300mm pipe under Terranora Road and overland flow should the capacity of the pipe be exceeded and flood waters surge across Terranora Road, as was the case recently. The ultimate location of this easement requires further investigation by the proponent should they agree with such an option, and is likely to necessitate a reconfiguration and consolidation of the existing lots.

While not supported in its current form, alternatives to the concept proposed may exist which have not been investigated by the proponent at this time, which could include alternate locations for the road access, drainage easement, the number of lots and allotment configuration.

Any solution acceptable to Council would require a planning agreement to be prepared by the Council at the proponent's cost ensuring that rezoning did not occur until such time as revised site plans demonstrated an ability to accommodate stormwater flows through the site without adversely affecting potential development on the site or downslope properties.

Traffic and Access

The proponent concedes that individual driveway accesses to each lot would be unachievable due to the steep frontages and potential impacts on Terranora Road. A shared driveway from a single access point to Terranora Road within a right of carriageway (ROW) is proposed to overcome this (see Figure 7 below).

An engineering design has been provided by the proponent for this shared driveway. This is an extensive structure with tiered retaining walls up to 3.7m combined height (2.5m + 1.2m). The footprint of this structure is so significant that it takes up over half the depth of many of the allotments, leaving little room for building pads and useable open space. The location of the driveway also interferes with existing piped and overland stormwater paths.

Maintenance of shared driveways is often problematic, and major issues are foreseeable with such significant retaining structures, slopes, landscaping etc.

The development of the site is constrained by the 30 metre setback requirement to Terranora Road, being a designated road. This eliminates almost the entire depth of these lots from buildings, but ensures that the operation of the designated road is not compromised and that traffic noise impacts are reduced for any development of the site. Despite this, existing dwellings adjacent to the site have been constructed well within the 30 metre setback. This setback would no longer apply following rezoning to residential.

The proposed access arrangements to Terranora Road are not supported by Council's Planning and Infrastructure Engineer.

Whilst the proposed access arrangements are not supported by Council's Planning and Infrastructure Engineer, a range of options may exist to relocate the shared driveway access, which may include relocation further to the west or provision of two separate driveway access points either side of the drainage line, thereby reducing the extent of cut and fill required to service proposed lots.

Given the difficulties identified for the proposed access, and potential for alternative locations which have not yet been explored, further investigation of alternative locations for site access should be explored by the proponent. Should a suitable alternative access arrangement be designed that meets Council's requirements for the site, a planning proposal prepared by the Council at the proponent's cost would be required to ensure that maintenance, and no future claims for access direct to Terranora Road from individual allotments created would occur.

Visual Amenity and Scenic Impact

Because the site is one of the last remaining undeveloped and un-vegetated sites adjoining the northern, downslope side of Terranora Road, passersby are able to experience extensive views across the site towards the Terranora Broadwater, Tweed Heads and the Gold Coast.

Terranora Road lies at approximately 127.5 metres Australian Height Datum (AHD) whilst the site slopes from 126.5 to 116 metres AHD. The proposed building pads nominated in the planning proposal are at 120.35 metres (Lots 2-6), 122 metres (Lot 7) and 123 metres AHD (Lot 8) respectively.

Tweed DCP 2008 allows a maximum building height of 9 metres for residential dwellings. Any dwellings constructed on the site to 9 metres in height would therefore extend to 129.35 metres (Lots 2-6), 131 metres (Lot 7) and 132 metres AHD (Lot 8) respectively.

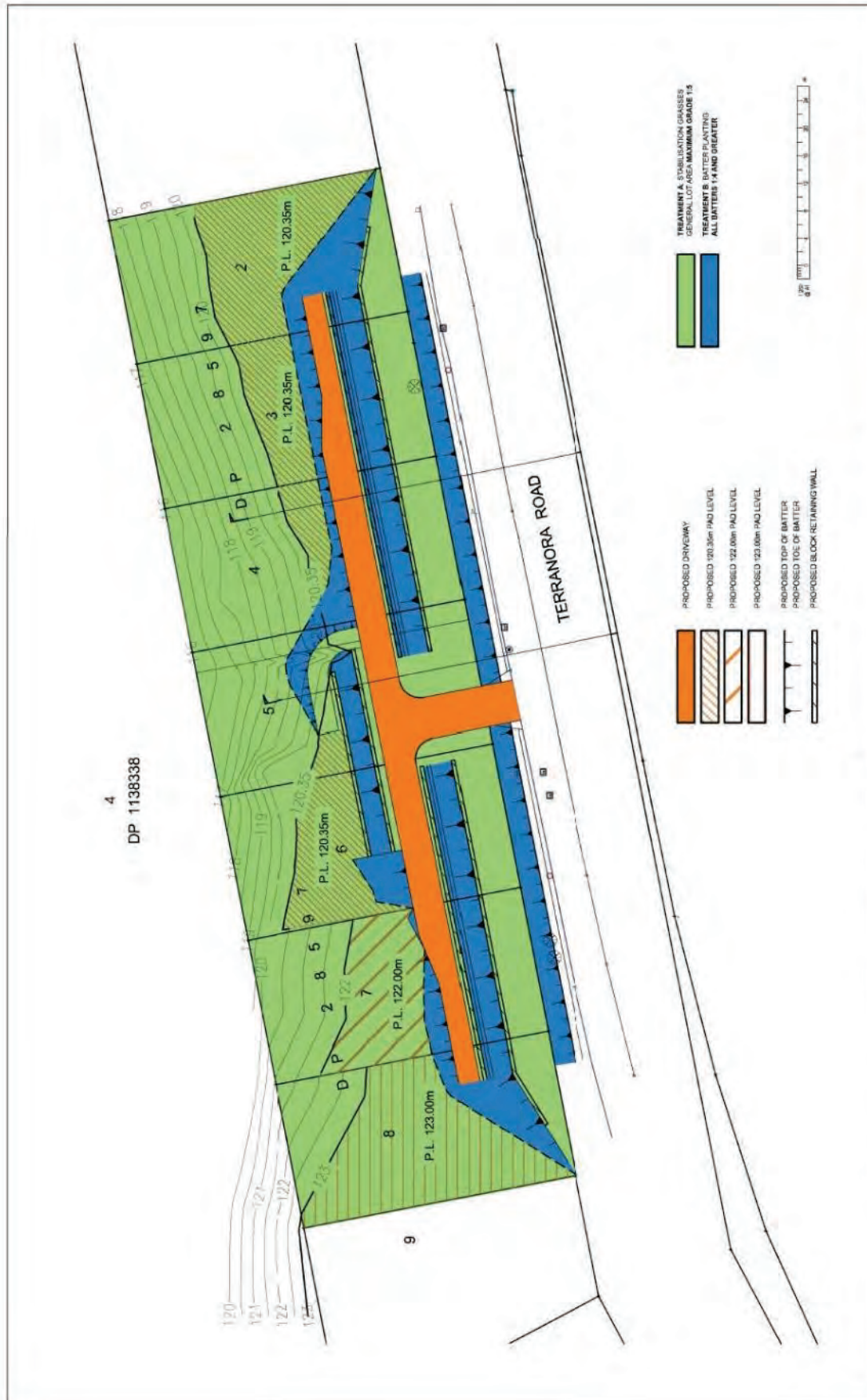
Dwellings constructed to 9 metres in height on Lots 7 and 8 in particular would therefore obscure the views from Terranora Road towards the Terranora Broadwater, Tweed Heads and the Gold Coast. It should be noted however that Terranora Road, in the vicinity of the site, does not offer any public vantage points (i.e. rest areas, lookouts, parking bays etc) to allow locals or visitors the opportunity to take advantage of this view and therefore this impact is not considered to require any mitigation.

The two existing dwellings immediately south (Lots 16 and 19 DP 1092500), on the upslope side of Terranora Road within the Azure Estate which have views over the site have been constructed at approximately 131 metres and 130.5 metres AHD respectively. Views would continue to be available from these dwellings over Lots 2 – 6 with minor obstructions over Lots 7 and 8 should dwellings on these lots be built to the maximum 9 metre building height, with interrupted views still available between potential dwellings on these lots.

Given the already developed nature of the northern side of Terranora Road, infill development of this site is consistent with existing development in the area. The potential impact of construction of dwellings built to the maximum 9 metre height limit on public vantage points or on any existing private dwellings is expected to be minimal and as such, the only restrictions on building heights for the site would be the standard maximum 9 metre height control.

Further investigations and assessment will be required into building heights, materials, form and colour at the development application stage should the rezoning proceed.

FIGURE 7: PROPOSED DEVELOPMENT CONCEPT SHOWING THE EXTENT OF EARTHWORKS ON EACH PROPOSED ALLOTMENT



TITLE

Teranora Road
LANDSCAPE TREATMENT 01

DETAILS

Scale: As Shown
Drawing No: TR_LC_01
Date: May 2012
Base Provided by: OPUS

Drawn: JB
Checked: AS
Issue: A

NORTH

PLANIT

1

Lot Configuration and Earthworks

As a result of the extensive earthworks required to accommodate the shared central driveway, and need to accommodate overland flows, only limited area exists for building pads and associated private open space within each of the middle allotments, as seen in Figure 7. The limited size of each building pad also restricts the type and form of dwellings on each lot.

Given the nature and severity of constraints affecting the site, a reconfiguration of allotment boundaries and some consolidation may be necessary to ensure that sufficient useable land is available for building pads and open space within each lot.

Subject to the resolution of the shared access driveway, this reconfiguration and consolidation, which may result in a reduction of allotments, needs to be agreed by the proponent and be identified in a planning agreement for the site (prepared at the proponent's expense) prior to public exhibition.

Should the rezoning proceed without such an agreement, then it would automatically infer a dwelling entitlement to each and every existing allotment regardless of the ability of each allotment to accommodate a dwelling or not. This would be highly undesirable given the extent and potential risks associated with development as discussed above.

Landscaping

Proposed site works in particular associated with the shared access road, are likely to result in very steep, exposed batters, close to Terranora Road creating potential safety issues. As part of the overall site management and ownership of a shared access, a right of carriageway and any landscape works undertaken within Council's road reserve would need to be maintained by the residents. Council would still retain all rights over the land and the landscaping but the day-to-day maintenance thereof would be undertaken through an agreement with the residents and written into the title.

Contamination

Pursuant to State Environmental Planning Policy (SEPP) No. 55, land must not be developed if contamination renders it unsuitable for a proposed use. If the land is unsuitable, remediation must take place before the land is developed.

The proponent has advised that the lots which make up the site were created by way of subdivision in 1958 and have remained vacant since this time. Prior to this time it is understood the area was used for grazing only due to site topography.

Given the limited information presented by the proponent, a Phase 1 assessment would need to be submitted prior to public exhibition in accordance with the requirements of SEPP 55 – Remediation of Land.

Cultural Heritage

Aboriginal cultural heritage has not been considered. Pursuant to Council's Guideline – *Planning Proposal Process and Procedure – Amending a LEP*, an Aboriginal Cultural Heritage 'Due Diligence' Assessment ("an ACHA") must be prepared with a planning proposal. In addition to the bare requirement to prepare an ACHA, the landowner is to also prepare an assessment report, including consultation with the local Aboriginal Advisory Committee (AAC) and a response to any matters that arise, prior to a request for a planning proposal being made. The proponent would need to provide this additional information in order to progress the rezoning.

Plan Making Provisions

As a result of recent changes to the NSW Department of Planning and Infrastructure's (DP&I) plan-making provisions Council is now required to nominate whether it seeks the delegation powers from DP&I to make the Planning Proposal.

Due to the as yet unresolved nature and complexity of constraints affecting the site, and scale of the proposal as presented in this report, it is considered appropriate to request that plan-making delegations remain with the DP&I.

CONCLUSION:

The proponent has requested that Council prepare a planning proposal to have seven vacant allotments at No. 420-434 Terranora Road, Terranora rezoned from 1(b1) Agricultural Protection to 2(a) Low Density Residential under Tweed LEP 2000.

The planning proposal request for the seven vacant allotments relies heavily on engineered solutions to resolve significant constraints affecting the potential future development of the site including lack of sewerage services, water supply, substantial earthworks and retaining walls, access to Terranora Road, limited building envelopes, and, stormwater management.

Given the extent and significance of constraints affecting the site and the lack of investigation into these issues, yet the potential for the site to be developed to some extent, and ability to rationalise zoning of these remnant allotments, conditional support only is proposed at this time.

Should the vacant sites be rezoned prior to addressing constraints mentioned above, an automatic dwelling entitlement would be inferred to all allotments which could have significant adverse impacts both for potential purchasers and Council.

To ensure that all significant constraints affecting the site, allotment numbers and configurations are addressed to the satisfaction of Council, it is proposed that Council officers enter into negotiations with the landowner for the preparation of a planning agreement through which site constraints are addressed to the satisfaction of Council, and certainty about planning outcomes for the site are guaranteed to the benefit of the landowner and Council. Should such an agreement not be achieved, the planning proposal request as received should not be supported.

Should the landowner agree to enter into a planning agreement, then it is recommended that the planning proposal for rezoning of Lots 2-8 DP 28597 from 1(a1) Agricultural Protection to 2(a) Low Density Residential be referred to the Department of Planning and Infrastructure for an initial Gateway Determination.

COUNCIL IMPLICATIONS:

a. Policy:

The site has not been identified within the Far North Coast Regional Strategy (FNCRS) and is located outside of Area E in the Tweed Urban Environmental Land Regional Strategy. The planning proposal is therefore considered to be inconsistent with the objectives and actions within these strategies. The FNCRS allows for inconsistency where they are minor and don't undermine the intent of the strategy. Given the small scale of this planning proposal and the opportunity to rationalise zoning boundaries, it is regarded as minor.

The basis of this report is to seek Council's conditional support to the planning proposal, subject to further post-Gateway determination, and the preparation of a planning agreement.

The modifications to the planning proposal are required to comply with Council's policies and guidelines in relation to traffic and access, stormwater, water and sewerage.

b. Budget/Long Term Financial Plan:

The costs associated with progressing the planning proposal will be borne by the proponent in accordance with Council's adopted Fees and Charges Schedule 2012/13.

c. Legal:

There are no appeal rights available to proponents for planning proposals seeking the rezoning of land under the *Environmental Planning and Assessment Act 1979*. However, should Council refuse to proceed with the planning proposal there is an avenue for an applicant to seek a review of this decision by the Department of Planning and Infrastructure. There are no legal implications associated with the planning proposal.

d. Communication/Engagement:

Inform - We will 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
- 1.5.3 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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1: Planning Proposal (Gateway Version) (ECM 64417147)

25 [PR-CM] Planning Proposal PP11/0005 Club Banora, Leisure Drive, Banora Point

SUBMITTED BY: Planning Reform Unit

FILE REFERENCE: PP11/0005 Pt2



Civic Leadership

SUMMARY OF REPORT:

A planning proposal has been received from Darryl Anderson Consulting Pty Ltd on behalf of Twin Towns Services Club for the rezoning of Part Lot 2 DP 1040576 Leisure Drive, Banora Point. The site is currently zoned 6(b) Recreation and the request is that it be changed in part to 3(b) General Business zone under the Tweed LEP 2000. The rezoning will facilitate commercial/retail development comprising a supermarket, speciality shops and a car park.

Council resolved to prepare a planning proposal at its meeting of 13 December 2011, subject to the prior execution of a costs and expenses agreement, which occurred on 20 August 2012.

This report seeks Council's support of the rezoning application and recommends the attached Planning Proposal be forwarded to the Department of Planning and Infrastructure (DP&I) for a Gateway Determination.

The site is currently known as 'Club Banora', was constructed in the early 1980s and comprises an 18 hole golf course, licensed club (with a GFA of approximately 7000m²), bowling greens, tennis courts, heated Olympic pool and wading pool and approximately 700 onsite car parks. 'Club Banora' occupies a site of approximately 60.1 hectares.

The proposal will essentially be an expansion of the existing Banora Shopping Centre, with the master plan for the development presenting elements that integrate development with the existing shopping centre adjacent to the site. This will increase competition for the existing businesses and broaden the shopping services to the local community. An economic assessment of the proposal suggests that there will be some impact on the existing Banora Shopping Village and other centres as a consequence of the development. However, the Planning Proposal will facilitate permanent employment generating activity and will not result in a loss of employment positions or employment generating land.

Although the site is low lying and affected by the 1 in 100 year flood event and is within the 25-30 ANEF (aircraft noise exposure) zone, preliminary assessment indicates that the site is suitable for the proposed zoning and development.

One issue that will need further investigation as part of any advancement of this Planning Proposal relates to a major drainage easement that is located along the eastern boundary, adjacent to Banora Shopping Village. This drainage infrastructure forms part of Council's broader Eastern Drainage Scheme for the Banora region. The easement includes culverts relating to the existing drainage network. The proponents have advised that the easement is not

proposed to be changed as part of the redevelopment proposal, but will need to be considered any future design details.

The Planning Proposal is considered suitable for referral to the DP&I's 'Gateway Determination' process for the Director-General's consideration about whether to prepare a draft local environmental plan amendment.

RECOMMENDATION:

That:

- 1. Planning Proposal PP11/0005 to rezone Part Lot 2 DP 1040576 (a total of 30,000m²), Leisure Drive, Banora Point to facilitate commercial/retail development be forwarded to the Department of Planning and Infrastructure for a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979*, and**
- 2. Upon receipt of a Gateway Determination, to undertake all necessary investigations and reports, consultation, and public exhibition as required by the Gateway Determination and Council.**
- 3. The Minister for Planning and Infrastructure be advised that a delegation of the Plan Making functions is not being sought in this instance.**

REPORT:

Background

The Proponent states in its Planning Proposal (PP) request that due to significant changes in the club industry relating to poker machines, indoor smoking and increased taxation, the continued operation of Club Banora as a viable standalone entity in the Twin Towns Group is not possible in the current format. The Club is in a financial predicament and therefore has decided to redevelop Club Banora to ensure its long term viability. As a result of this redevelopment it will have excess land that it considers is suitable for retail purposes.

The whole site will be redeveloped with the master plan for the site including the following:

1. A smaller Club building partly suspended over the existing lake with a gross floor area (GFA) of 3,820m²;
2. Function centre on the island;
3. Relocation of the tennis courts;
4. Relocation of the bowling greens;
5. A proposed sports club including gym, squash, billiards and table tennis;
6. A retail development adjacent to Leisure Drive (supermarket and specialty shops);
7. Reconfiguration of the existing car parking and access arrangements, and
8. Landscaping throughout the site.

All of the proposed development is permissible in the 6(b) Recreation zone except for the retail component.

In 2010, the proposal was being dealt with as a Part 3A project. A formal Request for Authorisation of a Concept Plan was lodged with the Department on 2 March 2011. The Executive Director of the Department agreed to the request on 25 March 2011 and authorised the preparation of a Concept Plan. A formal letter would not be issued until after the State Election.

Twin Towns Services Club received a formal letter on 16 June 2011 advising that the Club Banora Concept Plan Authorisation was one of the projects cut from Part 3A because it had not reached the stage of Director General Environmental Assessment Requirements having been issued.

Twin Towns Services Club subsequently lodged a formal Planning Proposal request with Tweed Shire Council on 25 August 2011.

Variations to the Planning Proposal request

The original master plan and attached Planning Proposal request for the site also included an aged care development with a GFA of approximately 11,000m².

Following consultation with Council staff on the proposal, flooding was identified as a critical limiting factor for the aged care component under Tweed Council's Flood Risk Management Policy (2007). As the site is flood prone the aged care units needed a refuge in place and permanent high level evacuation route. The proponent could not demonstrate a means of creating a permanent high level evacuation route from the subject site to land above the probable maximum flood.

FIGURE 1 - LOCALITY PLAN:

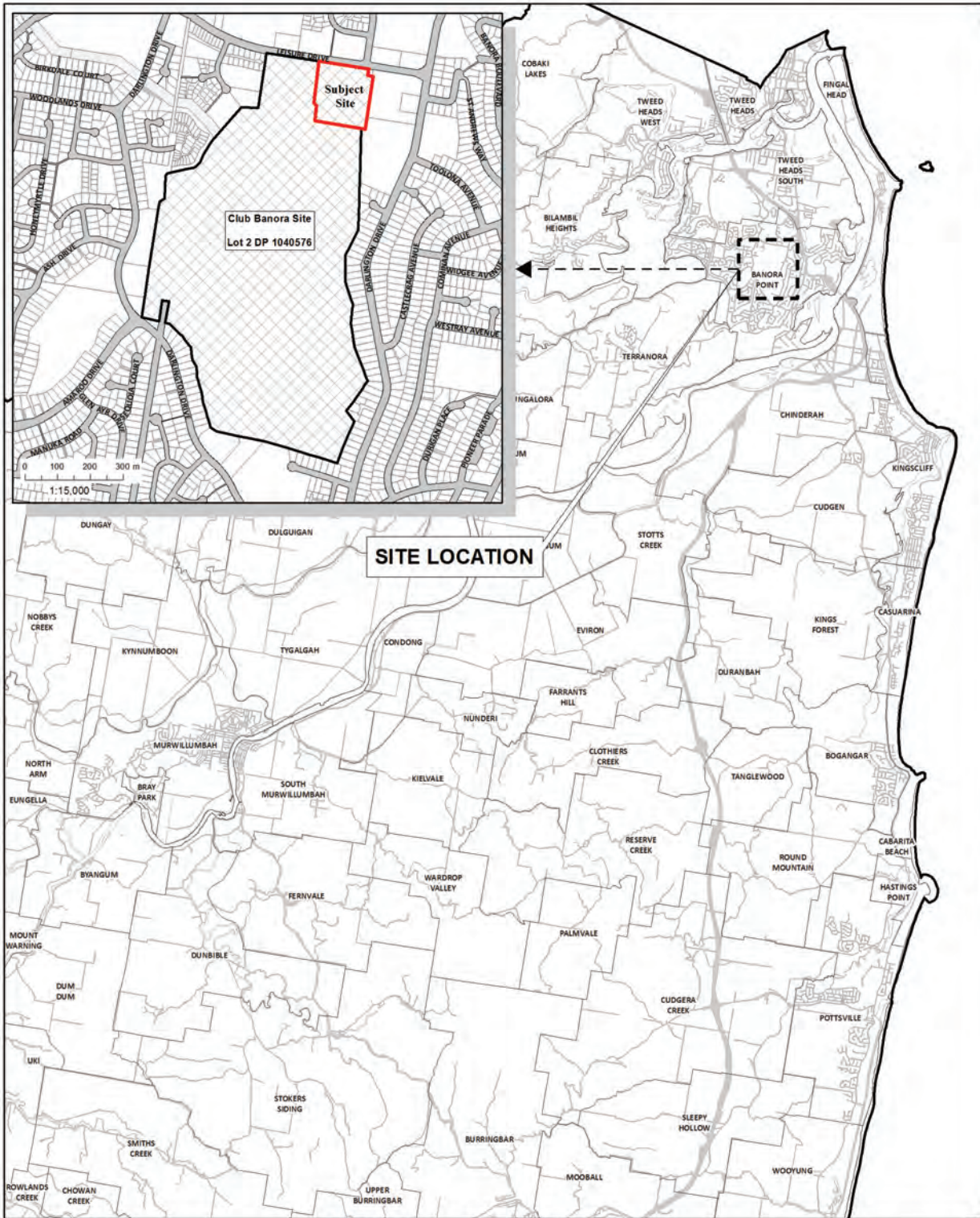


Figure 1. Locality Plan

Part Lot 2 DP 1040576
Club Banora, Banora Point

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FIGURE 2: AERIAL VIEW OF THE SITE:




Figure 2. Aerial View of the Site

Lot 2 DP 1040576
Club Banora, Banora Point

SOURCE: Aerial imagery taken
May 2012 by AAM

Cadastral: 01 March, 2013
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 Subject Site

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In January 2013 the proponent amended the Planning Proposal request and removed the aged care units from the proposal and slightly increased the proposed 3(b) General Business zone from 23,139m² to 30,000m².

Subject Site

Lot 2 DP 1040576 is located on Leisure Drive, Banora. The site is currently known as 'Club Banora' which was constructed in the early 1980s and comprises an 18 hole golf course, licensed club (with a GFA of approximately 7000m²), bowling greens, tennis courts, heated Olympic pool and wading pool and approximately 700 onsite car parks. 'Club Banora' occupies a site of approximately 60.1 hectares (see Figures 1, 2 and 3).

The subject site (part lot 2 only) is generally flat and is currently used for car parking, part of the bowling green and part of the licensed club. Bounding the site to the east is Banora Shopping Centre which is anchored by a Bi-Lo supermarket. The Banora Shopping Centre is mapped as a Business Centre as set out in Schedule 6 of the TLEP 2000. To the north of the site beyond Leisure Drive are residential dwellings, Winders Lodge Retirement Village, Banora Point Retirement Village and St James Primary School. To the west are residential dwellings, Darlington Retirement Community and Banora Point High School.

Leisure Drive is the main east-west connector route through the surrounding area, and therefore has a significant amount of through traffic. The Pacific Highway is located to the north east of Club Banora. The Pacific Highway has recently undergone an upgrade (at Banora Point) resulting in a new 2.5km segment of highway stretching from Barneys Point Bridge in the south to the Tweed Heads Bypass in the north. It provides a dual carriageway link between the existing Chinderah and Tweed Heads bypass.

The site is low lying and affected by the 1 in 100 year flood event, and the majority of the site lies within the 25-30 ANEF zone associated with the Gold Coast Airport at Coolangatta. For large storm events the Golf Course provides stormwater storage for the Banora Point area. In addition, the site has been identified as Class 2 Acid Sulfate Soils and has high ground water vulnerability.

FIGURE 3: - VIEW LOOKING NORTH FROM SOUTHERN BOUNDARY OF PROPOSED DEVELOPMENT TOWARDS LEISURE DRIVE:



The Proposal

The site is currently zoned 6(b) Recreation and the request is that it be changed in part to 3(b) General Business zone under the Tweed LEP 2000 (Refer to Figure 4 for current LEP 2000 zoning and Figure 6 for proposed LEP 2000 amendment). This translates into B2 Local Centre in accordance with the Standard Instrument (Local Environmental Plans) Order 2006, as proposed in the Draft Tweed LEP 2012 (Refer to Figure 5).

This will facilitate commercial/retail development comprising a supermarket, speciality shops and a car park. Concept drawings have been submitted with the planning proposal to demonstrate a possible form of future commercial development. The drawings show a single storey retail development with a supermarket and several speciality stores. The proposal also includes providing a four way, signalised intersection at Winders Place and Leisure Drive together with rationalisation and reduction of the existing access points onto Leisure Drive from three access points to two. The revised access arrangements will also facilitate improved access to the existing shopping centre adjoining the site to the east. The applicant has also made provision for widening of Leisure Drive for the frontage of the site and significant improvements will be achieved to the built form and streetscape of the site.

Strategic Context

Far North Coast Regional Strategy 2006

The site is included in the Far North Coast Regional Strategy 2006 (FNCRS), and mapped as being within the Town and Village Growth boundary. The FNCRS promotes a clear hierarchy of commercial centres consistent in scale and centrally located within each community.

Within the Tweed Shire, Tweed Heads as the major regional centre includes Tweed City Shopping Centre. Tweed City includes both a Coles, Woolworths, Big W, Kmart as well as speciality stores and is considered as a major district retail centre. The site occupies approximately 13.2 ha and has over 36,700m² GFA, with access afforded to the site from both the north and south along Minjungbal Drive.

Other shopping centres within the trade area of Banora include the following:

- Banora Central Shopping Centre is located approximately 1 km west of Banora Shopping Village and includes a Coles Supermarket (2,800m² GFA). It has a total GFA of 3400m².
- Tweed Heights Shopping Village is located approximately 1.4 km south west of Banora Shopping Centre and includes an IGA super market (200m² GFA). It has a total GFA of 700m².
- Tweed Heads South is located approximately 1.5 km north of Banora Shopping Centre and includes an Aldi of approximately 1,350m² GFA.

FIGURE 4: TWEED LOCAL ENVIRONMENTAL PLAN 2000:



Figure 4. Tweed Local Environmental Plan 2000

Lot 2 DP 1040576
Club Banora, Banora Point

ZONING	RESIDENTIAL	BUSINESS	INDUSTRIAL	ENVIRONMENTAL PROTECTION	NATIONAL PARKS & NATURE RESERVES
<ul style="list-style-type: none"> 1(a) Rural 1(c) Rural Living 1(b1) Agricultural Protection 1(b2) Agricultural Protection 	<ul style="list-style-type: none"> 2(a) Low Density Residential 2(b) Medium Density Residential 2(f) Tourism 2(c) Urban Expansion 2(d) Village 2(e) Residential Tourist 	<ul style="list-style-type: none"> 3(a) Sub-Regional Business 3(b) General Business 3(c) Commerce & Trade 3(d) Waterfront Enterprise 3(e) Special Tourist (Jack Evans Boat Harbour) 	<ul style="list-style-type: none"> 4(a) Industrial 	<ul style="list-style-type: none"> 7(a) Environmental Protection (Wetlands and Littoral Rainforest) 7(d) Environmental Protection (Scenic / Escarpment) 7(i) Environmental Protection (Coastal Lands) 7(j) Environmental Protection (Habitat) 	<ul style="list-style-type: none"> 8(a) National Parks and Nature Reserves
<ul style="list-style-type: none"> Clause 37 (Transmission Line Corridor) Clause 38 (Future Roads) Clause 41 (Heritage Conservation Areas) 	<ul style="list-style-type: none"> Clause 52 (Cobaki)A Clause 52 (Cobaki)B Clause 52 (Existing and Future Dam Areas) 	<ul style="list-style-type: none"> Clause 52 (Minimum Lot Sizes) Clause 52 (Stormwater and Fill) Clause 53 (Schedule 3 Item) 	<ul style="list-style-type: none"> Clause 52 (Special Uses) Clause 52 (Pottsville) 	<ul style="list-style-type: none"> DEFER Subject Site 	<p>Cadastre: 01 March, 2013 © Land and Property Management Authority (LPRMA) & Tweed Shire Council Boundaries shown should be considered approximate only.</p>

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FIGURE 6: TWEED LOCAL ENVIRONMENTAL PLAN 2000 PROPOSED ZONING:

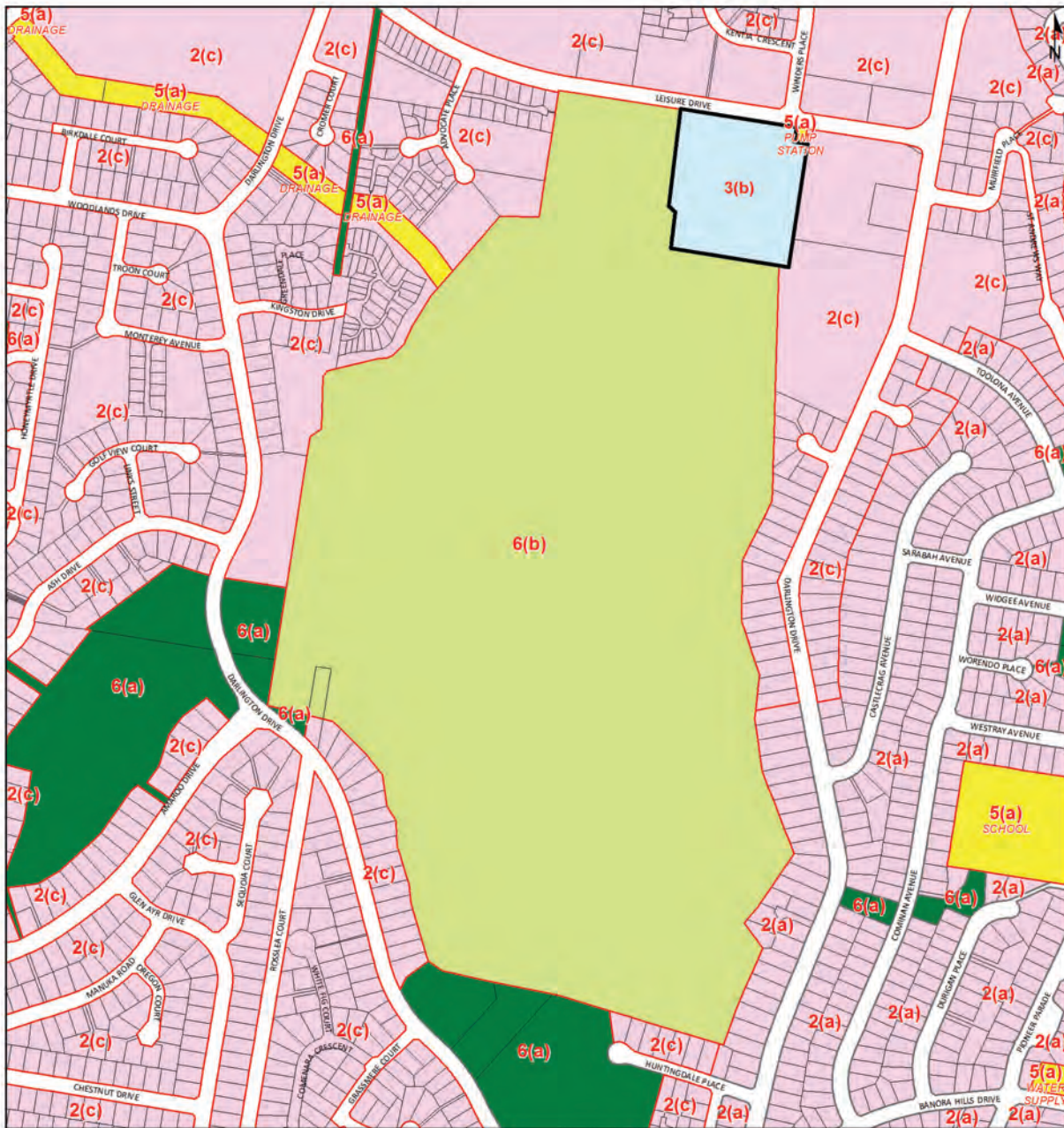


Figure 6. Tweed Local Environmental Plan 2000 Proposed Zoning
 Lot 2 DP 1040576
 Club Banora, Banora Point

ZONING	RESIDENTIAL	BUSINESS	INDUSTRIAL	ENVIRONMENTAL PROTECTION	NATIONAL PARKS & NATURE RESERVES
RURAL 1(a) Rural 1(c) Rural living 1(b1) Agricultural Protection 1(b2) Agricultural Protection	2(a) Low Density Residential 2(b) Medium Density Residential 2(f) Tourism 2(c) Urban Expansion 2(d) Village 2(e) Residential Tourist	3(a) Sub-Regional Business 3(b) General Business 3(c) Commerce & Trade 3(d) Waterfront Enterprise 3(e) Special Tourist (Jack Evans Boat Harbour)	4(a) Industrial SPECIAL USES 5(a) Special Uses OPEN SPACE 6(a) Open Space 6(b) Recreation	7(a) Environmental Protection (Wetlands and Littoral Rainforest) 7(d) Environmental Protection (Scenic / Escarpment) 7(i) Environmental Protection (Coastal Lands) 7(j) Environmental Protection (Habitat)	8(a) National Parks and Nature Reserves DEFER defer Proposed Zone 3(b)
ADDITIONAL CONTROLS Clause 37 (Transmission Line Corridor) Clause 38 (Future Roads) Clause 41 (Heritage Conservation Area)	Clause 52 (Cobaki)A Clause 52 (Cobaki)B Clause 52 (Existing and Future Dam Areas)	Clause 52 (Minimum Lot Sizes) Clause 52 (Stormwater and Fill) Clause 53 (Schedule 3 Item)	Clause 52 (Poitryville)	Cadastre: 01 March, 2013 © Land and Property Management Authority (LPI/PA) & Tweed Shire Council. Boundaries shown should be considered approximate only.	

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Adjacent to the proposed commercial area to the east is the existing Banora Shopping Centre and includes a Bi-Lo and several specialty shops and is approximately 2000m² GFA. The development of Club Banora will provide direct competition with the Bi-Lo supermarket sited next to the site. The proponent provided a detailed Market Potential and Economic Impact Assessment (Pitney Bowes, 2010). The assessment states that the major retail facilities will be a 3000m² supermarket which is likely to be Woolworths and specialty shops at approximately 400m² each:

"The retail facilities at Club Banora will play a predominantly convenience oriented role for trade area residents, but also that a small, targeted comparison good offer (apparel and household goods) is warranted to serve the needs of the retiree population."

The Assessment also stated the following in terms of trade area competition:

"Typically in Australia, a full-line supermarket of at least 3,000 sq.m is provided for every 8,000–9,000 persons. The Club Banora primary trade area sector alone currently includes over 19,500 persons, and is expected to grow solidly to exceed 24,000 persons by 2013. Such a catchment could support two full-line supermarkets within the main trade area in 2013, even allowing for a proportion of residents to be attracted to facilities located at higher order retail centres located beyond the trade area. Both the existing supermarkets within the main trade area are relatively small in size. The Coles store is 2,800 sq.m, while the Bi-Lo store is slightly less than 2,000 sq.m. Typical Coles or Woolworths full-line supermarkets are generally around 3,200 sq.m in size, with many being 3,800 sq.m or greater."

However, it is stated that there will likely be only minor impacts in redirection of retail spending of full line supermarkets in Tweed City by less than 5%. The Assessment concludes that generally, the levels of impact projected above (on retail facilities both within and beyond the main trade area) will not threaten the ongoing viability of existing retail centres or precincts in the area, or the future potential for expansion of retail facilities in the region. All facilities in the region would continue to trade viably after the opening of the proposed Club Banora retail centre.

It is likely that there will be direct competition with other supermarkets; however, given the size of the proposed supermarket it is unlikely it will have a direct impact on the hierarchy of centres. The proposal is therefore consistent with the objectives of the Far North Coast Regional Strategy.

Tweed Retail Principles

Following the preparation of a "Draft Tweed Retail Strategy" document by consultants Core Economics, and in conjunction with a determination of Development Application for extensions to the Tweed City shopping centre, Council resolved at its meeting of 16 November 2005 to adopt seven principles as a Retail Strategy for the Tweed Shire.

The planning proposal is consistent with the Tweed Retail Principles as the proposal is effectively an expansion of the existing Banora Shopping Village. It is not a completely new centre and is unlikely to fracture the existing centre. It will largely provide trade for the local community and is not a district level centre. In addition, the character of Banora will not be compromised by the development, as a shopping village already exists next door and Club Banora will remain in operation in a smaller building located slightly further west on the same site.

Draft Centres Policy

The draft Centres Policy, while still in draft, helps guide planning for retail and commercial development in New South Wales.

The planning proposal is consistent with the planning principles identified in the draft Centres Policy. A net community benefit test was undertaken which found the Planning Proposal will facilitate permanent employment generating activity. It will not result in a loss of employment generating lands.

The Planning Proposal request reports that the proposed development, as sourced from the Market Potential and Economic Impact Assessment (Pitney Bowes, 2007), the redevelopment of the shopping facilities will likely employ approximately 289 people. Allowing for an estimated 5% of the total increase as a result of reduced employment at existing retail facilities in the region, the net additional jobs for the area provided at the Club Banora retail development are estimated at 275.

Pitney Bowes also state that in terms of wages and salaries, the additional 275 permanent retail employees within the proposed retail development would earn an average annual wage of around \$28,000 (as sourced from the latest ABS average weekly earnings statistics). This represents an additional \$7.7 million in salaries and wages for the local region, directly as a result of the development.

As the actual Banora Club is proposed to be redeveloped as well (permissible under the 6(b) Recreation Zone), this is also likely to increase employment in the area in the short term in terms of construction and with no net loss of staff in the longer term in terms of operation of the new club facility.

117 Directions

The following Local Planning Directions pursuant to Section 117 (2) of the Environmental Planning & Assessment Act 1979 are relevant to the Planning Proposal:

- 1.1 Business and Industrial Zones
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
5. Implementation of Regional Strategies

The Planning Proposal is consistent with all of the above directions.

State Environmental Planning Policy (North Coast Regional Environmental Plan) 1988

The planning proposal is consistent with the provision under SEPP (North Coast REP) as summarised below:

- Clause 32A Coastal Lands: The site is subject to the NSW Coastal Policy 1997; however the site is not located on a dune, beach or headland.
- Clause 39 – Retail, Commercial or Business Activities: The Planning Proposal is for the rezoning of land directly adjacent to land to be zoned B2 Local Centre in the Draft LEP.

- Clause 45A – Flood Liable Land: As discussed below, some of the subject site is flood affected in a 100 year ARI event based on the Tweed Valley Flood Risk Management Study and Plan 2012. In addition, the golf course at Club Banora provides flood storage in events larger than the 5 year ARI with flood levels up to 1.84m AHD in the 100 year ARI event. Flooding is discussed further below. A study completed by the proponent concluded that minor loss of flood storage will occur due to the development. It is considered the risk of flooding can be adequately assessed during the Development Application stage
- Clause 47 – Principles for Commercial and Industrial Development: The Planning Proposal seeks to rezone land that is currently 6(a) Private Recreation to commercial land. The site is not isolated and is directly adjacent to existing retail uses and essentially provides an expansion to these uses.
- Clause 50 – Height Controls: The Planning Proposal will result in commercial development of a similar height to the surrounding commercial and business areas
- Clause 58 – Servicing Urban Area: All necessary urban infrastructure is available in the immediate area, and will be at the cost of the developer dependent upon future expansion plans within the site boundaries.

State Environmental Planning Policy No. 71 – Coastal Protection

The site is located within the Coastal Zone. Clause 8 of the SEPP sets out the relevant matters that should be considered in the preparation of a draft LEP. Matters relevant to the Planning Proposal are:

- The suitability of the development given its type, location and design and its relationship with the surrounding area.
- The site is suitable for general business purposes as a result of the predominant use of the site for retail purposes, and the limited environmental values of the site.

The Planning Proposal is located adjacent to an existing centre designated for commercial development, and is well serviced by transport and infrastructure services

Matters for consideration

Flooding

Some of subject site is flood affected in a 100 year ARI event based on Tweed Council Flood Study. In addition, the golf course at Club Banora provides flood storage in events larger than the 5 year ARI with flood levels up to 1.84m AHD in the 100 year ARI event.

A flood study completed by the proponent stated that the proposed new floor levels in the existing developed area will be raised to 3.2m AHD. The flood model adopted by the study concluded that most of Banora Point is flood free in a 100 year ARI event based on model results. The golf course at Club Banora provides flood storage in events larger than the 5 year ARI with flood levels up to 1.84m AHD in the 100 year ARI event. Leisure Drive is known to flood during intense, short duration rainfall events, although this type of flooding was not explicitly modelled in the Tweed.

The study concluded that:

"The impact assessment indicates there would be a minor loss of flood storage (less than 5%) in the immediate area, due to the proposed development. This assessment is preliminary and provides a rough estimate only. Calculating the loss of flood

storage does not fully describe the potential flood impacts, only that proposed development may result in a loss of flood storage which may affect flood levels and flood velocities across the site and/or in the adjacent land. In addition, it is possible that (on site) flood mitigation works could reduce the flood impacts to an acceptable level.

Based on the estimated loss of flood storage, there is a potential for flood impacts as a result of the proposed development. It is possible that any impacts resulting from the proposed development will continue to be restricted to the golf course. The golf course acts as a flood basin for Banora Point, storing water which would otherwise affect surrounding residential and commercial development. Based on results from the Tweed Valley Flood Study, most of the flood waters in a 500 year ARI event are contained within the golf course basin, under existing conditions."

During the development assessment stage will need to quantify the scale and nature of the impact and recommend mitigation measures to address them.

Acid Sulfate Soils and the Water Table

The site is identified as Class 2 on Council's Acid Sulfate Soils Planning Maps, and therefore any future development on the site will require development consent for any works which will occur below the surface. However, acid sulfate soils are not considered to be a prohibitive issue for this proposal as the site has already been filled. The site is also identified as having high ground water vulnerability. This is also unlikely to be a problem given that the site is filled and major excavation is unlikely.

Contamination

Potential site contamination would need to be addressed prior to any rezoning of the site. Only limited information has been provided by the proponent to address SEPP 55. A Phase 1 assessment would be the minimum requirement to satisfy SEPP 55. This should be undertaken prior to public exhibition of the Planning Proposal.

Bushfire

The site has not been identified as bushfire prone.

Development Near Licensed Aerodromes

The site of the proposal is within the 20 – 25 ANEF Contour associated with the Gold Coast Airport at Coolangatta.

The 117 direction 3.5 Development Near Licensed Aerodromes states that for commercial development purposes where the ANEF is above 30 then AS2021 interior noise levels apply. However, the proposal is within the 20 – 25 ANEF Contour. This noise level is generally compatible with commercial development.

Clause 32 of Tweed Local Environmental Plan 2000 states that any commercial development must consider Australian Standard AS 2021–1994(Acoustics–Aircraft noise intrusion—Building siting and construction). The proposal during the detailed design phase will need to consider acoustics as part of a future development application.

Traffic and Transport

TTM Group conducted a traffic impact assessment for the development however since the time of developing this report; the proponent has removed the assisted living facility (aged care housing) from the proposed development.

The Planning Proposal includes the following changes in terms of traffic:

- The Leisure Drive / Winders Place intersection is currently a signalised 3 way intersection to the east of the development site. The redevelopment of the site will shift the eastern existing access into this intersection to form a 4 way signalised intersection.
- Pedestrian connection to the development from surrounding areas is enabled by a number of existing facilities. The signalised intersection of Leisure Drive and Winders Place provides pedestrian phases to enable safe road crossing. Footpaths surrounding the site will remain as part of the redevelopment.
- The development proposes to include 207 bicycle spaces to be placed around the site to suit demand. This provision meets Council's requirement for bicycle parking.
- Provide internal connectivity to adjoining car park.

The traffic impact assessment makes the following comments:

- Vehicular access to the development will be retained on Leisure Drive. Council had planned upgrades to form the Fraser Drive and Kirkwood Road link by approximately 2015. Council plans to widen Leisure Drive to 4 lanes between Winders Place and Eucalyptus Drive but the timeline is currently unknown. The proposed site will be large enough to comply with Council's car parking standards. Site access designs and locations are to comply with the relevant Council and authority guidelines.
- Proposed site servicing arrangements achieve compliance with Council and Australian Standards requirements.
- The performance of the Leisure Drive/Winders Place signalised intersection remains acceptable under TMR's GARID thresholds and will not need further works. The Leisure Drive/Darlington Drive/Greenway Drive roundabout operates above the guideline's threshold and will reach full saturation during 2013 under background growth alone. The roundabout will require ameliorative works but no burden should be placed on the developers. All other intersections effected by the development have acceptable performance under GARID.

The proposal to change Leisure Drive/Winders Place intersection and widen Leisure Drive along the site frontage and provide connectivity to the adjoining retail site are consistent with previous discussions with Council staff and are supported in principle. Therefore the traffic related issues addressed in the reports have been accepted as satisfactory.

Vegetation

The site has been extensively disturbed as it is a car park and bowling greens. It includes expansive hard paved areas and cleared areas.

Council's Vegetation Management Plan mapping identifies the site as mainly highly modified and disturbed. It is highly unlikely that development that will follow this Planning Proposal will impact on critical habitat or threatened species.

Heritage

The site contains no identified heritage items under the LEP 2000 or Draft LEP 2012. The site is a significantly disturbed site but no information has been presented to determine the likelihood of any heritage significance and potential impact at the site. Pursuant to Council's Guideline – Planning Proposal Process and Procedure – Amending a LEP, an Aboriginal Cultural Heritage 'Due Diligence' Assessment ("an ACHA") must be prepared with a planning proposal.

An Initial consultation with Converge Heritage and Community have advised that there are no known sites or artefacts in close proximity to the site and as such, it is considered

appropriate to require an Aboriginal Cultural Heritage Due Diligence Assessment to be completed post-Gateway and prior to public exhibition.

Water

The subject land is serviced by existing 150mm diameter and 250mm diameter water mains within the Leisure Drive frontage and appropriate services can be provided from these mains subject to detailed design.

Sewer

The subject land is serviced by an existing gravity sewer main and sewer pump station/rising main in the Leisure Drive frontage. The subject land can be serviced by this infrastructure, subject to detailed design.

Connection to Council's reticulated waste water treatment system should be possible and is not considered a constraint to development of the site.

Power

The subject land is serviced by existing underground power in the Leisure Drive frontage and sufficient capacity is available to service the land subject to formal consultations with Essential Energy.

Plan Making Provisions

As a result of recent changes to the NSW Department of Planning and Infrastructure's (DP&I) plan-making provisions Council is now required to nominate whether it seeks the delegation powers from DP&I to make the Planning Proposal.

Due to the as yet unresolved nature and complexity of constraints affecting the site, and scale of the proposal as presented in this report, it is considered appropriate to request that plan-making delegations remain with the DP&I.

CONCLUSION:

Assessment of the Planning Proposal to rezone Part Lot 2 DP 1040576 to 3(b) General Business zone under the Tweed LEP 2000 with regards to the matters considered in this report reveals that the Planning Proposal has merit and it is worthy of support.

It is therefore recommended that the Planning Proposal be submitted to the Department of Planning and Infrastructure for Gateway Determination. The rezoning will facilitate commercial/retail development comprising a supermarket, speciality shops and a car park.

The proposal will essentially be expansion of the existing Banora Shopping Centre. The master plan for the development presents elements that integrate development with the existing shopping centre adjacent to the site. Notwithstanding this there will be additional competition and resulting loss of trade to existing retailers, at least initially. The economic assessment undertaken suggests that there will be some impact on the existing Banora Shopping Village and other centres as a consequence of the development. However, the Planning Proposal will facilitate permanent employment generating activity and will not result in a loss of employment generating lands.

The site is affected by the 1 in 100 year flood event, lies within the 25-30 contour zone on the Australian Aircraft Noise Exposure Forecast (ANEF) map for Gold Coast City Airport, has been identified as Class 2 Acid Sulfate Soils and high ground water vulnerability; however, these issues are unlikely to limit the commercial use of the land. These matters are addressed in further detail in the attached document: Planning Proposal v.1 'Gateway', dated February 2013.

Preliminary traffic assessment indicates that the issues raised by future development can be dealt with on site and through modifications to existing access arrangements.

The Planning Proposal complies with Council and State strategies and policies, and through the Development Application process, will have the ability to comply with detailed provisions pertaining to the site.

COUNCIL IMPLICATIONS:

a. Policy:

The proposed expansion of the retail services in the Banora Point locality is consistent with Council's adopted retail strategy and the broader regional strategic plan; Far North Coast Regional Plan 2006-31.

b. Budget/Long Term Financial Plan:

The costs associated with progressing the planning proposal will be borne by the proponent in accordance with Council's adopted Fees and Charges Schedule 2012/13.

c. Legal:

There are no appeal rights available to proponents for Planning Proposals seeking the rezoning of land under the *Environmental Planning and Assessment Act 1979*. However, should Council refuse to proceed with the Planning Proposal there is an avenue for an applicant to seek a review of this decision by the Department of Planning and Infrastructure. There are no legal implications associated with the Planning Proposal.

d. Communication/Engagement:

Inform - We will 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
- 1.5.3 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

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1: Request for Planning Proposal (ECM 64376401)
 - Attachment 1A: Request for Planning Proposal (ECM 64376402)
 - Attachment 1B: Request for Planning Proposal (ECM 64376403)
 - Attachment 1C: Request for Planning Proposal (ECM 64376404)
 - Attachment 2: Draft Tweed LEP Amendment Number 95 Planning Proposal Version – Gateway (ECM 64408570)
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26 [PR-CM] Planning Proposal PP10/0007 - Mooball Planning Proposal Lot 2
DP 534493 No. 5867 Tweed Valley Way, Mooball

SUBMITTED BY: Planning Reforms

FILE REFERENCE: PP10/0007 Pt2



Civic Leadership

SUMMARY OF REPORT:

Council is currently processing a planning proposal for land in Mooball, which aims to urbanise land currently zoned rural consistent with the overarching strategic policy; *Tweed Urban and Employment Land Release Strategy 2009*. This was the subject of a report to the Council meeting of 13 December 2012 at which it was resolved to forward the planning proposal to the Department of Planning and Infrastructure (DP&I) for consideration under its 'Gateway Determination' system.

Subsequent to the December meeting it was brought to the attention of Council staff that within the identified future development site there was a property for which the owners are neither a party of the proponent, nor supports the proposal to rezone their land.

Council staff has taken steps to successfully withdraw the gateway request from the DP&I and have met with both the landowners and the proponent. Both parties are now considered to be on equal standing with respect to the information made available to them about the planning proposal and the process being employed by staff to ensure that each party has the information and time to adequately evaluate their position.

It is expected that the outcome of the current communication and facilitation processes will lead to a further report to Council which will provide options or strategies for progressing the planning proposal or in the alternative managing the strategic implications of any intention not to proceed with the proposal.

RECOMMENDATION:

That the report on Planning Proposal PP10/0007 - Mooball Planning Proposal Lot 2 DP 534493 No. 5867 Tweed Valley Way, Mooball be received and noted.

REPORT:

The purpose of this report is to provide further information and an update on the Mooball Planning Proposal PP10/0007 ("the proposal"), which seeks a rezoning of land from 1(a) Rural, to 2(d) Village, 5(a) Special Uses (Sewerage Treatment), 7(d) Environmental Protection (Scenic/Escarpment) and 7(l) Environmental Protection (Habitat).

The subject site is immediately south of, and adjoins, the existing Mooball village, as depicted in Figures 1 and 2 below.

A report on the proposal was last considered by Council at its meeting of 13 December 2012, whereby Council resolved among others that:

- "1. *The proposal be referred to the NSW Department of Planning and Infrastructure (DP&I) requesting a Gateway Determination, that is; it is a request of the Director-General to approve the preparation of a draft Local Environmental Plan amendment and to provide instruction on any formal requirements pertaining to: public exhibition, State Government agency referral, and the preparation of any specific study; and that,*
2. *The landowner/proponent be advised that a Planning Agreement is necessary to address the Aboriginal Advisory Committees recommendation and the requirements regarding the need for further site testing, as well as, to address the need for a standalone private waste water management system."*

A full copy of this report can be found as Attachment 1.

Post Council Resolution of 13 December 2012

In pursuance of the Council's resolution a referral of the proposal was made to the Department of Planning and Infrastructure (DP&I) to obtain a Gateway Determination. This event occurred on 19 December 2012.

Notification of Non-Party Approval for the Inclusion of Lot B DP419641

Council received notice from the owners of Lot B DP419641 ("Lot B") that they are not a participant or member of the 'development party' proposing the rezoning of the land and to the contrary, disapprove of and have objected to the rezoning of their property.

Consequently, what has occurred is that the planning proposal documentation, in particular the mapping and proposed structure plan, has been based on three properties as opposed to two. The additional property was included by error in the preparation and drafting of the mapping in support of the developer's request for a planning proposal and was not identified by Council staff.

What does this mean for Council and the Planning Proposal?

There are two key and distinct aspects to understanding the implications of not identifying Lot B, these are; firstly, a legal/statutory perspective and secondly, a practice and procedure perspective.

The first of these two aspects is arguably of minimal concern to the process as a whole as there is no requirement for a council to seek or obtain the consent of a landowner when making an LEP amendment. The statutory process does not mandate consultation with the landowner and nor does it provide any right of appeal to a court. The latter arises only in respect of procedural rather than merit based appeals, which are mainly concerned with process and jurisdictional matters.

The second aspect is more relevant because Council has established a clear practice and procedure and in the present the confusion within the planning request led to a departure

from an important aspect of it namely; the landowners consent being provided or alternatively consultation with the landowner.

The Unit's practice and procedure is detailed in their: *Guideline, Planning Proposal Process and Procedure - Amending a Local Environmental Plan v 1.4* of 14 September 2011, states in-part:

6.4.1 General

The following is a guideline on the requisite level of information required to form the basis of a request for a planning proposal.

- i. Landowners un-limited consent authorising the making of a draft LEP over the subject land(s).*
- ii. Legal property description in full.*

It further states at s 1.1:

It is important to us and you that the opportunity for informed dialog and decision making exists through guidelines such as this.....

We want to promote an open and meaningful line of communication with prospective proponents and the community about the process. We also want to ensure that proponents of planning proposals understand their role and commitments in this process,.....

The guideline is available on Council's web site and is well known to local consultancies. Experience to-date has shown that proponent's ordinarily meet Council's expectations and requirements.

The present case is a rare occurrence. The Proponent has accepted there was a breakdown in communication within their project team, which led to Lot B being mistakenly identified and it is apparent from the written documentation that this was a genuine oversight.

The facts are:

- i. The owners of Lot B have not consented to authorising the making of draft LEP;
- ii. The request form completed by the Proponent for the planning proposal request did include the owner's consent for the properties identified and detailed on the form;
- iii. The legal description of the properties intended to be the subject of the planning proposal request were included on the relevant form;
- iv. The relevant form did not include the property description for Lot B or the owner's consent.

In regard to the consultation with the community and landowners generally this would occur post gateway and is described by the Environmental Defenders Office (EDO), in their on-line publication: *Fact Sheet 2.1 - LEPs and SEPPs* [http://www.edo.org.au/edonsw/site/factsh/fs02_1_3_print.php] which states:

"Community consultation

The Planning Minister decides, as part of the Minister's gateway determination, what sort of community consultation is required for making an LEP or spot rezoning. The Planning Minister can decide that the matter does not require any community consultation. The EPA Regulations can set out standard community consultation

requirements. *If the Planning Minister does decide that community consultation is required, then the process is as follows:*

- *The relevant planning authority must make the planning proposal publicly available during the period of community consultation. A summary is permitted for detailed provisions.*
- *During the period of community consultation, any person can make a written submission to the relevant planning authority (remembering that the planning authority cannot vary those parts of the LEP which are mandatory under the Standard LEP Instrument).*
- *The relevant planning authority can choose whether to make the submissions available to the public.*
- *The relevant planning authority can vary a planning proposal at any time during the LEP process, but must give the varied proposal to the Planning Minister. Further community consultation is not required following a variation unless the Minister directs.*

It is clear from the above that whilst the statutory scheme might set out and control the overall process and mandate that certain requirements must or need not occur, it is not the only source of guidance for the Council about how to conduct an amendment to the LEP.

This is particularly so when, as in the present case, the procedural aspects being progressed occur prior to the gateway determination. When this occurs Council is to be guided by its established practice and procedure rules.

What steps have been taken to address this issue?

Once Council staff were aware of the error a request was made to the DP&I to retract the request for the gateway determination.

Whilst written confirmation has not been received at the time of writing DP&I staff have confirmed by email correspondence that the Council's request for a gateway determination has been retracted.

Council staff sought clarification from the proponent concerning the apparent error and as discussed above has received advice confirming that an error had occurred in their preparation of the request documentation.

In addition, Council staff have met with the landowner's of Lot B and further facilitated a meeting between them and the proponent. The salient points raised by way of the discussion were noted as:

- The owner's of Lot B expressed their concern for their lifestyle and current standard of living should the rezoning proceed as proposed;
- It was noted that non-commercial poultry is reared and kept on the property for show purposes and is a long-time hobby, which could be jeopardised by any future residential zoning;
- That the Lot B landowner's 'truck' (an articulated heavy goods vehicle), which is kept on the Tweed Valley Way road reserve, would likely attract noise complaints from future residents and that a new storage location would need to be found;
- That the Lot B owners were not opposed to development of the site generally but are in respect of the small lots proposed;

- The landowners of Lot B are, in principle only, open to the idea of being buffered from any new development; and,
- Made enquiry with the proponent with regard to their property being bought out.
- The proponent acknowledged and was apologetic in regard to the error made with the planning proposal which led to Lot B being included;
- The proponent was open-minded and willing to work with the landowners to find a solution agreeable to both parties;
- The proponent had not ruled out any buffering or offering of additional land;
- The proponent had not ruled out concessions to connecting Lot B to the proposed reticulated sewer works;
- The proponent would consider an option that included the purchase of Lot B if that was the landowner's preferred option; and,
- The proponent is willing to maintain an open dialog with Council and the landowner.

A further step in this process is for Council staff to liaise with both parties, to ascertain whether there is any agreement on the issues discussed, to clarify any issues or to consider any new issue, and to assist the parties in reaching a conclusive position as to where they stand in relation to the planning proposal.

It is for the need to continue with this process that this report does not seek any recommendation in regard to how the planning proposal should best be proceeded with.

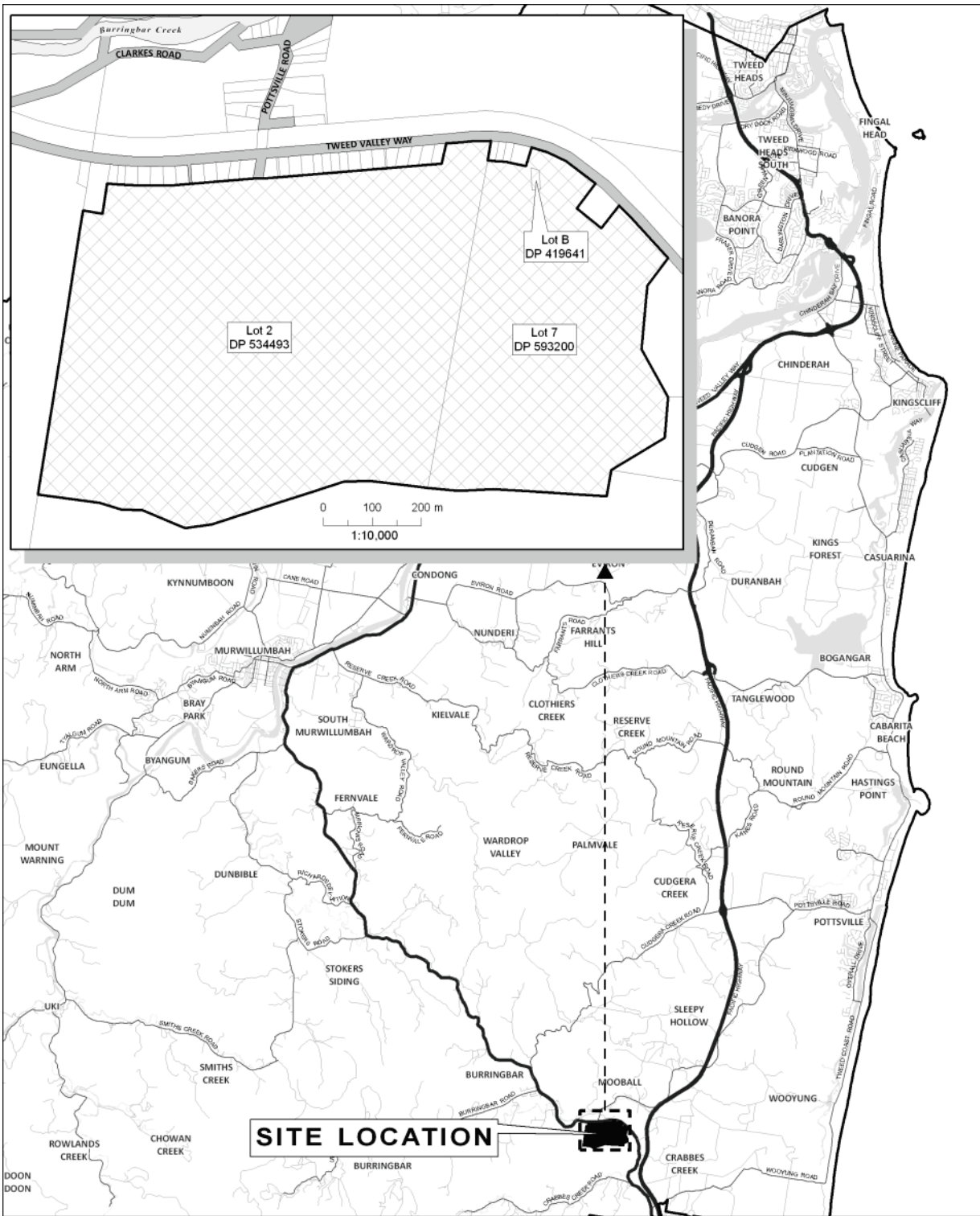
Background Information Relating to Lot B DP 419641

Lot B DP 419641, No. 5859 Tweed Valley Way, comprises an area of 714m² and is currently zoned 1(a) Rural under the Tweed Local Environmental Plan 2000. The site contains a single dwelling house and has a registered Right of Way through Lot 7 DP 593200 and Lot 1 DP 231846 to Tweed Valley Way.

The lot is identified within 'Area 9' of the Tweed Urban and Employment Land Release Strategy 2009 (TUELRs), which forms the strategic basis for the subject planning proposal.

The relationship of the site to the proposal and the TUELRs is identified within Figures 2 and 3 below:

FIGURE 1 – PP10/007 SITE LOCALITY PLAN



Locality Plan

Planning Proposal PP10/007 -- Lot B DP 419641, Lot 2 DP 534493 and Lot 7 DP 593200
Tweed Valley Way, Mooball

FIGURE 2 – LOT B DP 419641 WITHIN PP10/0007

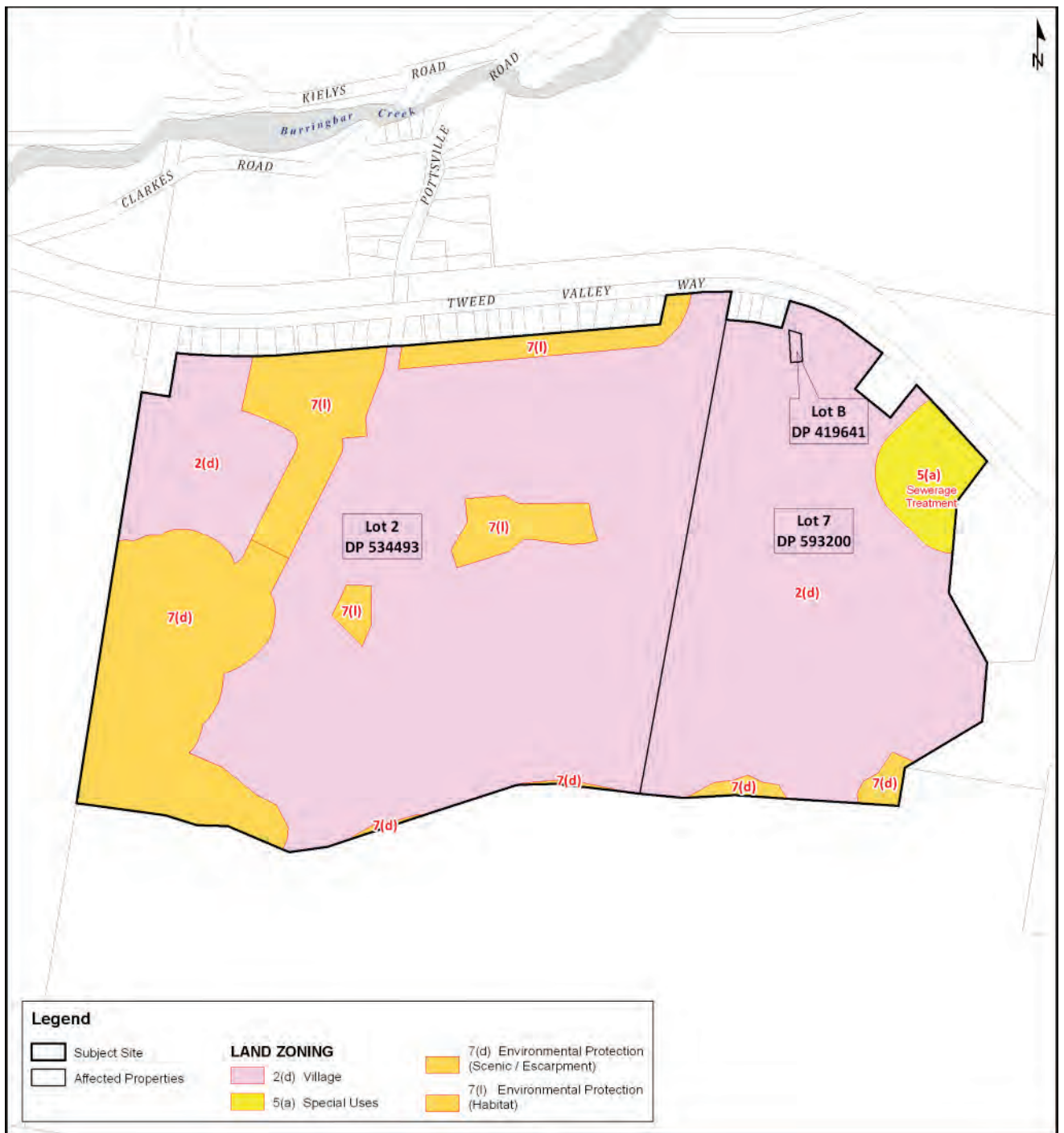
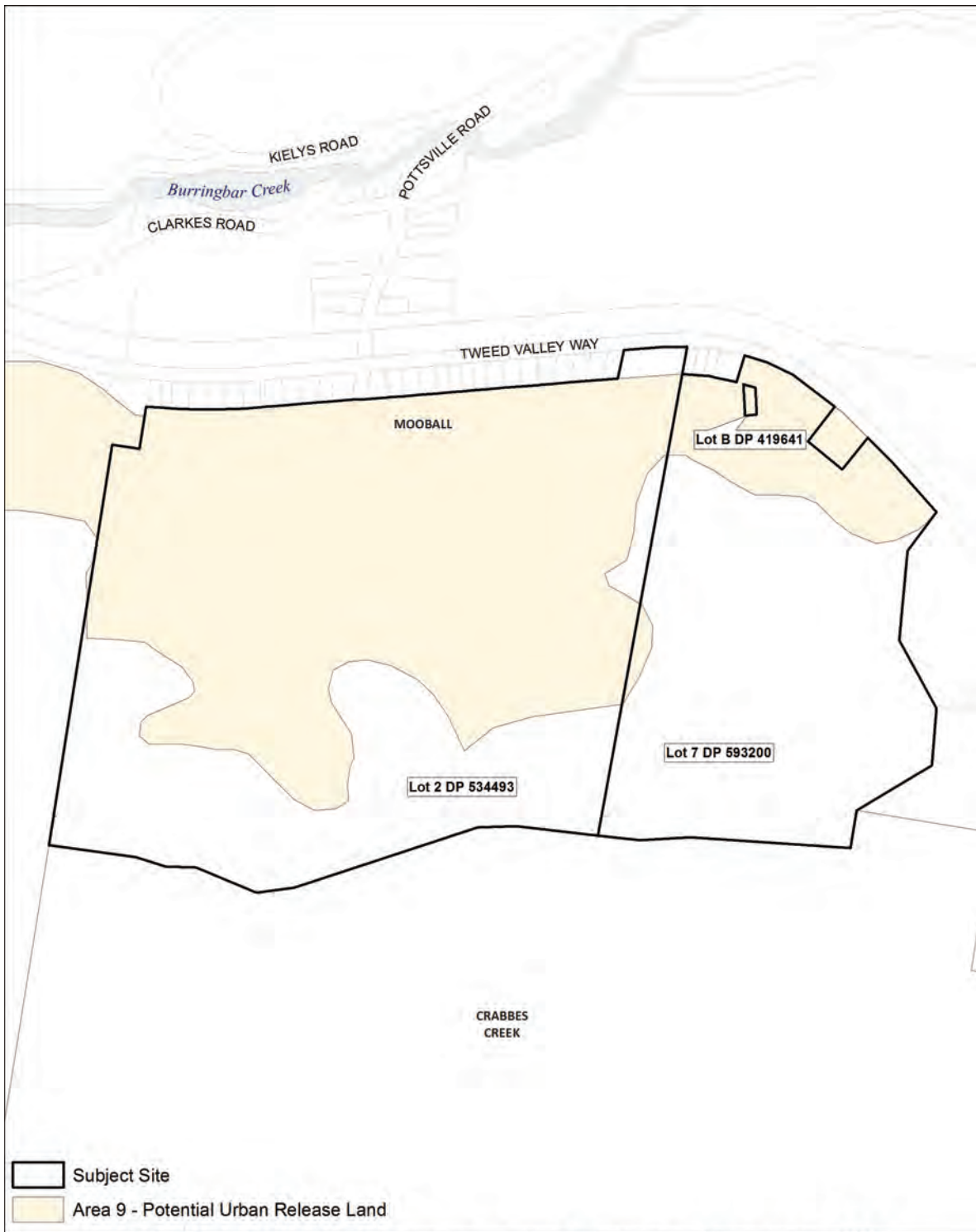


FIGURE 3 – LOT B DP 419641 WITHIN AREA 9 OF THE TWEED URBAN AND EMPLOYMENT LAND RELEASE STRATEGY 2009



Tweed Urban & Employment Land Release Strategy 2009

Area 9 - Potential Urban Release Land - Mooball

<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 damage) 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 1100. The information contained on this document remains valid for 90 days only from the date of supply.</p>	<p>Cadastral: 05 March, 2013 © Land and Property Management Authority (LPMA) & Tweed Shire Council. Boundaries shown should be considered approximate only.</p>	<p>0 0.075 0.15 Km 1:7,079 @ A4 Portrait DO NOT SCALE COPY ONLY - NOT CERTIFIED</p> <p>Map Projection: Universal Transverse Mercator Horizontal Datum: Geodetic Datum of Australia 1994 Grid: Map Grid of Australia, Zone 56</p>	<p>Civic and Cultural Centre 3 Tambourine 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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As discussed earlier in this report, the planning proposal request did not include Lot B but is included in the proposed zoning scheme as well as a several other supporting documents.

In accordance with Council's resolution of 19 April 2011, the Mooball Planning Proposal and enacting DCP was included as an immediate term priority and an independent planning consultant has been engaged to undertake the assessment and preparation of the Council's planning proposal.

By way of information only at this stage, Council's consultants have assessed Lot B, within the context of the planning proposal as a whole, and concluded that there are no significant environmental or planning constraints affecting Lot B.

OPTIONS:

1. Receive and note this report; or
2. Proceed with a decision regarding the planning proposal as stipulated by a resolution of the Council's own making.

CONCLUSION:

It has become very apparent that the planning proposal (PP10/0007) process has not been carried out under the terms and in accordance with the expectations detailed in the Council's guideline for preparing draft LEP amendments and notwithstanding that there has been no statutory breach.

Council staff have acted on the information as it came to light and have, as far as is practicable, put the process and the owners of Lot B in a position as near as possible to that which they would have been in but for the error occurring.

It is imperative that the processes that would have ordinarily occurred now be permitted to occur prior to any reconsideration of the planning proposal regarding its progression, or otherwise. This would include the further discussion between the Council staff, landowner and proponent. It may also include private negotiation between the latter two.

For these reasons the planning proposal should be held in abeyance whilst the parties have the opportunity to evaluate their position and how they would like matters to proceed.

Having regard to the steps taken to remedy the error in the planning proposal and process and the position the parties have been restored to it is considered that the project as whole is now back in line with Council's practice and procedure guidelines.

It is intended that a further report to Council will detail the outcome of any negotiation or sustained objection and in the meantime it is recommended that this report be received and noted.

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
- 1.5.3 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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Council report of 13 December 2012 (ECM 64370130)

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

27 [CNR-CM] Clarrie Hall Dam Spillway Flood Safety Upgrade - Availability of State Funding and Project Status Update

SUBMITTED BY: Water



Supporting Community Life

SUMMARY OF REPORT:

Clarrie Hall Dam was constructed in the early 1980s in accordance with the design standards applicable at the time. The NSW Dam Safety Committee (DSC), responsible for ensuring the ongoing safety of all registered dams in NSW, has requested Council upgrade the dam spillway to accommodate more recent design requirements, and in particular the requirement for it to pass a Probable Maximum Flood (PMF).

Works on the Clarrie Hall Dam Spillway Flood Safety Upgrade project are progressing to schedule.

On 19 February 2013 Council received a letter offering financial assistance up to \$1,273,491 for the upgrade from the Minister for Primary Industries and Minister for Small Business, the Hon Katrina Hodgkinson.

This report outlines the conditions of accepting that funding and provides an update on the status of the project.

RECOMMENDATION:

That Council:

- 1. Accepts the standard State Government funding conditions for up to 20% funding (\$1,273,491 ex GST) of the current assessed cost of the project.**
- 2. Signs the document under the Common Seal of Council.**

REPORT:

Clarrie Hall Dam was constructed in the early 1980s in accordance with the design standards applicable at the time. The DSC, responsible for ensuring the ongoing safety of all registered dams in NSW, has requested Council upgrade the dam spillway to accommodate more recent design requirements, and in particular the requirement for it to safely pass a Probable Maximum Flood (PMF).

Council resolved at its meeting of 16 November 2010 to progress work to upgrade the spillway on the existing Clarrie Hall Dam (CHD). The timing of these works is independent of the need to augment the Tweed's water supplies.

At its meeting of 24 January 2013, Council resolved to accept the tender of Entracon Civil Pty Ltd to carry out the construction work associated with the spillway upgrade.

On 19 February 2013 Council received a letter offering financial assistance up to \$1,273,491 for the upgrade from the Minister for Primary Industries and Minister for Small Business, the Hon Katrina Hodgkinson.

This report outlines the conditions of accepting that funding and provides an update on the status of the project.

Conditions of funding under the Country Towns Water Supply and Sewerage Program

The Minister's offer for financial assistance to Council is under the NSW Country Towns Water Supply and Sewerage Program. The offer is for a total of \$1,273,491, being 20% of the assessed eligible cost of \$6,367,455 (excluding GST) towards the cost of the spillway upgrade works for the dam.

In accepting the funding, Council must agree to a number of standard conditions set out in the agreement reproduced below. The key conditions, and whether they are able to be met by Council are summarised in the table below.

1	Compliance with the Best Practice Management of Water Supply and Sewerage Guidelines, which were gazetted by the Government in May 2004 and revised in August 2007.	Council has achieved full compliance
2	Payments cannot be made before 01 July 2013.	The project is fully funded and this condition will only have a minor and temporary financial impact on Council.
3	The amount of grant is fixed and cannot be varied. Council shall bear the full cost of any additional costs above the tendered contract price for individual components of the Work set out in the Schedule 1 in all circumstances.	This is a standard State Govt funding condition. Council will be required to fully fund any variations to the construction contract or works by other service providers.
4	Completion of the Work within three years of the date of the Minister's offer.	Construction is expected to be completed within 14 months.

5	Council is to provide for liaison with the Minister including the opportunity for review and concurrence at identified Project Milestones.	The Minister's representative from the NSW Office of Water has been involved throughout the project and Council will continue to involve NSW Office of Water officers.
6	At least one sign is to be displayed for the duration of the Work at a prominent location to acknowledge the Government's Financial Assistance towards the Work.	An appropriate sign will be erected once works begin on site.



The Hon Katrina Hodgkinson MP
Minister for Primary Industries
Minister for Small Business

TWEED SHIRE COUNCIL	
FILE No.	DOC No.
WAT 24 - CLARRIE HALL	
REC'D 19 FEB 2013	
ASSIGNED TO David Keenan	
HARD COPY <input type="checkbox"/>	IMAGE <input checked="" type="checkbox"/>

SPILLW ORRPE
Hard copy to David Keenan
Mayor has signed attached for GM's signature in 2 places & TSC seal.

IM13/3729

Councillor Barry Longland
Mayor
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

8 FEB 2013

Related doc: 56586924

Dear Councillor Longland

I refer to Tweed Shire Council's request for government financial assistance for the construction of the Clarrie Hall Dam Safety Upgrade.

I am pleased to offer Council financial assistance under the Country Towns Water Supply and Sewerage Program of \$1,273,491, being 20% of the assessed eligible cost of \$6,367,455 (excluding GST), towards the cost of the safety upgrade works for the Clarrie Hall dam. A schedule of costs is attached for Council's information.

Under the Program rules, there are no provisions for revised estimates or additional costs. The upper limit of financial assistance for this phase of the work is \$1,273,491.

In September 2012, I advised Council in my Stage 2 funding approval that Council can proceed with this project as soon as Council desires but subsidy payments under the Country Towns Water Supply and Sewerage Program for this project cannot be made before July 2013.

The standard conditions that will apply to this financial assistance are attached in duplicate. Council is requested to return a signed original of these conditions to Ms Maree Abood, Director, Urban Water, NSW Office of Water, GPO Box 3889, Sydney 2001. The attached conditions for the use of Government funds for the construction of water supply and sewerage scheme supersede all previously issued conditions.

In particular, I draw Council's attention to the condition for timely completion of the works. This financial assistance is contingent on completion of the project within three years from the date of this offer. Project delays within Council's control may result in financial assistance being reduced or withdrawn.

RECEIVED-RECORDS

Date *20/2* *..12*
Time *3 pm*

IM13/3729

-2-

Councillor Barry Longland

Minister for Primary Industries

I note that Council has achieved full compliance with the Best Practice Management of Water Supply and Sewerage Guidelines, which were gazetted by the Government in May 2004 and revised in August 2007. I would like to congratulate Council on this achievement.

Please contact Mr Chris Hennessy, Principal Urban Water Manager, Office of Water, Alstonville office, on telephone 02 6627 0113, regarding management of the project and processes to ensure eligibility of funding.

Yours sincerely



Katrina Hodgkinson MP
Minister for Primary Industries

Encl

MF13/870
IM13/3729

CLARRIE HALL DAM SAFETY UPGRADE

PROJECT ESTIMATE

Item	Descriptions	Cost (\$)	Govt Subsidy Rate (%)	NSW Govt Subsidy Amount (\$)
1.0	This Offer			
1.1	Pre-construction activities	1,005,000	20%	201,000
1.2	Dam upgrade – construction contract	4,909,455	20%	981,891
1.3	Council input	132,000	20%	26,400
1.4	Project management	321,000	20%	64,200
	TOTAL	6,367,455	20%	1,273,491

NOTE:
All figures exclude GST.

NSW OFFICE OF WATER
Country Towns Water Supply and Sewerage Program

MF13/870
IM13/3729

SCHEDULE 1 TO THE CONDITIONS
FOR COUNCIL MANAGED WATER SUPPLY AND SEWERAGE WORKS

The Work: Clarrie Hall Dam Safety Upgrade

The Work comprises:

	ITEM
1	Pre-construction activities
2	Clarrie Hall Dam upgrade construction works
3	Project management

The Estimated Cost

The estimated cost of the works package is \$6,367,455 (excluding GST).

The Amount of Grant

The Upper Amount of this Grant, for the Clarrie Hall Dam Safety Upgrade, referred to in the Clause 9 of the Conditions is \$1,273,491 which does not include the previously approved funds (excluding GST).

The Common Seal of Council
was hereunto affixed on

.....
Mayor

.....
General Manager

NSW OFFICE OF WATER
Country Towns Water Supply and Sewerage Program

MF13/870
IM13/3729

SCHEDULE 2 TO THE CONDITIONS

FOR COUNCIL MANAGED WATER SUPPLY AND SEWERAGE WORKS

**Clarrie Hall Dam Safety Upgrade
Grant Payments against Project Milestones**

Items and Components or Stages of the Work in Schedule 1	Project Milestones	Maximum Amount of Grant Payment and Term of Payment
1	Completion of pre-construction activities	Payment at the rate of 20% of eligible expenditure to a maximum amount of \$201,000 on award of the Clarrie Hall Dam construction contract (payment not to be made before July 2013)
2	Satisfactory progress on the Clarrie Hall Dam upgrade construction works	Progressive payments at the rate of 20% of the eligible expenditure to a maximum amount of \$736,400 (payment not to be made before July 2013)
3	Satisfactory progress on the project management and Council input works	Progressive payments at the rate of 20% of the eligible expenditure to a maximum amount of \$90,600 (payment not to be made before July 2013)
2	Achieved 100% Practical Completion of the Works in Schedule 1 including commissioning of the Works	Payment at the rate of 20% of eligible expenditure to a maximum amount of \$245,491 (payment not to be made before July 2013)
Total		\$1,273,491

NOTES:

Payments will not be available prior to July 2013 and payments will be subject to satisfactory completion of the Works and compliance with the enclosed "Conditions for Using Government Funds for the Construction of Water Supply and Sewerage Scheme".

The Common Seal of Council
was hereunto affixed on

.....
Mayor

.....
General Manager

NSW OFFICE OF WATER
Country Towns Water Supply and Sewerage Program

MF13/870
IM13/3729

SCHEDULE 3 TO THE CONDITIONS
FOR COUNCIL MANAGED WATER SUPPLY AND SEWERAGE WORKS

Clarrie Hall Dam Safety Upgrade
Best Practice Criteria Requiring Completion

- NIL

NEW SOUTH WALES OFFICE OF WATER
URBAN WATER

CONDITIONS FOR USING GOVERNMENT FUNDS
FOR THE CONSTRUCTION OF WATER SUPPLY AND SEWERAGE SCHEME

1: Definitions

"Act" means, unless otherwise indicated, the *Local Government Act, 1993*.

"Council" means TWEED SHIRE Council.

"Office" means the New South Wales Office of Water.

"General Manager" means the General Manager of Council.

"Fixed Grant" means the approved maximum amount of financial assistance which may be provided under this Agreement against the Work as set out in Schedule 1.

"Minister" means the Minister for Primary Industries.

"Work" means the works set out in the Schedule 1 attached and includes:

- (a) The approved pre-construction activities after adoption of a preferred option. These are concept design, survey, project management, design, community consultation, environmental assessments, preparation of tender documents and risk management; and
- (b) Construction management and construction of the works and land acquisition in connection with the works.

"Scheme" means Council's overall system providing the water or sewerage service which is managed as a single financial entity and of which the Work will be part.

2: Recitals

Whereas:

- (i) Council has made application to the Minister for construction of the Work in accordance with Section 57(1) of the Act; and
- (ii) the Minister has, subject to this agreement, approved financial assistance to Council for the tendered cost of the Work set out in the covering letter attached hereto and the Schedule 1; and
- (iii) the Minister has appointed the Office to act on the Minister's behalf in relation to the matters set out in this agreement;

then subject to Council's acceptance of and compliance with the conditions set out herein, the Minister may make progress and final payments in relation to the Work strictly as described herein.

3: Background - Legislative Matters

- (i) The requirement under Section 60 of the Act for Council to seek the Minister's approval shall apply in respect of the Work.
- (ii) Council shall be the proponent of the relevant activity relating to the Work under Part 5 of the *Environmental Planning & Assessment Act 1979*.
- (iii) Council shall conduct the Work as determined by all the relevant determining authorities in the environmental impact assessment under Part 5 of the *Environmental Planning and Assessment Act 1979* for the activities associated with the Work.
- (iv) The Minister has charged Council with the care and management of the existing sewerage work in the Scheme under Section 58 of the Act.

4: Role of the Office

- (i) Anything that the Minister may do under this agreement, including but not limited to the giving of approval, directions and notification, may be done by the Office on behalf of the Minister as the Minister's representative.
- (ii) Any approval required to be sought from the Minister shall be sought from the Office acting on the Minister's behalf as the Minister's representative.
- (iii) Any thing required to be given to the Minister under this Agreement, including but not limited to notification, documents, and certificates, shall be given to the Office on behalf of the Minister as the Minister's representative.
- (iv) Any participation of the Minister which the Minister may undertake under this Agreement may be carried out by the Office, and any liaison required to be carried out with the Minister shall be carried out with the Office, as the Minister's representative.

5: Carrying Out of the Work

- (i) Prior to commencing the Work, Council shall satisfy itself as to the adequacy of the Work for its intended purpose.
- (ii) Council shall commence the Work as soon as practicable upon being advised by the Minister that funds under this Agreement are available.
- (iii) Council shall ensure that any agreed program of the Work is strictly observed.
- (iv) Council shall notify the Minister without delay of any circumstance relating to work that may reduce or increase the cost of the Work.

6: Responsibility for the Carrying Out and Operation of the Work

- (i) The Work shall be performed at Council's risk. Council accepts full responsibility for the Work including the design and construction.
- (ii) The Minister accepts no responsibility in relation to investigation, design or construction of the Work but relies on the Council and any professional person engaged by it to ensure proper standards are maintained at all stages of design and construction and that the design and construction comply with any instruction/directions, standards, criteria or benchmarks/policies as specified in this Agreement.
- (iii) The ongoing operation of the Work shall be the responsibility of Council which must be undertaken to proper standards, in compliance with all statutory requirements and so that the performance capacity of the Work is achieved. The Minister will not be liable for any failure of Council to perform its ongoing obligations following construction of the Work.

7: Liability for Cost of the Work

- (i) Subject to the contribution to the cost of the Work to be made by the Minister as hereinafter provided, all direct costs involved in the carrying out and completion of the components of the Work set out in the Schedule 1 shall be borne by Council.
- (ii) The amount of grant is fixed and cannot be varied. Council shall bear the full cost of any additional costs above the tendered contract price for individual components of the Work set out in the Schedule 1 in all circumstances.

8: Certification of the Work

- (i) As soon as practicable upon the completion of particular components of the Work as specified in the Schedule 1, Council shall submit to the Minister a Certificate, provided by a suitably qualified and competent professional person appointed by the General Manager, that the construction of the Work is satisfactory and complies with proper engineering standards of construction.
- (ii) As soon as practicable upon the completion of particular components of Work as specified in the Schedule 1, the General Manager shall provide his certification of the moneys spent on the Work, referenced to the Work or part of the Work actually carried out. By the presentation of the Certificate of the General Manager, Council thereby represents that the Work or that part of the Work is being performed satisfactorily pursuant to these Conditions.
- (iii) As soon as practicable upon the completion of the whole of the Work the General Manager shall provide a Final Certificate to the Office certifying that the Work has been completed in accordance with the conditions herein and setting out the actual Final Cost of the items listed in the Schedule 1.
- (iv) These Certificates shall be relied on by the Minister for the purpose of ensuring the proper performance of the Work for the purpose of payments as provided for in this agreement.
- (v) Council shall retain all Certificates for inspection by an auditor of Council appointed pursuant to Chapter 13 Part 3 of the Act, or such persons as are authorised by the Minister.

9: Payment by the Minister

- (i) Financial assistance will be contingent on completion of the Work within **three (3) years** of the date of this offer. Failure to complete the Work in this timeframe may result in financial assistance being reduced or withdrawn.
- (ii) Financial assistance will be contingent on Council as the Local Water Utility achieving substantial compliance with the Best Practice Management of Water Supply and Sewerage Guidelines as gazetted in May 2004. Failure to comply may result in financial assistance being reduced or withdrawn. Requirements to achieve this level of compliance are set out in the Schedule 3.
- (iii) Subject to the matters set out in this Clause, the Minister may make payments based on completion of the Project Milestones specified in the Schedule 2 for components of the Work.
- (iv) The Minister shall not make any Progress Payments based on part completion of the Project Milestones specified in the Schedule 2 for components of the Work unless otherwise agreed and specified in the Schedule 2. The making of such Progress Payments shall be at the complete discretion of the Minister.
- (v) Council shall not seek payment for the Work or part of the Work until the Minister is satisfied that the Council has complied with its obligations set out in Clause 8 above.
- (vi) If the Minister is at any time of the opinion that Council has failed to comply with the terms, conditions and provisions contained herein, the Minister may, at his complete discretion, withhold from Council for such period as he deems fit the payment of any or all of the sums agreed to be paid to Council by the Minister. Any such decision by the Minister shall not be a waiver of the rights set out in Clause 14 below.
- (vii) Council shall not be entitled to interest payments on any amounts due but unpaid by the Minister.
- (viii) Payment shall at all times be subject to continuance of available funding from the Government of New South Wales.

10: Minister's Final Payment towards Final Land Acquisition Costs and Closing off the Project.

- (i) Immediately upon commissioning of the assets in the final contract, the Council shall provide an estimate of all remaining land acquisition costs prepared by the Valuer General's Department or a valuer approved by the Valuer General's Department to the Minister.
- (ii) When all Payments that may be made for the completion of components of the Work under this agreement have been made, and all certifications required to be given to the Minister in accordance with Clause 8 have been given, and the Minister is satisfied that the Council has complied with all its obligations under this agreement, the Minister may make Final Payment towards the Approved Estimate of the Final Land Acquisition Costs.
- (iii) After the Minister's Final Payment is made, the Work is deemed to be finalised and closed off.

11: Conduct of the Work

- (i) Council shall apply the relevant guidelines in the Total Asset Management Manual 2006 in the performance of the Work, and shall ensure participation of the Minister in any value management and risk management assessments.
- (ii) Council shall prepare a Project for the Work which shows Council's plan to implement obligations under the Conditions herein. The Plan shall provide for liaison with the Minister including the opportunity for review and concurrence at identified Project Milestones.
- (iii) Council shall at all times be able to demonstrate compliance with the Local Government (Tendering) Regulation 1999, and show support of the use of Codes of Practice and Tendering for the NSW Construction Industry (published by Construction Policy Steering Committee of New South Wales).
- (iv) Council shall at all times permit the Minister or his authorised officers to inspect the Work and any of Council's books of account, papers and other documents relating to the Work.
- (v) Council shall from time to time promptly furnish to the Minister all such information and particulars of and concerning the Work and the cost thereof as the Minister may from time to time require.

12: Records

- (i) Upon completion of the Work and precedent to the Final Payment, Council shall have construction records including a construction report, a complete set of drawings showing the Work as executed and documentation for proper operation and maintenance for the Work, and finalisation details for all associated service provider engagements and contracts.
- (ii) Council shall have records to demonstrate that the Work has been carried out in accordance with the Project Development Plan as approved, and has not contravened:
 - relevant environmental impact assessment documentation under the *Environmental Planning and Assessment Act 1979*; and
 - Local Government (Tendering) Regulation 1999.

13: Transparency of Government's Financial Assistance

At least one sign is to be displayed for the duration of the Work at a prominent location to acknowledge the Government's Financial Assistance towards the Work.

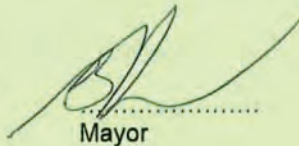
14: Breach of Condition

If Council fails to perform the Work or achieve the Project Milestones in the time specified in the Schedule 2, the Minister may terminate Government's financial assistance and Council shall, repay to the Minister the whole or any parts of any financial assistance made by the Minister. Council shall also repay any costs, charges and expenses incurred by the Minister in respect of the Work together with interest thereon at the interest rate specified in the gazette under Section 566 (3) of the *Local Government Act, 1993*, as determined by the Minister.

15: Notice

Any written notice or demand provided for in these conditions may be served on Council by ordinary prepaid post addressed to Council's Chambers or its postal address.

The Common Seal of
the Council
of
was hereunto affixed
on



.....
Mayor

.....
General Manager

Project Update

Works are progressing to schedule. Considerable pre-construction work has been completed and most approvals have been now been gained. The contractor is preparing to mobilise on site immediately after Easter.

Progress to date:

2011

- Council resolved to engage NSW Water Solutions to carry out the concept design, environmental assessment and detailed design (Feb 2011)
- Concept design options developed by consultants NSW Water Solutions
- Review of Environmental Factors (REF) completed by consultants
- Public exhibition of REF
- Determination of REF and approval conditions set

2012

- Expression of Interest to shortlist potential contractors completed
- Council resolved to short-list four suitably qualified construction contractors (May 2012)
- Early Tenderer Involvement process with four short-listed tenderers completed
- Detailed design completed by consultants NSW Water Solutions
- Tenders received from short-listed tenderers (Nov 2012)
- Fisheries permit approval received
- In principal s60 LG Act approval received from NSW Office of Water (NOW)
- Approval of detailed design received from DSC

2013

- Construction contract awarded to Entracon Civil PTY LTD (Council resolution Jan 2013)
- Offer of 20% funding received from the Minister

Remaining works

Construction works are critically scheduled for the 2013 'nominal' dry period. By successfully awarding the contract in February, the project is now in a good position to meet those dates. The project obviously remains sensitive to weather conditions. However the recent spate of wet weather, while not ideal, is not currently impacting on the program.

Critical scheduled dates are shown below.

Issue Letter of Award (complete)	20 Feb 2013
Clarrie Hall Dam Road closed to the public	31 Mar 2013
Construction begins on site	approx 4 Apr 2013
Completion of construction	April 2014

OPTIONS:

That Council:

1. Accepts the standard State Government funding conditions for up to 20% of the current assessed cost of the project.
2. Not accepts the State Government funding and self fund the entire project at an additional cost to Council of \$1,273,491.

CONCLUSION:

It is recommended that Council accepts the standard State Government funding conditions for up to 20% funding (\$1,273,491 ex GST) of the current assessed cost of the project.

Works on the Clarrie Hall Dam Spillway Flood Safety Upgrade project are progressing to schedule. Council will be kept informed of future progress.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

The project is funded in the Long Term Financial Plan and included in this year's budget. The Grant offer is in accordance with Council's expectations.

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 a secure, high quality and reliable drinking water supply services which meets health and environmental requirements and projected demand
- 2.3.2.7 Deliver Capital Works Program, (Only Large items listed)
- 2.3.2.7.3 Clarrie Hall Dam spillway upgrade

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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28 [CNR-CM] Contract EC2013-013 Supply and Construction of Two DN200 Ductile Iron Cement Lined Water Mains at Murwillumbah

SUBMITTED BY: Contracts/Water

FILE REFERENCE: GC12/2-2013013



Supporting Community Life

SUMMARY OF REPORT:

Tender EC2013-013 Supply and Construction of two DN200 Ductile Iron Cement Lined (DACL) Water Mains at Murwillumbah was called to engage a suitably qualified and experienced civil contractor to provide civil construction works for the construction of water mains at Park Avenue and Warana Street Murwillumbah.

Tenders were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. Tender submissions closed at 4.00pm (local time) on 13 February 2013 in the tender box located in the foyer at the Civic and Cultural Centre, Murwillumbah.

RECOMMENDATION:

That:

- 1. Council awards tender EC2013-013 for the Supply and Construction of Two DN200 Ductile Iron Cement Lined Water Mains at Murwillumbah to Jag Civil & Drainage Pty Ltd for the amount of \$445,454.55 (exclusive of GST).**
- 2. The General Manager be given delegated authority to approve variations up to \$150,000 above the initial tender price and those variations reported to Council following completion of works.**
- 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:

Tender EC2013-013 Supply and Construction of two DN200 Ductile Iron Cement Lined (DICL) Water Mains at Murwillumbah was called to engage a suitably qualified and experienced civil contractor to provide civil construction works for the construction of water mains at Park Avenue and Warana Street Murwillumbah.

Tenders were officially invited in accordance with the provisions of the Local Government Act 1993 and the NSW Local Government (General) Regulation 2005. Tender submissions closed at 4.00pm (local time) on 13 February 2013 in the Tender box located in the foyer at the Civic and Cultural Centre, Murwillumbah.

The construction services are sought from a suitably qualified and experienced civil contractor with expertise in the construction of ductile iron (DICL) water main pipelines.

The subject sites of Park Avenue and Warana Street are located in Bray Park. The scope of work includes approximately 680m of water main and 38 new house service connections along Park Avenue and approximately 360m of water main along Warana Street and various connections to existing services for both water mains.

Tenders Received

A total of 15 responses were recorded for EC2013-013 at the tender box opening on 13 February 2013. A submission from Deks Industries was mistakenly submitted to the e-tender box, as confirmed by phone, and hence was excluded from the evaluation process. The fourteen tenders evaluated were from the following organisations:

- Zinfra
- O'Leary Drainage & Civil Pty Ltd
- FBD Constructions Pty Ltd
- MJ & SL Seery Excavations Pty Ltd
- Demacs Constructions (Australia) Pty Ltd
- Cara Civil Engineering Pty Ltd
- Dormway Pty Ltd
- Eire Contractors Pty Ltd
- Jag Civil & Drainage Pty Ltd
- Ledonne Constructions Pty Ltd
- National Tapping Service Pty Ltd
- Pensar Civil Pty Ltd
- Teralis Pty Ltd
- Yatlar Civil Constructions Pty Ltd

Evaluation Criteria

The tender evaluation was conducted as per the Tender Evaluation Plan. Tenders were evaluated based on the criteria items extracted from clause 23 of the Conditions Tendering and Schedule 7 of the Tender document.

Tender Evaluation

The evaluation was conducted by Council's Tender Assessment Panel, consisting of Council's Water and Sewer Project Engineer and two Contract Engineers.

The general terms of reference for the Assessment Panel as follows:

- Assess the tenders submitted in accordance with the specified criteria;
- Undertake an individual initial assessment of the tender price and non-price data;
- Identify and seek further clarifications (as required) from the tenders and review any qualifications and departures; and
- Score all responses against the specified price and non-price assessment criteria and agreed assessment criteria weightings.

A copy of the Tender Evaluation Report is included as Attachment 1.

ATTACHMENT 1 which is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (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.

OPTIONS:

Not Applicable

CONCLUSION:

Tender Recommendation

Council awards tender EC2013-013 for the Supply and Construction of two DN200 DICL Water Mains at Murwillumbah to Jag Civil & Drainage Pty Ltd for the amount of \$445,454.55 (exclusive of GST).

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.4.

b. Budget/Long Term Financial Plan:

Funding for this project is included in the 2012/2013 budgets.

c. Legal:

We will keep you informed.

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
- 2.3.2.7 Deliver Capital Works Program, (Only Large items listed)
- 2.3.2.7.14 Various reticulation Main replacements
- 2.3.2.7.19 Park Ave Murwillumbah Main upgrade

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Tender Evaluation Report (ECM 64128726)

29 [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 Grant included within this report.

REPORT:

Since June 2006 Council has worked with riparian land owners 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 land holders, from traditional farmers to rural lifestyle property owners and has made an immediate improvement in the riparian conditions of treated areas.

In each case of funding, an agreement with land holders will be signed that details Council's contribution to the project and the commitments and responsibilities of the land holder. Each grant is based on the agreement that the land holder will contribute significantly to the project, in most cases by undertaking agreed works, with materials supplied by Council.

There is only one project included in this report. The property owners have been working to restore their river bank on the Oxley River at Tyalgum since 2009. The site was heavily infested with mature Camphor laurel trees, dense small leaved privet, lantana and other weeds which were excluding native species regeneration. The land owners have achieved very good regeneration with the assistance of a previous River Health Grant which provided a bush regeneration team to control the denser infestations of privet and ground weeds. However only around half of the heavy weed control work has been undertaken while follow-up efforts have concentrated on weed control to support native seedling establishment. It is proposed to allocate another 16 person days to a Council approved bush regeneration contractor to finish the primary work. The work being undertaken on this property compliments river health grants to restore native vegetation on two neighbours' properties at Tyalgum upstream of the town weir.

It is proposed to support the land holders as detailed below.

Property Owner	Locality	Stream frontage (m)	Objective of works	Council contribution
Edwards & Pellat	Tyalgum	740	Continue with riparian vegetation restoration works by undertaking strategic weed control.	\$6500

CONCLUSION:

The project nominated for approval in this round of River Health Grant agreements includes significant in-kind contributions from the property owners. The project will achieve the aims of the River Health Grants Scheme, and are in accord 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 program.

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.

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30 [CNR-CM] Amendments to Water Supply Catchment Stream Bank Protection Policy - River Health Grants Policy

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

Council's River Health Grants program is supported by the Water Supply Catchment Stream Bank Protection Policy. This policy supports subsidisation of rehabilitation works on river and creek banks on private land in the Tweed drinking water supply catchment. The policy and grants scheme was developed in recognition of the fact that waterway rehabilitation will improve drinking water supply quality, and benefit the whole community.

The existing Water Supply Catchment Stream Bank Protection Policy limits the area where funds can be allocated to those parts of the Tweed and Oxley Rivers upstream of the Bray Park Weir. It is proposed that the geographical scope of the policy be expanded to include all natural waterways in the Shire. This will ensure that waterways receiving effluent from Council's Wastewater Treatment Plants and affected by urban development are also being rehabilitated. Expanding the scope of the River Health Grants program will increase the overall beneficial impact on the Tweed environment, and provide greater equity for landowners outside the water supply catchment in their efforts to rehabilitate waterways.

RECOMMENDATION:

That:

- 1. The Water Supply Catchment Stream Bank Protection Policy be amended and renamed the River Health Grants policy.**
- 2. Council notes the proposed River Health Grants policy includes subsidisation of riparian rehabilitation works in all natural waterways of the Shire.**
- 3. The River Health Grants policy be placed on public exhibition for twenty-eight (28) days and public submissions sought for forty-two (42) days.**

REPORT:

Water quality in the Tweed River is affected by both point and diffuse sources of pollution. Point source pollution is associated with the discharge of treated effluent from wastewater treatment plants, while diffuse pollution is derived from livestock, failing septic systems, eroding stream banks, urban stormwater and unsealed roads.

Council has been investing in the control of diffuse source pollution of the drinking water supply catchment through implementation of the River Health Grants program since 2006. Funding for this program is allocated from the Water Unit mandatory dividend for supply of water and sewerage services. The allocation of funding to protection of waterways recognises that Council has responsibility for the provision of water to over 70,000 residents, and that all water is sourced directly from the Tweed River. It is vital to the wellbeing of the community that Council's water source be protected. To achieve this, Council takes an active role in protecting the environmental health of the freshwater reaches of the Tweed River.

The health of the Tweed River and the quality of water that flows through it is directly related to the condition of the banks of the river and its smaller tributary streams. Because most of this land is in private ownership, land holders who are protecting or rehabilitating streams supply a vital service to the community. Where riparian land management does not conform to broadly recognised principals of best practice, it is in the community's interest to assist land holders to improve their performance.

Implementation of the River Health Grants program has resulted in works being undertaken on approximately 100 properties, with 42 kilometres of river or creek bank coming under improved management.

Works have primarily been undertaken in the upper Tweed River catchments, recognising the source of our drinking water, and the impact of diffuse pollution on water quality.

It is now proposed that the geographical scope of the River Health Grants program be expanded to include all natural waterways of the Tweed Shire.

Recognition of the Impact of Wastewater Treatment Plant Discharge

Council operates wastewater treatment plants which release treated effluent into several Tweed waterways, including the Tweed River, Rous River, Terranora Creek and upon completion of the Burringbar-Mooball plant, Burringbar Creek.

In order to offset any potential long term impact of effluent release, it is important to increase the overall health and resilience of the waterways into which effluent is discharged. Rehabilitating stream banks in accordance with the principles described above is the best means of achieving an overall improvement in waterway condition, and reducing the potential impact of effluent discharge.

Expanding the River Health Grants program to include the Rous, Cobaki/Terranora and Burringbar Catchments brings the majority of the Shire's waterways into this program. Two systems remain that are not contributing to the water supply, or affected by the release of treated effluent. These are Cudgen Creek and Cudgera Creek. These two creeks on the Tweed Coast are both severely impacted by acid sulphate soil runoff and experiencing increased stormwater runoff from expanding urban development. It would not be

appropriate to exclude these waterways from a program that could assist with their environmental rehabilitation.

Expanding the River Health Grants program to include all natural waterways in the Tweed will have a positive impact on many facets of the environment. Riparian rehabilitation provides significant benefits to terrestrial and aquatic wildlife as well as water quality. By including waterways that are affected by the release of effluent discharge as well as those that supply drinking water, Council reinforces its commitment to Integrated Water Cycle Management, and provides greater equity to those residents outside the water supply catchment seeking assistance in their efforts to rehabilitate waterways.

There is no requirement to increase either the budget or the staff commitment associated with the River Health Grants Program in order to accommodate the changes proposed.

The existing Water Supply Catchment Stream Bank Protection Policy has been amended and renamed the River Health Grants policy. The amended policy outlines the basis of the grants scheme, eligible areas, works that will be subsidised and the in-kind contributions required from land owners.

OPTIONS:

Council could elect to maintain the scope of the River Health Grants program on the drinking water supply catchment only.

CONCLUSION:

Expanding the area eligible for River Health Grants provides recognition that delivery of water and sewerage services has an impact on waterways beyond the area of the water supply catchment. Assisting land owners to undertake creek and river bank rehabilitation works is an efficient and cost effective means of improving the long term quality and sustainability of the water cycle and environment.

COUNCIL IMPLICATIONS:

a. Policy:

Water Supply Catchment Stream Bank Protection Version 1.2, as amended and renamed, the River Health Grants Policy Version 1.0.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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:

- Attachment 1. Amended Water Supply Catchment Stream Bank Protection policy (version 1.2); now called the River Health Grants policy version 1.0 (ECM 64419244).
-

31 [CNR-CM] Acceptance of a Grant from the NSW Department of Transport, Roads and Maritime Services Better Boating Program for Construction of a Pontoon at Chinderah

SUBMITTED BY: Natural Resource Management



Caring for the Environment

SUMMARY OF REPORT:

Council has been offered a grant of \$60,000 to construct a pontoon at Chinderah. Funding is offered by the NSW Department of Transport, Roads and Maritime Services under the Better Boating Program.

Funding is offered on a 1:1 basis, with matching funds comprised of \$30,000 from Council's Waterways Asset Management Budget and an additional contribution of \$30,000 by the Chinderah Community.

RECOMMENDATION:

That Council:

- 1. Accepts the funds offered by the NSW Department of Transport, Roads and Maritime Services under the Better Boating Program.**
- 2. Accepts the funds offered by the Chinderah Community.**
- 3. Lodges an application to construct the proposed pontoon at Chinderah.**
- 4. Votes the expenditure.**

REPORT:

At its meeting of Tuesday 17 July 2012 Council resolved the following:

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 40 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.*

The scale, layout and location of the proposed pontoon is indicated in the figure below.



Figure 1. Layout of proposed pontoon on Chinderah Bay Drive.

As per item 5 above, a grant application was submitted to the NSW Department of Roads, Transport and Maritime Services for the sum of \$60,000, being half of the estimated cost of constructing a 40m long pontoon. The Better Boating Program grant terms require a 50%

contribution to project costs by the applicant, and this sum has been met by a 1:1 split between Council and the Chinderah Community.

Council received a letter from the Chinderah Districts Residents Association on 23 January 2013 detailing the funds it has been able to secure to make its funding commitment. The funds include \$5000 from the Chinderah Tavern Social Fishing Club and a commitment of \$25,000 from the Taphouse Hotel Group, the operators of the Chinderah Tavern.

Council's application to the NSW Department of Transport, Roads and Maritime Services Better Boating Program has been successful, and an offer of a \$60,000 grant has been made, subject to Council accepting a number of standard conditions.

A draft development application for the proposed pontoon has been prepared and is ready to be lodged by Council. The development application has been prepared with funds allocated by the Chinderah Tavern Social Fishing Club, however Council will be the applicant.

Subject to Council accepting the grant from the NSW Department of Transport, Roads and Maritime Services and the offer of funding from the Taphouse Group, the next stage of the project will be to secure all relevant approvals. Once all conditions of approval have been identified, Council will prepare tender documentation and select a contractor to undertake construction. It is estimated that construction of the proposed pontoon could commence in July-September 2013.

OPTIONS:

Council could decline the offer of funding from the NSW Department of Transport, Roads and Maritime Services, in which case construction of the pontoon would not be possible.

CONCLUSION:

Council should accept the offer of funding from both the NSW Department of Transport, Roads and Maritime Services and the Chinderah Community and proceed with steps required to complete construction of a pontoon at Chinderah.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Funds to support Council's funding share of \$30,000 are available in the Waterways Asset Management budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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.

32 [CNR-CM] Draft Youth Strategy and Action Plan

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

The requirement to prepare a Youth Strategy was first identified as a key priority of the community during the consultation that informed the development of Council's 7 Year Plan. Preparation of a Youth Strategy was also included as an action in the Operational Plan from 2011/2012 to 2012/2013. A consultant was engaged on 18 May 2012 to develop the Youth Strategy and supporting documentation. The draft Youth Strategy and Action Plan 2013/2017 will inform the way Council engages with and responds to young people. The Youth Strategy and Action Plan are now ready for public exhibition.

RECOMMENDATION:

That Council:

- 1. Places the draft Youth Strategy and Action Plan suite of documents on public exhibition for a period of 28 days.**
- 2. Notes that the Youth Opportunities Grant was submitted to Office of Communities in the Department of Education and Communities on 4 March 2013.**

REPORT:

Strategic Context

Early in 2006 Council conducted a major consultation activity to better understand community needs and expectations and to determine Council's ability to deliver programs and projects consistent with those expectations. 'Improved Services for Shire Youth' emerged as a key theme and funding was allocated for the preparation and implementation of a Youth Strategy.

The Division of Local Government introduced the Integrated Planning and Reporting Framework (IPRF) to ensure local government operations and strategic planning meets the needs of the community. The *Integrated Planning and Reporting Manual pg 35* notes there are "particular groups who may have special needs or issues. These groups were formerly referred to as 'target groups' in the social planning process and include:

- children
- young people
- people with disabilities
- older people
- women
- Aboriginal and Torres Strait Islander people
- people from culturally and linguistically diverse backgrounds
- people from diverse sexualities"

The Youth Strategy and Action Plan 2013/2017 will address specific issues of young people and identifies key actions to be integrated into Council's four year Delivery Program and one year Operational Plan. Additionally it identifies other sections of Council responsible for the implementation of the document to ensure a whole-of-Council response.

The IPRF specifically indicates Council's Community Strategic Plan must be based on the social justice principles including equity, access, participation and rights. Central to the Youth Strategy and Action Plan are the principles of social justice, economic resilience and sustainability. For young people this means ensuring that:

- there is fairer distribution of economic resources and access to essential services to meet basic needs and to improve their quality of life
- their rights are recognised and promoted by Council and the community
- they have better opportunities for genuine participation and consultation about decisions affecting their lives
- their views are valued and listened to in Council deliberations
- there is balanced decision making in Council based on social, economic and environmental goals

Background

The Youth Strategy and Action Plan Tender Contract EQ2012-092 was advertised for a period of three weeks and closed on 21 March 2012. The consultant, Cred Community Planning, was engaged on 18 May 2012 to:

1. Develop a Youth Strategy that includes:
 - a) a review of current literature and previous studies undertaken by Tweed Shire Council.

- b) a framework mapping the relationship of the strategy to Federal, State and Regional Plans pertaining to young people. The framework will briefly summarise how other levels of government are responding to the needs of young people and link the Youth Strategy and Action Plan to same.
 - c) identified themes or goals which address trends, needs and aspirations in relation to young people, having regard to the roles and responsibilities of local government.
 - d) broad strategies to achieve the goals, having regard to the roles and responsibilities of local government and non-government organisations.
 - e) a four year action plan detailing actions under each strategy, who is to lead, how resources can be sourced, and target dates.
 - f) an overview of the roles of service providers and key stakeholders in the Tweed Shire that respond to the needs of young people.
 - g) a summary of consultation findings.
2. The Action Plan will identify opportunities for partnering with other stakeholders in responding to needs and aspirations of young people.
 3. The Action Plan will identify other sections of Council responsible for the implementation of the document to ensure a whole of Council response.

Following a review of the tender submissions additional information and revised pricing was requested being:

1. Provision of an additional document: Audit of Shire wide Youth Infrastructure.
2. Review of additional strategic document titled *Whole of Shire Cultural and Community Facilities Plan*, including an analysis of youth infrastructure proposed in future developments and best practice recommendations.
3. Youth Issues Snapshot document that can be taken as a standalone document or included within the Youth Strategy and Action Plan.

Information

A suite of documents has been prepared by Cred Community Planning for Council to complement the Youth Strategy and Action Plan that can standalone or be read as a group. These documents are the Draft Community Engagement Report, Draft Youth Profile, Draft Youth Facilities Plan, Draft Case Studies and Draft Youth Strategy and Action Plan.

1. Draft Community Engagement Report (Attachment 1)

The draft Community Engagement Report provides full details of the extensive engagement activities undertaken with young people, service providers, parents and carers to develop the Youth Strategy and Action Plan. The type of engagement is summarised in the table below:

Type	Audience	Total participants
3 workshop	Kingscliff, Wollumbin and Murwillumbah High Schools students	100
2 workshops	Young people at risk – St Josephs Youth Service and Mending Fences	30
Speak Out Website	Tweed's young people	57 registered users 3137 site visits 1778 visitors
Youth Survey	Tweed young people aged 12 - 24 years	237 completed
Vox Pops	Filmed interviews with young people at Tweed City and Murwillumbah.	25 young people interviewed.
Speak Out postcards	Postcards about Speak Out Campaign distributed to all schools	Young people at all schools received
2 workshops	Tweed Shire Youth Network	20
Parents and Carers Survey	Parents and Carers of Tweed's young people	61 completed
Community Services online survey	Community Services that work with Tweed's young people	23 completed
Speak Out Face Book Page	Interested Tweed young people, residents or services	61 Likes At peak, 8000 reach.
Interviews	Council Officers	10
Meeting	Banora Point Seniors	10
Youth Forum	A forum with young people attended by the Mayor and General Manager to feedback outcomes of the 'Speak out' campaign and develop actions to address priority issues	40 young people

2. Draft Youth Profile (Attachment 2)

The draft Youth Profile provides an overview of the demographic trends pertaining to Tweed's young people. Importantly, while the 12-24 year old population cohort is projected to increase by 5,070 between 2011 and 2031, the proportion of young people will decrease from 14.2% to 13.4% of the Tweed population by 2031. A survey of 237 young people completed as part of the community engagement identified that 54% of young people surveyed saw no future for themselves in Tweed, mainly due to lack of opportunity. Disengaged young people, a loss of local youth and an ageing population can mean a loss of vibrancy, creativity and talent; and a loss of service, trade and retail workers which would negatively impact on the Tweed's economy, community and culture.

3. Draft Youth Facilities Plan (Attachment 3)

The draft Youth Facilities Plan provides an analysis of the current and forecast (to 2031) youth facility needs for young people aged 12-24 years. A youth facility is a building or space that can be used by young people for recreational, social, sporting, educational, cultural or training purposes.

This study will be used to inform decisions on the need for, and provision of, youth facilities in light of:

- changing demographics, such as the forecast increasing youth population particularly in Cobaki and Kings Forest.
- the need to provide facilities for young people in the early stages of new developments.
- inequitable distribution of youth facilities across the Tweed Shire.
- poor access to public transport for many young people and an inability to access facilities and programs offered in other areas.
- different levels of socio-economic disadvantage across the Tweed Shire, with those higher disadvantaged young people having less ability to access private facilities and services.
- local youth facilities that are in poor condition, that exclude many young people as they are unsafe, and may not meet current and future needs.
- the need for sustainable and inter-generational community facilities to reduce costs to Council, to be managed more efficiently and provide for future generations.
- unmet need for certain types of facilities. For example, creative and cultural facilities, free outdoor recreation facilities, youth spaces, and modern libraries that may be incorporated into flexible multi-purpose facilities.

4. Draft Case Studies (Attachment 4)

A number of best practice case studies are provided to illustrate the range of successful youth engagement tools, places and spaces, programs and services available to inform the way Council engages with and responds to young people.

5. Draft Youth Strategy and Action Plan (Attachment 5 - to be circulated prior to Council meeting)

The draft Youth Strategy and Action Plan is based on the concepts of capacity building, partnership and empowerment to ensure that young people can feel more connected to where they live and will be able to be involved in the planning and delivery of decisions that affect them.

The Youth Strategy and Action Plan contains six strategic outcomes to address the issues raised during the engagement campaign:

- a) **YOUNG PEOPLE ARE VALUED MEMBERS OF THE COMMUNITY AND ENGAGED IN DECISIONS THAT AFFECT THEM**
- Many young people do not feel their voice is heard in Tweed and the anti-social behaviour of some of that age group in the community negatively impacts on outcomes for all.
 - Research shows if young people are involved in the planning, design and management of spaces they use, participation will be higher and incidents of vandalism greatly reduced.

A key action to better involve young people in decision-making processes is establishment of a Youth Council. The Youth Council would act as an advisory committee to represent the voice of young people aged 12-24 in the Tweed Shire. The proposed model will engage the participation of students from each of the Shire's ten high schools through a two year program. Each school will choose two students, one from Year 10 and one from Year 11 to represent their school.

b) YOUNG PEOPLE FEEL PROUD OF WHERE THEY LIVE WITH ACCESS TO QUALITY PLACES AND SPACES

- Young people want to socialise with their peers in safe, attractive and inclusive places.
- Tweed Shire is a geographically large area and many young people don't have equitable access to recreation, social and cultural facilities.

Key actions are to seek external funding to advocate for youth precincts in new developments proposed at Cobaki Lakes and Casuarina Beach/Kings Forest, upgrade Knox Park to include a multipurpose youth precinct, prepare a master plan to incorporate a youth precinct at Les Burger Fields and seek external funding for same.

c) YOUNG PEOPLE ARE INVOLVED IN LOCAL EVENTS AND A RANGE OF CREATIVE, SPORTING AND SOCIAL ACTIVITIES

- Young people are genuinely interested in getting more involved in local events, cultural and creative activities, sporting and social activities.
- There are opportunities for young people to get involved in local markets and festivals or to connect with theatre, arts and sporting groups.

A key action to facilitate greater participation of young people in a range of community events is to appoint a Youth Activities Officer (YAO). The YAO would facilitate the Youth Council and work through the Youth Council to establish a group of young people to design and manage events and programs in public places.

d) YOUNG PEOPLE HAVE ACCESS TO A RANGE OF LOCAL EDUCATION, EMPLOYMENT AND CAREER OPPORTUNITIES

- Many young people are leaving Tweed Shire in search of employment, career and educational opportunities when they turn 18.
- The quality of local community life, access to employment and training opportunities and the prosperity of local economies are linked.

Key actions are to continue to create work experience, apprenticeship/traineeship, work placement and internship opportunities for young people within Council and to support mentoring and leadership programs.

e) YOUNG PEOPLE FEEL SAFE AND PROTECTED FROM DRUGS, ALCOHOL AND VIOLENCE

- The safety of local young people and the community in general, particularly in public parks, skate parks and neighbourhood streets was a consistent theme for all people engaged as part of the Youth Strategy.
- Young people feel they are often blamed for the drinking, drugs and violence in public places. However, the majority of young people spoken to feel alienated from these spaces because they are unclean, unsafe and because they get hassled by people pushing drugs and alcohol.

Key actions are to develop a Memorandum of Understanding with Tweed/Byron Local Area Command to undertake Community Safety Audits in known crime hotspots and to develop a Shirewide Community Safety Plan.

- f) YOUNG PEOPLE CAN GET AROUND, HAVE ACCESS TO SERVICES AND HAVE AFFORDABLE PLACES TO LIVE.
- Tweed Shire is a large geographical area and 'getting around' is not easy without a vehicle. After school and on weekends there is no public transport in or out of some locations and young people can feel isolated.
 - Adequate funding of services is also an issue as residents living in NSW/QLD border locations are impacted by State policies and funding inequities.

A key action is to seek external funding for a subsidised Youth Transport service similar to 'BatBus', 'Yaxi' and 'Yowi' as operating in neighbouring local government areas and to work with local bus services to extend services on weekends and evenings.

OPTIONS:

Option A

That Council:

1. Places the draft Youth Strategy and Action Plan suite of documents on public exhibition for a period of 28 days.
2. Notes that the Youth Opportunities Grant was submitted to Office of Communities in the Department of Education and Communities on 4 March 2013.

Option B

That Council:

1. Seek further information and does not place the draft Youth Strategy and Action Plan suite of documents on public exhibition for a period of 28 days.
2. Note the Youth Opportunities Grant was submitted to Office of Communities in the Department of Education and Communities on 4 March 2013.

CONCLUSION:

The requirement to prepare a Youth Strategy was first identified as a key priority of the community during the consultation that informed the development of Council's 7 Year Plan. Preparation of a Youth Strategy was also included as an action in the Operational Plan from 2011/2012 to 2012/2013. The draft Youth Strategy and Action Plan 2013/2017 will inform the way Council engages with and responds to young people. It is recommended the Youth Strategy and Action Plan and supporting documentation be placed on public exhibition.

COUNCIL IMPLICATIONS:

a. Policy:

Youth Policy Version 1.0.

b. Budget/Long Term Financial Plan:

Funding currently in place for the delivery of the Youth Strategy and Action plan is a recurrent amount of \$50,000 per annum funded from Council's 7 Year Plan. This amount is insufficient to resource the formation of a Youth Council and employment of a Youth Activities Officer, two of the key identified actions.

Option 1

Staff have made application to the NSW Youth Opportunities Grant Round 2 seeking two years funding of \$50,000 per annum towards the employment of a Youth Activities Officer. The round invites non-government organisations and local government to deliver projects

which enable young people to lead and participate in community development activities. Successful applicants are required to use a range of strategies to support and engage young people.

Should the grant be successful, Option 1 will have an impact on the general fund in the financial year commencing 2015/2016 when grant funding ceases. Decisions will be required at this time to find alternative funding sources or to end the Youth Activities Officer contract.

OPTION 1- PRESUMING SUCCESSFUL YOUTH OPPORTUNITIES GRANT				
YOUTH STRATEGY BUDGET	2013/2014	2014/2015	2015/2016	2016/2017
Income				
7 Year Plan Funding Allocation	50,000	50,000	50,000	50,000
NSW Youth Opportunities Grant	50,000	50,000	0	0
Total Income	100,000	100,000	50,000	50,000
Expenditure				
Youth Development Officer Vehicle Expenses (not elsewhere budgeted)	10,700	11,100	11,500	11,900
Youth Activities Officer (new position)*	70,400	72,900	75,500	78,200
Youth Council (Training/Development, Travel, Catering, Venue Hire, Excursions, Promotional Material)	15,000	15,500	16,000	16,500
Total Expenditure	101,100	104,700	108,400	112,200
Budget Shortfall	(1100)	(4700)	(58,400)	(62,200)

*The Youth Activities Officer position is costed on the basis of a four day per week permanent part-time position at Grade 6 including oncosts.

Option 2

Option 2 presents the Youth Strategy and Action Plan budget using only the \$50,000 per annum currently provided from the 7 Year Plan. There is sufficient funding to support the Youth Council and related initiatives with the balance allocated to Activities Funding. In the absence of a Youth Activities Officer, this budget will be used to work in partnership with the Youth Council and existing community groups to develop a range of programs at Council facilities including but not limited to 'Battle of the Bands', skate events, movie nights etc.

OPTION 2- USING 7 YEAR PLAN BUDGET ALLOCATION ONLY				
YOUTH STRATEGY BUDGET	2013/2014	2014/2015	2018/2016	2016/2017
Income				
7 Year Plan Funding Allocation	50,000	50,000	50,000	50,000
Total Income	50,000	50,000	50,000	50,000
Expenditure				
Youth Development Officer Vehicle Expenses (not elsewhere budgeted)	10,700	11,100	11,500	11,900
Youth Council	15,000	15,500	16,000	16,500

OPTION 2- USING 7 YEAR PLAN BUDGET ALLOCATION ONLY				
YOUTH STRATEGY BUDGET	2013/2014	2014/2015	2018/2016	2016/2017
(Training/Development, Travel, Catering, Venue Hire, Excursions, Promotional Material)				
Youth Council Initiatives	5000	5000	5000	5000
Activities Funding (activation of Council owned facilities)	19,300	18,200	17,100	16,000
Total Expenditure	50,000	50,000	50,000	50,000
Budget Shortfall	0	0	0	0

c. Legal:

Not applicable.

d. Communication/Engagement:

Inform - We will keep you informed. Young people, parent and carers, service providers and the general community will be alerted to the exhibition of the Youth Strategy and Action Plan and be encouraged to make submissions.

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
 - 2.1.1.3 Improve service to young people
 - 2.1.1.3.2 Update Young People Issues Paper (2000) to inform review of Youth Policy
 - 2.1.1.3.3 Develop Youth Strategy
 - 2.1.1.3.4 Exhibition and adoption of Youth Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Draft Community Engagement Report (ECM 64454764)
- Attachment 2. Draft Youth Profile (ECM 64454765)
- Attachment 3. Draft Youth Facilities Plan (ECM 64454766)
- Attachment 4. Draft Case Studies (ECM 64454767)
- Attachment 5. Draft Youth Strategy and Action Plan (to be provided prior to Council meeting)

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REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

33 [EO-CM] Mens Shed - Recreation Park, Tweed Heads

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

Council has received a request to lease a shed at Recreation Park at Tweed Heads which is no longer used by Council to a group called the "Mens Shed".

The Mens Shed is a group of local men who intend to create a meeting place and workshop for men in the local community to pass on skills and information relating to health and well being.

Mens Shed Australia is incorporated as a not for profit Australian Public Company established to assist in the creation of and support for Mens Shed groups in local communities.

Mens Shed groups provide a *"unique and practical way of addressing men's health issues and it is a way of capturing existing skills in a community; a way of supporting projects that might be marginal, or outside the normal scope of other community groups, or businesses, or that lack practical skills"*

A local group of men approached Council seeking appropriate premises to create a workshop and meeting place, and the old gardeners' shed at Recreation Park will satisfactorily meet the Mens Shed requirements.

The local group has secured funding to establish the local Mens Shed in Tweed Heads, and need to secure premises.

It is recommended that Council approve the leasing of the decommissioned shed at Recreation Park for a term of five years at a peppercorn rent, subject to the Tweed Heads Mens Shed group obtaining development consent for the proposed activities of the Mens Shed group at the premises.

RECOMMENDATION:

That :

1. Council approves entering into a lease with the Tweed Heads Mens Shed group for the decommissioned gardeners shed at Recreation Park, Recreation Street,

Tweed Heads being part of Lot 10 in DP 1082082 for a term of five years at a peppercorn rent subject to the Mens Shed group obtaining development consent for the proposed activities of the Mens Shed at the premises; and

- 2. All documentation be executed under the Common Seal of Council.**

REPORT:

Council has received a request to lease a shed at Recreation Park at Tweed Heads which is no longer used by Council to a group called the "Mens Shed".

The Mens Shed is a group of local men who intend to create a meeting place and workshop for men in the local community to pass on skills, information relating to health and well being.

The Mens Shed comes within the auspices of Mensheds Australia, an incorporated not for profit Australian Public Company established to assist in the creation of and support for Mens Shed groups in local communities.

Mensheds Australia's purpose is *"to create an innovative approach to men's sheds development and help build sustainable men's shed that are valuable assets for the communities they serve...Mensheds Australia role is to support the people who make things happen and to encourage broad-thinking and innovation."*

The Mensheds Australia information web site notes that Mens Shed groups provide a *"unique and practical way of addressing men's health issues and it is a way of capturing existing skills in a community; a way of supporting projects that might be marginal, or outside the normal scope of other community groups, or businesses, or that lack practical skills"*

A local group of men approached Council seeking appropriate premises to create a workshop and meeting place, and the old gardeners' shed will satisfactorily meet the Mens Shed requirements.

All costs to obtain development consent and fit out the building for the approved use will be borne by the Mens Shed group.

The local group has secured funding to establish the local Mens Shed in Tweed Heads, and need to secure premises. The proposed activity will provide a benefit to the Tweed Heads community and Council can support the proposal by providing premises at a peppercorn rent.

It is recommended that Council approve the leasing of the decommissioned shed at Recreation Park for a term of five years at a peppercorn rent, subject to the Tweed Heads Mens Shed group obtaining development consent for the proposed activities of the Mens Shed group at the premises.

The area to be leased is a part of Lot 10 in DP 1082082, which is community land. The *Local Government Act 1993* provides at section 46 that a Council must not grant a lease for a period exceeding 5 years unless it has given public notice of its intention to do so.

To expedite commencement of the lease, as the Group has obtained funding and are keen to proceed it is recommended that Council grant a five year lease to facilitate establishment which will allow Council to review the progress and success of the Mens Shed group at the premises.

The plan below shows the area to be leased outlined, it will be fenced off from other occupants of the Park, including day care and pre-school operators, and will not interfere with their activities at the Park:



OPTIONS:

1. To approve the granting of a lease to the Tweed Heads Mens Shed Group for a period of five years;
2. To not approve the granting of a lease to the Tweed Heads Mens Shed Group; or
3. To advertise the intention to grant a lease for 4 x 5 years in accordance with the Local Government Act 1993.

CONCLUSION:

A lease of five years will be sufficient for the group to establish themselves, and provide Council with an opportunity to review the success or otherwise of the group in Tweed Heads. It is recommended that this is the best option available to Council.

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
- 1.3 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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34 [EO-CM] Classification of Land - Kirkwood Road, Tweed Heads South

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

Lot 9 in DP1181092 at Tweed Heads South has been transferred to Council as a Drainage Reserve as part of an agreement with Essential Energy dated 23 May 2007.

A notice was published in the Tweed Link on 15 January 2013 in relation to the intention to classify the parcel as operational land, allowing a period of 28 days for any member of the public to provide a written submission. No submissions were received.

It is now necessary for Council to classify Lot 9 in DP 1181092 as operational land pursuant to the provisions of the *Local Government Act, 1993*.

RECOMMENDATION:

That Lot 9 in DP 1181092 at Tweed Heads South be classified as operational land pursuant to section 31 of the *Local Government Act, 1993*.

REPORT:

Lot 9 in DP1181092 at Tweed Heads South was transferred to Council as a Drainage Reserve as part of an agreement with Essential Energy to exchange land for mutual benefit.

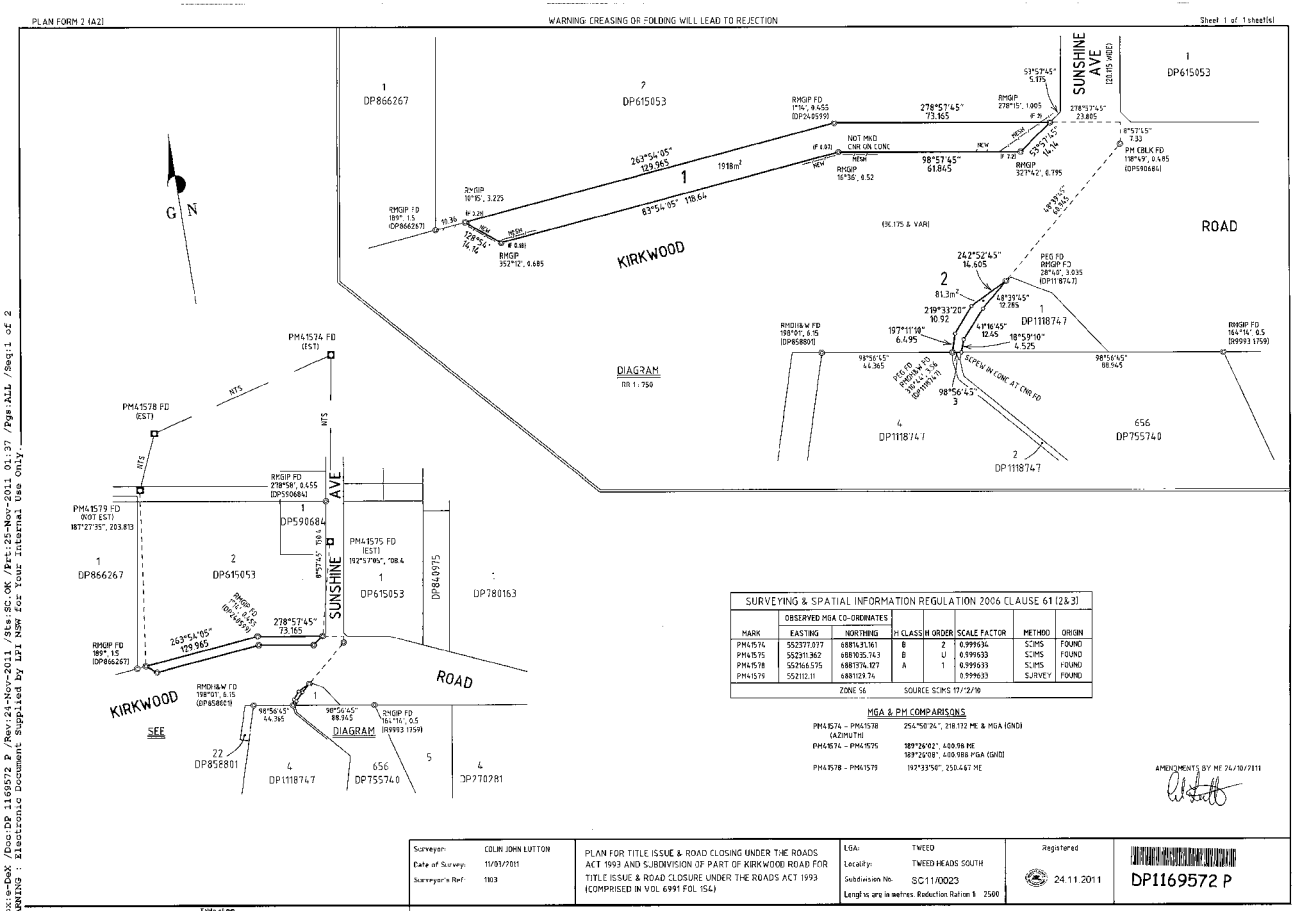
The agreement provided for a partial closure of an unformed road reserve, Kirkwood Road, south of Essential Energy's compound in Tweed Heads South, in exchange for land of similar area for drainage purposes.

Essential Energy required the road reserve to allow more space for the construction of a sub-station on Lot 2 DP 615053, and entered into a licence for the use of the road reserve pending the closure and creation of the drainage reserve.

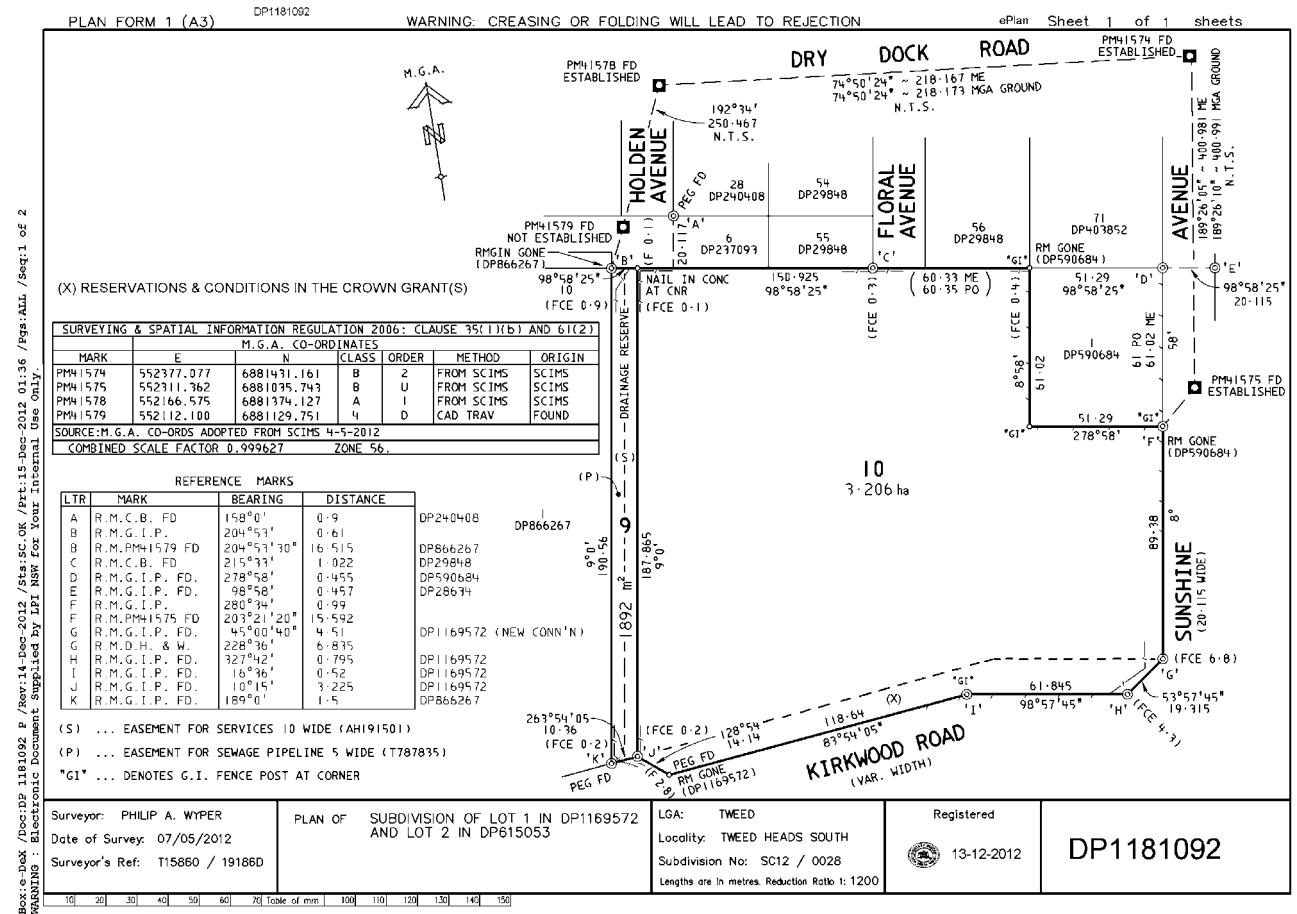
Council resolved on 6 March 2007 to enter into the licence agreement and a deed of agreement for the land exchange with Essential Energy.

The plan of road closure was registered on 24 November 2011, as DP 1169572, creating Lot 1 to be transferred to Essential Energy, who would then consolidate it with their land and subdivide a parcel for drainage reserve along their western boundary. This occurred by registration of DP 1181092.

The two plans are shown below, to illustrate the areas subject of the agreement. The first plan is the plan of road closure, being DP 1169572, showing Lot 1 which was transferred to Essential Energy in November 2012:



The next plan, DP 1181092, shows the consolidation of Lot 1 with the Essential Energy parcel, Lot 2 DP 615053, and the creation of Lot 1 as drainage reserve:



A notice was published in the Tweed Link on 15 January 2013 allowing a period of 28 days for any member of the public to provide a written submission to the proposed classification of the land as operational. No submissions were received.

It is now necessary to classify Lot 9 DP 1181092 as operational land pursuant to the provisions of the *Local Government Act, 1993*.

OPTIONS:

As the requirement to classify land is a statutory requirement under the *Local Government Act, 1993*, there are no alternative options.

CONCLUSION:

All actions to finalise the land exchange with Essential Energy, are now complete, and it is now necessary to classify the land in accordance with our statutory obligations under the *Local Government Act 1993*.

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:

- 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.

35 [EO-CM] Chowan Creek - Road Closure Application - Parish of Nullum

SUBMITTED BY: Design

FILE REFERENCE: GR3/12/3



Civic Leadership

SUMMARY OF REPORT:

Council has received a notice of application to close and purchase a section of Crown Road Reserve at Chowan Creek from Department of Primary Industries, Crown Lands Division. Council has been requested to make any relevant submissions regarding the proposal.

During the investigation it was noted that part of the proposed closure is in fact a Council controlled road reserve. Whilst the proposal has been approved in principle by the Crown Lands Division the further consent to the closure of the section of Council public road is required from Council as the roads authority.

The section of Council controlled road reserve in question runs north west to south east through Lots 10 and 11 in DP1109110 and Lots 4 and 5 in DP258994. Each of the land owners are party to the application.

This section of road reserve was transferred to Council vide Government Gazette on 18 February 2005 for the purpose of providing secured access to lot 6 in DP258994. This Lot has since been subdivided and is now referred to as Lot 11 in DP1109110. Lot 11 now has the benefit of direct road access from Chowan Creek Road and as such the transferred section of road is no longer required. No formation of the road reserve has ever occurred and it does not provide access to any other parcels within the vicinity. Access to all relevant parcels from Chowan Creek Road has been obtained by way of registered rights of carriageway.

It is recommended that Council provides its consent to the closure and purchase of the section of road reserve which runs through Lots 10 and 11 in DP1109110 and Lots 4 and 5 in DP258994 at Chowan Creek.

RECOMMENDATION:

That Council:

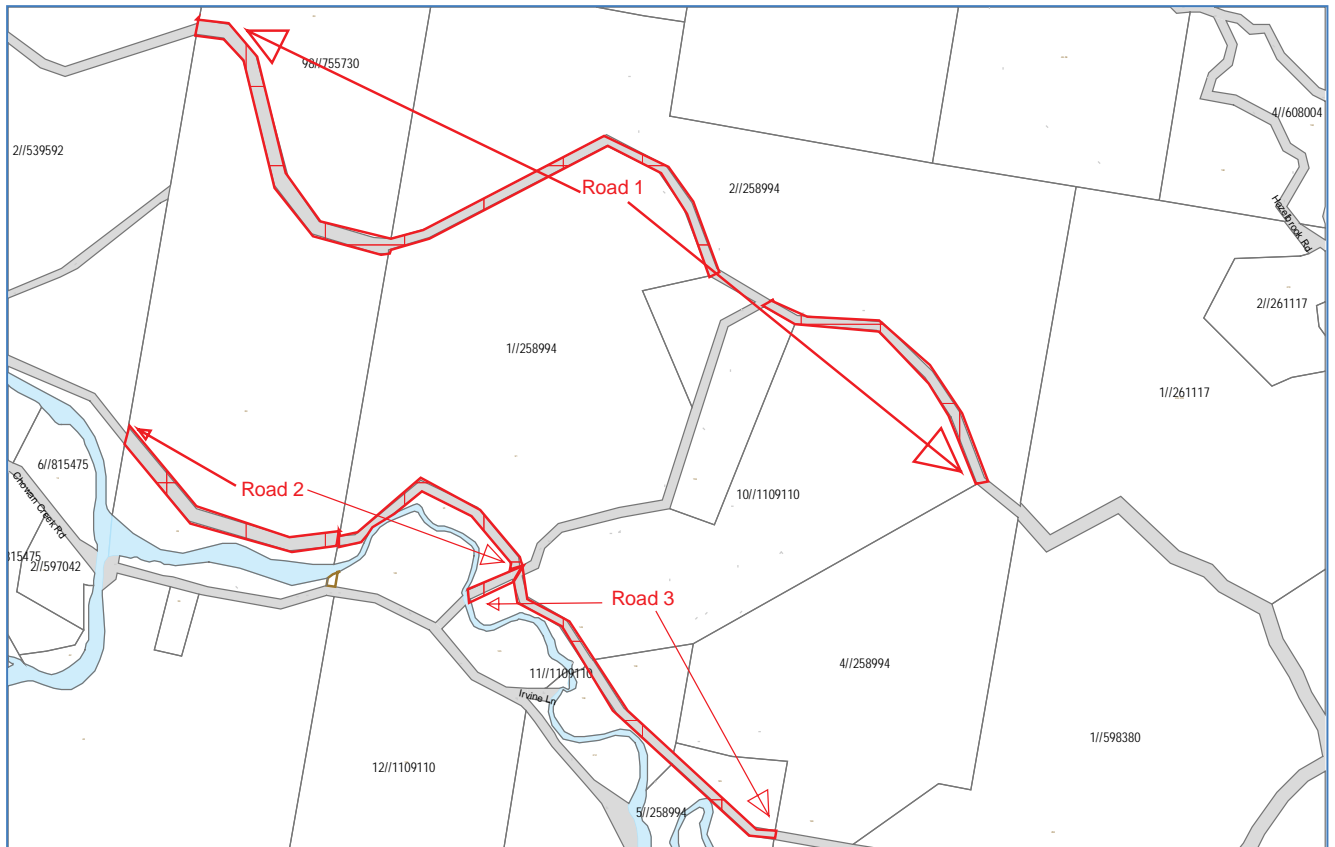
- 1. Provides its consent to the Department of Primary Industries, Crown Lands Division to the closure and purchase by the applicants of the Council road reserve which runs through Lots 10 and 11 in DP 1109110 and Lots 4 and 5 in DP 258994 at Chowan Creek; and**

2. Executes all relevant documentation under the Common Seal of Council.

REPORT:

Council has received a notice of application to close and purchase a section of Crown Road Reserve at Chowan Creek from Department of Primary Industries, Crown Lands Division. Council has been requested to make any relevant submissions regarding the proposal.

Plan below showing full extent of the Crown road closure proposal:



During the investigation it was noted that part of the proposed closure is Crown controlled road reserve (Roads 1 and 2) and the balance (Road 3) is in fact a Council controlled road reserve.

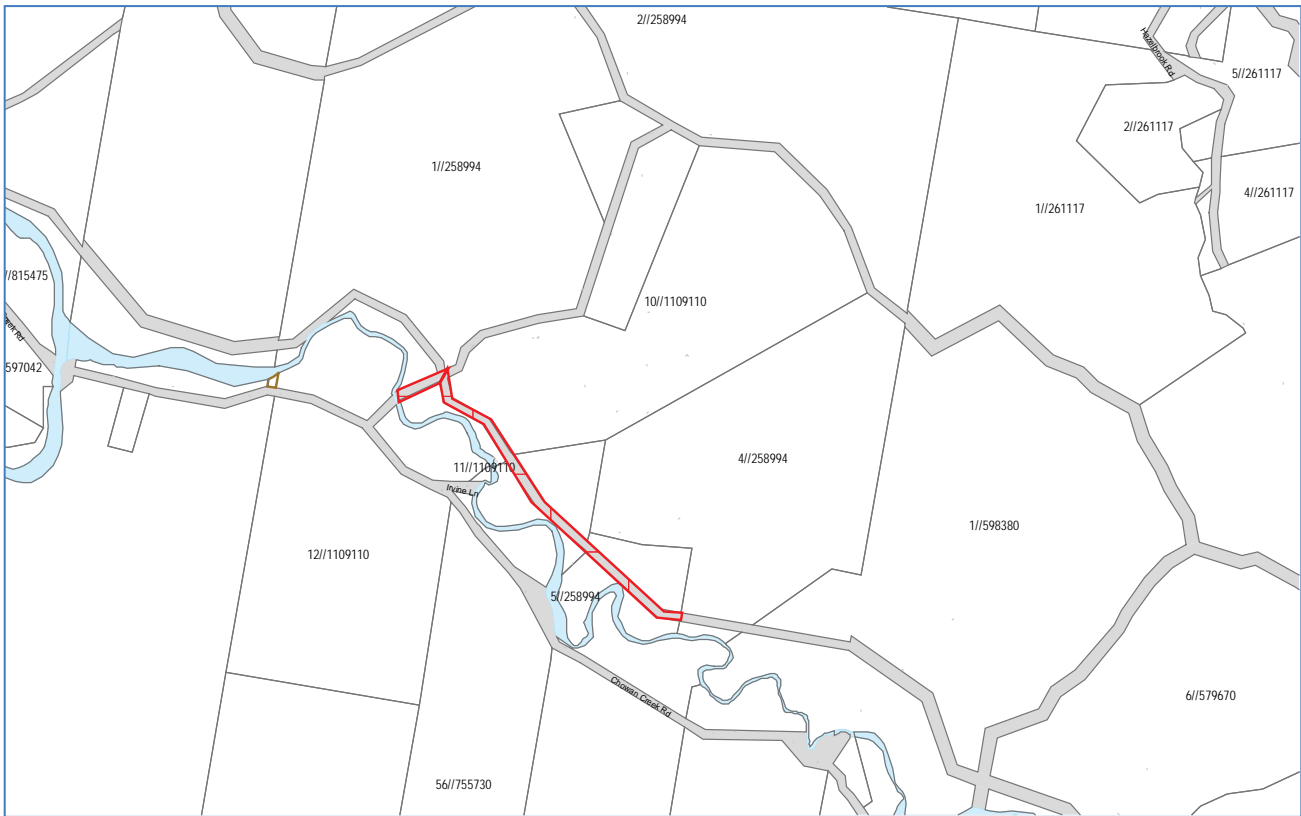
Roads 1 and 2

Whilst the proposal has been approved in principle by the Crown Lands Division over the Crown controlled section of road reserve (Roads 1 and 2) further consent to the closure of the section of Council controlled public road (Road 3) is required from Council as the roads authority.

Road 3

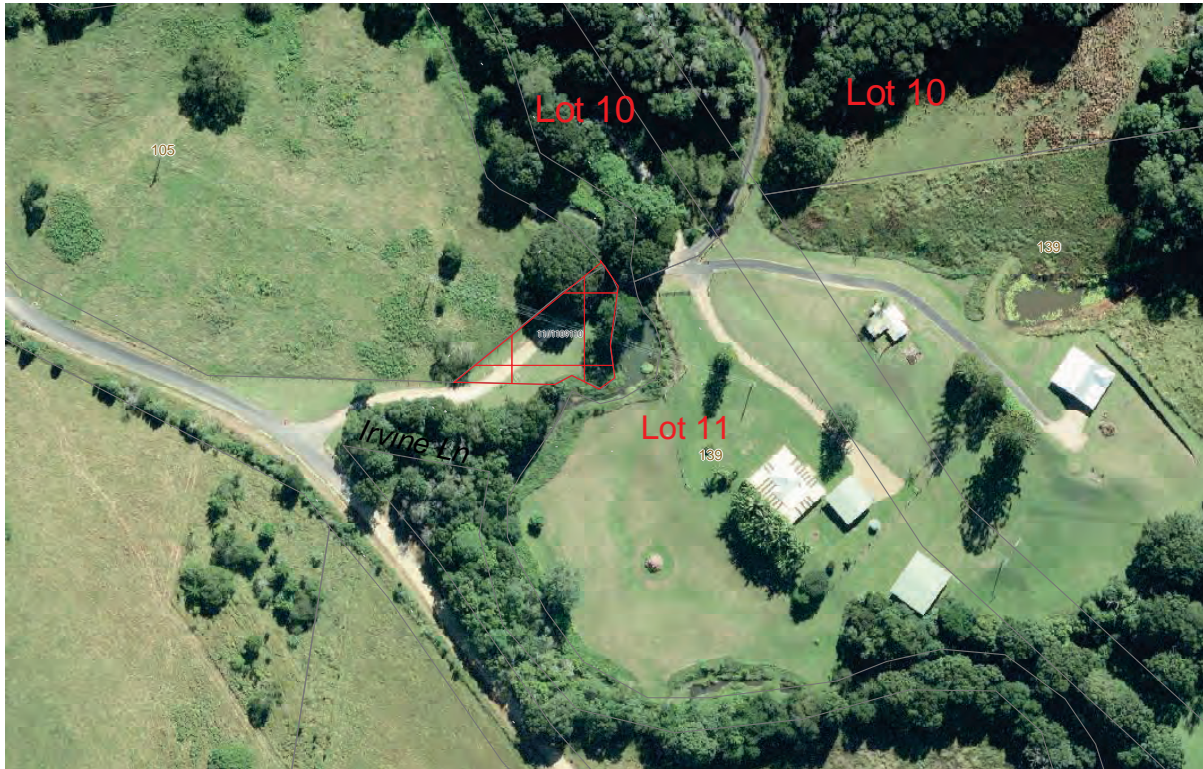
The section of Council controlled road reserve in question runs north west to south east through Lots 10 and 11 in DP1109110 and Lots 4 and 5 in DP258994 as shown below. Each of the adjacent land owners are party to the application.

Plan below shows the section of public road reserve under Council control (Road 3):



This section of road reserve was transferred to Council vide Government Gazette on 18 February 2005 for the purpose of providing secured access to lot 6 in DP258994. This Lot has since been subdivided and is now referred to as Lot 11 in DP1109110. Lot 11 now has the benefit of direct road access from Chowan Creek Road and as such the transferred section of road is no longer required.

The plan below shows the small triangular shaped section of land that was subdivided from Lot 3 (Lot 10) and acquired by the owners of Lot 6 (Lot 11) for the purposes of gaining direct access from Chowan Creek Road. Lot 10 retains a right of carriageway over this area of Land for access purposes:



No formation of the public road reserve proposed to be closed has occurred and it does not provide access to any other parcels within the vicinity. Access to all relevant parcels from Chowan Creek Road has been obtained by way of registered rights of carriageway. (In this regard reference is made to DP258994 and DP602202).

Due to the fact that no construction has occurred over this section of road reserve the proceeds of any closure and subsequent sale reverts automatically to Crown Lands.

OPTIONS:

1. Council provides its consent to the closure and purchase of the road reserve by the applicants through Lots 10 and 11 in DP 1109110 and Lots 4 and 5 in DP598380 at Chowan Creek.
2. Council does not provide its consent to the closure and purchase of the road reserve by the applicants through Lots 10 and 11 in DP 1109110 and Lots 4 and 5 in DP598380 at Chowan Creek.

CONCLUSION:

As the original intent of the road transfer from Crown Lands to Council is no longer required and sufficient access to all relevant properties has been provided it is recommended that Council provides its consent to the closure and purchase of the section of road reserve which runs through Lots 10 and 11 in DP1109110 and Lots 4 and 5 in DP258994 at Chowan Creek.

COUNCIL IMPLICATIONS:

a. Policy:

Road Closures and Private Purchase Version 1.2.

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
- 1.3 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.

36 [EO-CM] Licence to Cooloon Children's Centre Incorporated - Part Lot 1 in DP 1082080, Recreation Street, Tweed Heads

SUBMITTED BY: Design



Supporting Community Life

SUMMARY OF REPORT:

The Cooloon Children's Centre Incorporated has been operating from premises known as the Cooloon Long Day Care Centre located on Lot 1 in DP 1082080 at Recreation Street, Tweed Heads for an extended period of time under a licence with Council for a peppercorn rent in recognition as a non profit organisation which provides a community service to residents within the Tweed Shire area.

The Licence is due to expire on 31 March 2013 and the Cooloon Children's Centre Incorporated has indicated that they would like to continue with a new Licence of the premises for a further period.

It is suggested that The Cooloon Children's Centre Incorporated be offered a further five (5) year licence over part of Lot 1 in DP 1082080 for Day Care Centre purposes.

RECOMMENDATION:

That Council

- 1. Enters into a licence agreement with Cooloon Children's Centre Incorporated over the premises known as the Cooloon Long Day Care Centre located on Lot 1 in DP 1082080 at Recreation Street, Tweed Heads for a term of five (5) years.**
- 2. All necessary documents be signed under the Common Seal of Council.**

REPORT:

The Cooloon Children's Centre Incorporated has been operating from premises known as the Cooloon Long Day Care Centre located on Lot 1 in DP 1082080 at Recreation Street, Tweed Heads for an extended period of time under a licence with Council for a peppercorn rent in recognition as a non profit organisation which provides a community service to residents within the Tweed Shire area.

The Licence is due to expire on 31 March 2013 and the Cooloon Children's Centre Incorporated has indicated that they would like to continue with a new Licence of the premises for a further period.

OPTIONS:

1. Council enters into a five (5) year licence with the Cooloon Children's Centre Incorporated;
2. Council does not enter into a five (5) year licence with the Cooloon Children's Centre Incorporated.

CONCLUSION:

The Cooloon Children's Centre Incorporated has been an exemplary tenant of the premises and it is recommended that Council continue to licence the premises to them under a five (5) year licence.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

No budget implications.

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
- 1.3.1.16.3 Provide Leasing and Licensing services to clients

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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37 [EO-CM] Review of Council Policy - Naming of Streets and Roads

SUBMITTED BY: Design



Civic Leadership

SUMMARY OF REPORT:

A review has been completed of the local Policy on Naming of Streets and Roads with amendments being made to the original version.

The Draft Policy was placed on public exhibition for a period of no less than 28 days and allowed a period of 42 days for submissions as prescribed under Section 160 of the Local Government Act 1993.

No submissions regarding the draft local policy were received during this period.

Pursuant to Section 161(1) (b) of the Local Government Act 1993 it is recommended that Council adopt the draft local policy, Naming of Streets and Roads, without amendment.

RECOMMENDATION:

That Council adopts the draft local Policy, Naming of Streets and Roads Version 1.2 without amendment in accordance with Section 161(1)(b) of the Local Government Act 1993.

REPORT:

A review has been completed of the local Policy on Naming of Streets and Roads with amendments being made to the original version.

The Draft Policy was placed on public exhibition for a period of no less than 28 days and allowing a period of 42 days for submissions as prescribed under Section 160 of the Local Government Act 1993.

No submissions regarding the draft local policy were received during this period.

The amendments made to the Original Policy, as noted in full in the report submitted to Council at its meeting of 13 December 2012, include the addition of an Objective and Scope of Policy as well as Road type descriptions as noted in the Guidelines set down by the Geographical Names Board.

A copy of the report made to Council at its meeting of 13 December 2012 and the draft local policy, Naming of Streets and Roads Version 1.2, is attached for further information

OPTIONS:

Pursuant to Section 161 of the Local Government Act 1993, Council may either;

- (a) amend the draft policy, or
- (b) adopt the draft policy without amendment, or
- (c) not adopt the draft policy, except where the adoption of criteria is mandatory.

CONCLUSION:

Pursuant to Section 161(1) (b) of the Local Government Act 1993 it is recommended that Council adopt the draft local policy, Naming of Streets and Roads, without amendment.

COUNCIL IMPLICATIONS:

a. Policy:

Naming of Streets and Roads Version 1.1.

b. Budget/Long Term Financial Plan:

Not Applicable.

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
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 1.2.1.5 Council Policies are compliant with legislation and guidelines
- 1.2.1.5.1 Council policies reviewed, reported to Council and placed on public exhibition as required

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Copy of Draft local policy, Naming of Streets and Roads Version 1.2 (ECM 64130887).
 - 2. Copy of Council report, item 29, meeting held 13 December 2012 (ECM 64130899).
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38 [EO-CM] Contract Update EC2011-012 Kirkwood Road Project Variation Update

SUBMITTED BY: Contracts

FILE REFERENCE: EC2011-012



Supporting Community Life

SUMMARY OF REPORT:

Contract update for the Kirkwood Road project.

RECOMMENDATION:

That Council:

- 1. Approves the known variations to the contract EC2011-012 Kirkwood Road Project, contained in the Confidential Attachment.**
- 2. Notes the estimated value of expected variations to the contract contained in the Confidential Attachment.**
- 3. Endorses the General Manager to approve variations above the existing revised contract value to the maximum value of \$150,000.**
- 4. 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:

Variation Approval Request

Tweed Shire Council (TSC) and the Roads and Maritime Services (RMS) have the final detailed design of the Pacific Highway Entry Ramp on the Kirkwood Road Project. This design has been prepared by the RMS and has been approved in principle by the RMS.

The RMS advised Council in December 2012 that the present entry ramp design had design issues, which would not meet the RMS's design life criteria for a permanent entry ramp and as such an alternative concrete entry ramp design was prepared by the RMS. This information was reported to council in the Kirkwood Road December report.

A variation price for these works was requested through the Contract for the Kirkwood Road Project and has been received from the Contractor.

A brief description of the variation is described below.

The variation works require the contractor to alter existing traffic management along the Pacific Highway and construct a concrete pavement (instead of asphalt pavement) with approximate length of 420 m. The contribution split is as follows:

- 300 metres is 100% contribution by the RMS and;
- 120 metres is apportioned with a 50/50 split between TSC and RMS.

Total value of the Variation is valued at \$1,104,746.50 ex GST.

Expected project savings due to the concrete pavement replacing the previously designed asphalt pavement is valued at \$422,646 ex GST

The forecast expected increase in contract value is consequently valued at \$682,100.34.

The split between Council and RMS for this additional contribution has been discussed informally but to progress the variation the following split has been considered appropriate subject to a final negotiated outcome with the RMS;

Councils additional contribution \$189,910.92 contribution 27.8 %
RMS additional contribution \$492,189.42 contribution 72.2 %

Contract Summary with this revised information is as follows:

Total awarded Contract value	\$ 11,138,264.55	ex GST
Total Council Approved Variations Dec' 12	\$1,824,600.00	ex GST
Variations Reported for Council approval (Concrete Pavement)	\$1,104,746.50	ex GST
Savings in Contract for removal of Asphalt pavement	(\$422,646.00)	ex GST
Anticipated estimated additional Variations	\$263,000.00	ex GST
Total Revised Contract Value	\$13,907,964.50	ex GST

A full list of itemised variations is contained in the Confidential Attachment.

Budget summary of the estimated cost of the Kirkwood Road Project is presented below.

Project Budget was estimated in December 2010 as \$16.9 million with \$10 million being contributed by Council and up to \$7 million being contributed by the RMS.

Total budget expenditure to date is \$9.511 million as of February 2013 with an anticipated contract value increasing to \$13.90 million. This increase in the contract value has now exceeded previously reported estimated contract forecasts for the project. However the forecast budget allowance of \$16.9 million which includes all contract, environmental and project management costs is still considered an estimated value that will reflect the actual final budget expenditure for the project.

Estimated Variations to the Project are identified in Attachment A - Confidential Attachment.

COUNCIL IMPLICATIONS:

a. Policy:

Contract is administered in accordance with General Conditions of Contract GC21.

b. Budget overall forecast:

The complete budget estimate for Kirkwood Road as reported in November 2011 has not changed with the forecast ultimate spend of \$16.9 million still on target. However contingencies allowed for in the original project estimate have been consumed through the shotcrete works completed on the western borrow area and the addition of the concrete pavement works. These works were not foreseen during the original design and estimate preparation and consequently has increased the original scope of works of the contract. Monitoring of expenditure will be continued with further information reported as required. These unforeseen costs will also need to be discussed and agreed formally with the RMS once the full costs have been quantified.

c. Legal:

Apportionments of Contract and Budget costs for the Kirkwood Road Project are subject to formal agreement between Council and RMS.

d. Communication/Engagement:

Not Applicable.

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:

(Confidential) Attachment 1. Contract EC2011-012 Variations to the Project Register (ECM 64655497).

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

39 [TCS-CM] Community Strategic Plan 2013/2023

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

Council resolved at the January 2013 meeting:

That the Draft Community Strategic Plan 2013/2023 be endorsed and placed on public exhibition for the period 4 February 2013 until 4 March 2013, inviting community feedback.

The draft document was made available through the 'On Exhibition' section of Council's website, advised in the Tweed Link as well as being provided to the regularly consulted community groups inviting submissions.

At the close of the public exhibition period, four submissions were received. These submissions have been reviewed and are attached for information.

Following the receipt of the four submissions and in reviewing the comments provided, the opportunity has been taken to update a number of Objectives and Strategies, Community Indicators and the Tweed Snapshot to better portray information to the community.

RECOMMENDATION:

That:

- 1. The Community Strategic Plan 2013/2023 be adopted with changes to strategies and community indicators as outlined in the report, in accordance with Section 402(6) of the Local Government Act 1993, and**
- 2. In accordance with Section 402(7) of the Local Government Act 1993, a copy of the Community Strategic Plan 2013/2023 be posted on Council's website and a copy made available to the Chief Executive of the Division of Local Government.**
- 3. Acknowledgement for the submissions received on the Draft Community Strategic Plan 2013/2023 be provided to the groups and individual concerned together with a copy of the revised Community Strategic Plan.**

REPORT:

Council resolved at the January 2013 meeting:

That the Draft Community Strategic Plan 2013/2023 be endorsed and placed on public exhibition for the period 4 February 2013 until 4 March 2013, inviting community feedback.

To accord with the appropriate legislation and public consultation requirements, the Draft Community Strategic Plan 2013/2023 was required to be placed on public exhibition for a minimum period of 28 days. The draft document was made available through the 'On Exhibition' section of council's website, advised in the Tweed Link as well as provided to the regularly consulted community groups inviting submissions.

At the close of the public exhibition period, four submissions were received. These submissions have been reviewed and are attached for information.

Council in undertaking a review of the draft Community Strategic Plan 2013/2023 in accordance with Section 402(5) of the Local Government Act 1993 provided an endorsement of the existing 2011/2021 Community Strategic Plan as it has only been in existence for two years. In endorsing the Plan, Council displayed confidence in the Objectives and Strategies that had been originally formulated, and that they are still current for the Council and Community for the next ten years.

Following the receipt of the four submissions and in reviewing the comments provided, as well as conducting a further internal review, the opportunity has been taken to update a number of Objectives and Strategies, Community Indicators and the Tweed Snapshot to better portray information to the community.

Changes to Objectives and Strategies are as follows:

Civic Leadership

Objective 1.3- Delivering the objectives of this plan.

1.3.1 Council's organisation will be resourced to **efficiently** provide the essential services and support functions to deliver the objectives of this Plan.

Strengthening the Economy

Objective 3.1 – Expand employment, tourism and educational opportunities.

3.1.5 Support innovative **and sustainable local** employment generating activities.

These changes are minor in nature and do not require the document to be readvertised as the intent of the original document will not be affected by the changes to the three Strategies. The major impact of these changes will be reflected in the 2013/2017 Delivery Program and 2013/2014 Operational Plan, where these Strategies are put into place.

Changes to the Community Indicators are as follows:

Supporting Community Life

Reported instances of Graffiti	Council records	Number	10% reduction
Utilisation of community centres	Council records	Number	Increase in annual number of clients

OPTIONS:

1. Adopt the Community Strategic Plan 2013/2023 as advertised with no changes.
2. Adopt the Community Strategic Plan 2013/2023 with the proposed changes as indicated in the report.

Option 2 is the recommended Option.

CONCLUSION:

The adoption of the Community Strategic Plan 2013/2023 is essential to then allow the preparation and public consultation of the other elements of the Integrated Planning and Reporting Framework: Delivery Program 2013/2017, Operational Plan 2013/2014, Resourcing Strategy, Revenue Policy and Statement, Budget and Fees and Changes.

COUNCIL IMPLICATIONS:

a. Policy:

In accordance with the requirements of Section 402 of the Local Government Act 1993 relating to the review and adoption of a Community Strategic Plan.

b. Budget/Long Term Financial Plan:

Activities associated with the Community Strategic Plan 2013/2023 are incorporated in the Annual Budget, Delivery Program and Operational Plan, which will be adopted by Council following a further round of Community Consultation.

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
- 1.2 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
- 1.2.3.2 Review of the Integrated Reporting Framework Resourcing Strategy

UNDER SEPARATE COVER/FURTHER INFORMATION:

- | | |
|--------------|--|
| Attachment 1 | Draft Community Strategic Plan 2013/2023 – as advertised (ECM 62256465). |
| Attachment 2 | Submission – Banora Point & District Residents Association Inc (ECM 63781579). |
| Attachment 3 | Submission – Bob McDonald (ECM 64272947). |
| Attachment 4 | Submission – Caldera Environment Centre Inc. (ECM 64309363). |
| Attachment 5 | Submission – Pottsville Community Association Inc. (ECM 64309370). |
| Attachment 6 | Community Strategic Plan 2013/2023 (ECM 64609582). |
-

40 [TCS-CM] AC2009-073 Provision of Legal Services further extension of Appointment

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

Council at its meeting of 15 September 2009 appointed legal providers to Category 1 - Planning, Environmental and Local Government Law; Category 2 - Commercial/Property Law and Local and District Court matters for a period of 3 Years in accordance with Tender AC2009-073, with this appointment ending in September 2012.

At the Council Meeting held on 21 August 2012, due to ongoing investigations into the most advantageous method of delivering legal services to the organisation, it was resolved:

"that Council extends Tender AC2009-073 for the provision of legal services by the currently appointed legal panel, until 31 March 2013."

The internal investigation into the delivery of legal services has not yet been finalised and as such to enable a more complete review, including total resourcing requirements, it is requested that a further extension of twelve months to 31 March 2014, be granted.

RECOMMENDATION:

That Council extends Tender AC2009-073 for the provision of legal services by the currently appointed legal panel, until 31 March 2014.

REPORT:

Council at its meeting of 15 September 2009 appointed legal providers to Category 1 - Planning, Environmental and Local Government Law, Category 2 - Commercial/Property Law and Local and District Court matters for a period of three (3) years in accordance with Tender AC2009-073, with this appointment ending in September 2012.

At the Council Meeting held on 21 August 2012, due to ongoing investigations into the most advantageous method of delivering legal services to the organisation, it was resolved:

"that Council extends Tender AC2009-073 for the provision of legal services by the currently appointed legal panel, until 31 March 2013."

The internal investigation into the delivery of legal services has not yet been finalised and as such to enable a more complete review including total resourcing requirements it is requested that a further extension of twelve months to 31 March 2014, be granted.

OPTIONS:

1. Extension of Tender AC2009-073 for a further twelve months, concluding 31 March 2014.
2. Calling of Tenders for a panel of Legal Providers.

CONCLUSION:

Council Officers are currently reviewing the manner in which legal services are to be delivered in the future. To enable Council Officers time to completely assess all options, it is suggested that Council extends the appointment of the current legal panel for the provision of legal services until 31 March 2014.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.4.

b. Budget/Long Term Financial Plan:

Legal expenses are currently allowed within the 2012/2013 and also the 2013/2014 budget.

c. Legal:

In accordance with contractual procedures involving tendering.

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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41 [TCS-CM] Recovery of Outstanding Debt 6807808 - Milne

SUBMITTED BY: Revenue and Recovery



Civic Leadership

SUMMARY OF REPORT:

Council at its meeting of 25 September 2012 resolved the following:

"Council pursues recovery of debt 6807808 K Milne of \$351.40 as a matter of urgency."

Further,

Council at its meeting of 13 December 2012 resolved the following:

"That Council pursue recovery of the debt 6807808 K Milne of \$351.40 through the Local Court."

and

"Provide delegation to the General Manager to negotiate the recovery of the full amount or another amount in relation to debt 6807808."

The report is a detail of events leading to the recent court hearing and decision on Tuesday 19 February 2013 in the Small Claims Division of the Local Court, Tweed Heads before His Honour Magistrate Michael Dakin involving the outstanding debt in the name of Ms Katie Milne of \$351.40 for labour and postage costs associated with the production of documents under subpoena no 10408 of 2006.

The report outlines the options currently available to Council in this matter.

RECOMMENDATION:

For Council's determination.

REPORT:

Council is aware from the September and December 2012 Council reports, of the history of Council's action in pursuing debt 6807808. The sequence of events to 13 December 2012 is detailed in the Court affidavits of Council's Corporate Compliance Officer Mr Peter Brack and Council's Revenue and Recovery Co-ordinator Mr Craig Peate. The affidavits of Mr Brack and Mr Peate are attached to the report.

Since the resolution of 13 December 2012 the General Manager made several attempts in good faith to negotiate the recovery of the amount outstanding with the debtor without success, including an extended time period to repay the amount including a five (5) percent reduction in the amount outstanding.

A pre-trial review was listed on 21 December 2012. Council staff attended the Court and were excused. The letter of the Court stated that this was on the basis that there were ongoing negotiations and a view to possible settlement. A further pre-trial review was set down for 1 February 2013.

On 24 December 2012 the registrar assessed the situation and listed the matter for small claims assessment hearing before the Local Court at Tweed Heads on 19 February 2013 at 9.30am. Parties were to file and serve written statements in support and documentary material on the Court and the other party on/by 5 February 2013.

A Councillor briefing in the matter was conducted on 14 February 2013.

Council (the plaintiff) produced and filed the affidavits of Peter Brack and Craig Peate as the written statements by the specified date. Katie Milne (the defendant) produced and filed her written statement on 7 February 2013, which was after the due date.

The plaintiff's written response statement was produced and filed on 18 February for presentation at the hearing. The plaintiff's written response statement includes the submission of the defendant with Council's responses and is attached.

Council should be made aware that deliberations to proceed in this matter were thoroughly examined by the Revenue and Recovery Unit and Management. A decision was made to continue based on the following:

- The first undated subpoena served on the plaintiff on 13 September 2006 was a non-complying subpoena as the issuing party was not a solicitor and did not have leave of the Court at this point in time.
- Procedures in place by Council at the time required a letter, invoice or sundry debt to be forwarded to the issuing party for reasonable expenses incurred in complying with a subpoena.
- Section 608 of the Local Government Act 1993 as amended is the authority and relied upon by New South Wales councils to raise and issue an invoice under these circumstances.
- The reliance on Section 608 of the Act has never been tested in a court of law and no precedent law could be found involving a non complying subpoena. Council was aware

that a complying subpoena costs order is made by the relevant court pursuant to r33.11 of the Uniform Civil Procedure Rules.

- To cease proceedings would involve Council submitting to the Court a Notice of Discontinuance agreed and signed by both parties and a possible Deed of Settlement involving a financial inducement.
- Expenses incurred in proceeding with the matter would be minimal to Council and ratepayers as it would be heard in the Small Claims Division of the Local Court and conducted by Council staff without legal representation.

It should be noted, 433 Statement of Liquidated Claims have been issued by Council in the preceding twelve (12) months of which 432 have been satisfactorily completed by obtaining either court judgment, negotiating a payment arrangement, payment in full, mediation and resolution. The only exception is the current matter.

At the hearing His Honour Dakin J agreed with the plaintiff's assertion the first subpoena was not complying, he did not rule the account or debt to be invalid. In fact His Honour gave commentary on sections 608 through to 610 of the Local Government Act 1993 which allows Council to charge for information supplied. His Honour only ruled on jurisdiction and advised Council to recover the debt through the Land and Environment Court.

His and Her Honour Dakin and Jargot both found the first subpoena to be non complying. The technicality being the fact that Council had "marshalled" some or all documents for the Land and Environment Court as a result of the non complying subpoena and this allowed His Honour to rule that Council would have to apply to that court of jurisdiction for costs.

His Honour dismissed the claim on those terms and made no ruling over costs, with each party to pay their own. Council's only cost in this matter was time attending court and preparing affidavits by Council staff, the costs associated with this matter from the time of the Council resolution 13 December 2012 is no greater to the costs associated with the collection of other outstanding debts to Council within the Revenue and Recovery Unit's current Debt Recovery procedures.

OPTIONS:

Council has two options available:

- Write off the debt in accordance with Local Government (General) Regulation 2005 Clause 213(5)(c).

OR

- Pursue the recovery of the debt through the Land and Environment Court by submitting a Notice of Motion for a cost order.

CONCLUSION:

The decision of Magistrate Dakin to dismiss the matter in the Small Claims Division of the Local Court at Tweed Heads on 19 February 2013 has left Council with two options to finalise the matter.

1. To write the debt off against the provision for bad and doubtful debts.

Where all reasonable attempts in accordance with Council procedures have been exhausted, an outstanding debt may be written off in accordance with the provisions of Clause 213 of the Local Government (General) Regulation 2005.

The debt can only be written off if:

- (1) the debt is not lawfully recoverable; or
- (2) as a result of a decision of a Court; or
- (3) If the Council or General Manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.

OR

2. Pursue the recovery of the debt through the Land and Environment Court by submitting a Notice of Motion for a cost order. This course of action can be taken due to His Honour Dakin not ruling the debt as invalid. If this course of action is adopted, its success is predicated on the acceptance of the Notice of Motion by the Court due to the Statute of Limitation Act 1960. The cost of filing a Notice of Motion in the Land and Environment Court is \$384.

Success would also be dependent on the Court's acceptance of the fact the first subpoena was not taken into account in Her Honour Jargot's cost judgment order for the second and third subpoenas.

COUNCIL IMPLICATIONS:

a. Policy:

The General Manager has delegated authority to write off and abandon money due to Council of less than \$10,000.

b. Budget/Long Term Financial Plan:

The amount if written off will be funded by a transfer from the Provision for Bad and Doubtful Debts.

If the option to pursue the debt through the Land and Environment Court is taken, the cost of recovering the debt may exceed the debt itself if costs are not awarded by the Court. The cost of filing a Notice of Motion in the Land and Environment Court is \$384.

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
- 1.3.1.1.2 Implement debt recovery procedures

UNDER SEPARATE COVER/FURTHER INFORMATION:

- Attachment 1. Affidavit of Council's Corporate Compliance Officer, Mr Peter Brack (ECM 64029697)
 - Attachment 2. Affidavit of Council's Revenue and Recovery Co-ordinator, Mr Craig Peate (ECM 64030739)
 - Attachment 3. Plaintiff's Written Response Statement to the Defendant's Written Statement (ECM 64029653)
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42 [TCS-CM] Draft Subpoenas Policy

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

A review of Council's informal procedures for dealing with subpoenas has been undertaken. The basis for developing the Policy is to accord to best practice and advise legal firms and the persons, who serve subpoenas on Council, how they will be managed within Council principally in regard to verifying the validity of their subpoena, payment of conduct money, claiming of loss or expense in relation to complying with a subpoena, seeking an extension of time to produce the documents to the issuing court and requesting the issuing court to withhold release of the documents until Council's claim has been paid or a cost order issued.

Council has previously provided advice to parties that Council would be seeking reimbursement of its costs and then has relied upon the good faith of legal firms and persons to pay for the compliance of a subpoena, without the required action of applying to the court for an order that the issuing party pay an amount in respect of Council's loss or expense in complying with a subpoena.

Given recent experience it is now appropriate for Council to develop a formal Subpoenas Policy to ensure that Council has a legal framework for the recovery of costs in complying with subpoenas, in matters where Council is a direct party as well as those which Council is not a party to, but is being subpoenaed to provide relevant documents.

RECOMMENDATION:

That Council:

- 1. Places the draft Subpoenas Policy on public exhibition for a period of 28 days and seeks submissions for a period of 42 days.**
- 2. Determines a Subpoena Conduct Money minimum charge of \$100 with costs in excess of \$100 to be at actual Council cost, effective from 1 July 2013;**
- 3. Determines a Subpoena Processing Fee of \$70.00 - per hour effective from 1 July 2013;**
- 4. Advertises the proposed fees in the Draft Fees and Charges for 2013/2014.**

REPORT:

A review of Council's informal procedures for dealing with subpoenas has been undertaken. The basis for developing the Policy is to accord with best practice and advise legal firms and the persons, who serve subpoenas on Council, how they will be managed within Council principally in regard to payment of conduct money, advice of claiming of loss or expense in relation to complying with a subpoena, seeking an extension of time to produce the documents to the issuing court and requesting the issuing court to withhold release of the documents until Council's claim has been paid or a cost order issued.

In establishing a Subpoenas Policy it is further noted, that Council currently does not have a fee or charge within its Annual Fees and Charges for Conduct Money. Conduct Money is defined within Section 33.1 of the Uniform Civil Procedures Rules 2005 as "*a sum of money or its equivalent, such as pre-paid travel, sufficient to meet the reasonable expenses of the addressee of attending court as required by the subpoena and returning after so attending.*" This sum could include travel expenses, accommodation and Council officer salary. Council will be required to advise the issuing party and the nominated court of its estimated reasonable expenses; however the claim can be challenged in the nominated court.

It is suggested that Council set a Subpoena Conduct Money Charge of a minimum \$100 with costs in excess of \$100 to be at actual Council cost and that this proposed information be advertised in the 2013/2014 Fees and Charges to be effective from 1 July 2013.

Council has previously provided advice to parties that it would be seeking reimbursement of its costs and then has relied upon the good faith of legal firms and persons to pay for the compliance of a subpoena, without the required action of applying to the court for an order that the issuing party pay an amount in respect of Council's loss or expense in complying with a subpoena. The Policy will provide guidance in this regard as well as being publicly available on Council's website as a Council Policy for information.

Legally there is no requirement for legal firms or persons who serve a subpoena upon Council to pay the cost of compliance with the subpoena, after Council marshals the documents and makes them available to the applicant unless a cost order is issued by the court or a notice of motion for costs is made.

The Practitioners Guide to Civil Litigation describes the reasonable costs the issuing party must generally pay to the production party as being:

- (a) *searching for the subpoena material;*
- (b) *reviewing the subpoena documents/records; and*
- (c) *collating and copying the subpoena documents/records.*

Council's current fee for processing a subpoena is \$30.00 per hour and is based on the Government Information Public Access Act 2009 formal application processing fee. This fee does not cover Council's cost in processing a subpoena and it is suggested a more appropriate fee of \$70.00 per hour should be charged. The cost of photocopying is in accordance with the adopted Fees and Charges and cost of postage where applicable will be at cost.

It is therefore suggested that Council set a Subpoena Processing Fee of \$70.00 per hour and this fee be advertised in the 2013/2014 Fees and Charges effective from 1 July 2013.

A copy of the proposed Draft Subpoenas Policy is attached to this report for information.

OPTIONS:

1. Continue to discover subpoena documents on a good faith basis at risk of costs not being met.
2. Adopt a policy for dealing with subpoenas that will give Council some confidence in reasonable costs being paid by the issuing party, as well as establishing Subpoena Conduct Money and Processing Charges in the 2013/2014 Fees and Charges.

CONCLUSION:

Given recent experience, it is now appropriate for Council to develop a formal Subpoenas Policy to ensure that Council has a legal framework for the recovery of costs in complying with subpoenas, in matters where Council is a direct party and those which Council is not a party to, but is being subpoenaed to provide relevant documents.

COUNCIL IMPLICATIONS:

a. Policy:

Fees and Charges and establishment of new Subpoenas Policy.

b. Budget/Long Term Financial Plan:

Income generated will be allowed in the annual budget.

c. Legal:

In accordance with Practitioners Guide to Civil Litigation.

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
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 1.2.1.6 Access to information

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1 Draft Subpoenas Policy (ECM 64412852)

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**43 [TCS-CM] Disposal of Surplus Goods, Materials and Portable Assets Policy
Version 1.0 (formerly the Disposal of Assets Policy)**

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

Council is required to review local policies within 12 months of an election in accordance with Section 165(4) of the Local Government Act 1993.

The Disposal of Surplus Goods, Materials and Portable Assets Policy provides a balanced solution to Council's legal requirements, officers responsibilities, the management of potential risks of corruption and ensures that disposal processes are documented.

RECOMMENDATION:

That Council places the Disposal of Surplus Goods, Materials and Portable Assets Policy, Version 1.0 on public exhibition in accordance with Section 160 of the Local Government Act 1993, for 28 days and seek public submissions for 42 days.

REPORT:

Council is required to review local policies within 12 months of an election in accordance with Section 165(4) of the Local Government Act 1993.

The Disposal of Assets Policy has been reviewed, updated and renamed the Disposal of Surplus Goods, Materials and Portable Assets to more clearly define the responsibilities of Council Officers.

As a consequence of the review, an anomaly has been identified in relation to Section 377 of the Local Government Act 1993. The Act states:

"A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:

(h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)"

The literal interpretation of this section of the Act requires Council to resolve to sell '... other property' (excluding items of plant and equipment).

As Council from time to time has surplus goods, materials and portable assets for disposal, the Act does not provide a reasonable or efficient practice. As a result the revised policy incorporates blanket Council resolutions based on category values.

The Disposal of Surplus Goods, Materials and Portable Assets Policy provides a balanced solution to Council's legal requirements, officers responsibilities, the management of potential risks of corruption and ensures that disposal processes are documented.

The practice of presenting the track changes version in relation to policy updates has not been exercised on this occasion due to the significant amendments and the legibility the track changes version would produce.



Policy

Disposal of Surplus Goods, Materials and Portable Assets

Version 1.0

Adopted by Council at its meeting on xxxx

Minute No: xxx

Division: Technology and Corporate Services
Section: Financial Services
File Reference: Council Policies/Protocols/Procedures
Historical Reference: formerly Disposal of Asset Policy v1.1
adopted by Council 22/4/2008; v1.0
adopted 13/11/07, reviewed 21/7/09

Disposal of Surplus Goods, Materials and Portable Assets

Objective

The objective of this policy is to clearly define the responsibilities of Council Officers in managing the disposal of surplus goods, materials and portable assets.

Scope

This policy applies to:

- a) Goods and materials that are surplus to the needs of the job/project for which they were purchased and where it is uneconomical to use in other job/projects;
- b) Scrap material
- c) Surplus fill materials from road works; and
- d) Portable assets that are no longer in working order and uneconomical to repair.

This Policy does not apply to the Disposal of Land (for which there is a separate Disposal of Land Policy) or the disposal of non portable assets (infrastructure, plant and equipment) for which there are separately defined practices.

Definitions

Surplus goods, materials and scrap material:

Some examples of goods, materials and scrap material include:

Goods, materials: sand, gravel, soil, chemicals, paint, turf, hardware items, pavers;
Scrap materials: pipe, cables, timber, pipe fittings, scrap metals, steel posts, brass, street signs, water meters, tool boxes

Portable assets: Items which are easily transportable/concealed and can be used outside of work (personal) or are easily disposed.

Some examples of portable assets include:

- Laptops and personal computers
- Projectors
- Tools (power or hand)
- Digital cameras
- Mobile Phones (Smartphones)
- Survey Equipment

Legal Compliance

Section 55(1) of the Local Government Act 1993 states:

A Council must invite tenders before entering into any of the following contracts:

(g) a contract for the *disposal of property* of the council,

Section 55(3) of the Local Government Act 1993 states:-

This section does not apply to the following contracts:

(f) a contract for purchase or *sale by a council at public auction*,

(n) a contract involving an estimated expenditure or *receipt of an amount of less than \$100,000 or such other amount as may be prescribed by the regulations*

Clause 163 (2) of the Local Government (General) Regulations 2005 states:-

*For the purposes of section 55 (3) (n) of the Act, section 55 does not apply to a contract involving an estimated expenditure or **receipt of an amount of less than \$150,000.***

Section 377(1) of the Local Government Act 1993 states:

*A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, **other than the following:***

(h) the compulsory acquisition, purchase, *sale, exchange or surrender* of any land or *other property* (but not including the sale of items of plant or equipment)

Disposal of Surplus Goods, Materials and Portable Assets

Internal controls for goods with a value over and under \$2,000 have been developed to manage disposal of surplus goods, materials and portable assets.

Value over \$2,000

Council will dispose of surplus goods, materials and portable assets with an apparent value of \$2,000 or more (excluding surplus fill material from road works) by public auction or by invitation of tenders or quotations with the Unit Director or Manager recommending the most appropriate method of disposal.

In determining the most appropriate method of disposal, the Unit Director or Manager must evaluate the best value for money return on the item being disposed and submit a report to Council seeking a resolution for sale. The Officer will take into consideration the costs that Council will incur to dispose of the item and if applicable compare the potential sale price of the item if it is being traded in for a replacement.

The Council Officer responsible for disposing of the item of surplus goods, materials and portable assets must advise the Finance Section – Assets of the item being disposed to enable any applicable Asset Register to be amended.

Value under \$2,000

The method of disposal of surplus goods, materials and portable assets with an apparent value of under \$2,000 (excluding surplus fill material from road works) shall be at the discretion of the Unit Director or Manager and be in compliance with Section 55 and Section 377 of the Local Government Act.

Unit Directors or Managers are to ensure that they determine the most appropriate method of disposing of these assets, managing potential risks of corruption and that the process is documented.

As a general guide, employees are to return from the work site surplus goods/materials or scrap materials. These items must be placed in the relevant compound, stock piles, bins or left on vehicles to be used on the next project.

However, there are circumstances where it is not cost effective to return the surplus goods/materials or scrap materials back to the depot, then the most appropriate method of disposal of these low value assets, shall be at the discretion of the Director or Manager and be in compliance with Section 55 and Section 377 of the Local Government Act.

Council has, by adopting this policy, resolved to sell or surrender from time to time any surplus property with an apparent value of less than \$2,000.

Disposal of Surplus Fill Material from road works

Council has periodically available for disposal, road fill material which is surplus to requirements. Amounts of surplus road fill material have no real value and its disposal can incur significant costs such as transportation.

In these circumstances, the Manager will advertise the existence of the surplus road fill material and liaise with the neighbouring residents, to ascertain their requirements; then determine where the road fill is to be distributed.

The relevant Manager must record in an appropriate form where the road fill material has been allocated and an estimated quantity. Information on the disposal of this surplus material is to be recorded in Council's Records Management System, under Disposal of Assets.

Council has, by adopting this policy, resolved to surrender from time to time surplus fill material from road works with an apparent value of less than \$5,000.

Disposal of Surplus Landscape Mulch

Council has periodically available for disposal, landscape mulch which is surplus to its requirements due to the materials being of an insignificant quantity or cost, or transporting the materials back to the depot is not cost effective.

When surplus landscape mulch is available in a particular area, the Manager shall determine a suitable Council facility/site where the mulch is to be distributed.

Disposal of Water Meters

Old or used water meters are to be made inoperable when they are removed from service and placed in the dedicated recycle bins at the depot.

Disposal of Portable Assets and Other Surplus Equipment

Disposal of portable assets and other surplus equipment are to be approved by the relevant Unit Director or Manager, in accordance with the provisions and legal requirements of this Policy.

In regard to portable assets the Unit Director or Manager is to approve method/s for disposal. Technology that is not saleable may be disposed of through the E-Waste facility at Council's landfill site.

Information on the disposal of this type is to be recorded in Council's Records Management System, under Disposal of Assets.

Disposal of Surplus Goods, Materials and Portable Assets Administration

This policy has identified who is responsible for managing the processes for disposing of surplus goods, materials and portable assets.

Council actively encourages employees to come forward when they suspect corrupt conduct or waste of its resources.

Council will conduct an investigation of all cases, where reports are received that Council Employees are misusing the provisions of this Policy.

Council's Code of Conduct prescribes sanctions that may be actioned against an employee for breaches of this Policy.

Version History		
Version #	Summary of changes made	Date changes made
1.0	Formerly Disposal of Asset Policy Version 1.0 adopted 13 November 2007 and reviewed 21 July 2009	
1.1	Formerly Disposal of Asset Policy Version 1.1 adopted 22 April 2008	
1.0	New Policy created and renamed to Disposal of Surplus Goods, Materials and Portable Assets	February 2013

OPTIONS:

1. Places the Disposal of Surplus Goods, Materials and Portable Assets Policy on public exhibition.
2. Retains the existing Disposal of Assets Policy - given that it will need review before September 2013.

CONCLUSION:

The updating and renaming of the Disposal of Assets Policy to the Disposal of Surplus Goods, Materials and Portable Assets more clearly defines the responsibilities of Council Officers and provides a solution to the limitations of Section 377 of the Local Government Act 1993.

COUNCIL IMPLICATIONS:

a. Policy:

The proposed Disposal of Surplus Goods, Materials and Portable Assets Version 1.0, replaces the Disposal of Assets Policy Version 1.1.

b. Budget/Long Term Financial Plan:

Income from sales are included in the budget.

c. Legal:

Local Government Act 1993

160 Public notice and exhibition of draft local policy

- (1) The council must give public notice of a draft local policy after it is prepared.
- (2) The period of public exhibition must be not less than 28 days.
- (3) The public notice must also specify a period of not less than 42 days after the date on which the draft local policy is placed on public exhibition during which submissions may be made to the council.
- (4) The council must, in accordance with its notice, publicly exhibit the draft local policy together with any other matter which it considers appropriate or necessary to better enable the draft local policy and its implications to be understood.

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
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 1.2.1.5 Council Policies are compliant with legislation and guidelines
- 1.2.1.5.1 Council policies reviewed, reported to Council and placed on public exhibition as required

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

44 [TCS-CM] Dealing with Difficult People Policy, Version 1.1

SUBMITTED BY: Corporate Governance



Civic Leadership

SUMMARY OF REPORT:

As a result of the change to the Community Access section of the Code of Meeting Practice Version 2.3, that has the following wording:

"People who have been deemed a Difficult Person in accordance with one of the categories as defined in Council's Dealing with Difficult People Policy may be excluded from being eligible to address Council during Community Access."

the Dealing with Difficult People Policy requires updating to reflect this change.

RECOMMENDATION:

That the Dealing with Difficult People Policy Version 1.1 is placed on public exhibition for 28 days and submissions be invited for a period of 42 days.

REPORT:

As a result of the change to the Community Access section of the Code of Meeting Practice Version 2.3, that has the following wording:

"People who have been deemed a Difficult Person in accordance with one of the categories as defined in Council's Dealing with Difficult People Policy may be excluded from being eligible to address Council during Community Access."

the Dealing with Difficult People Policy requires updating to reflect this change.

It is unfortunate that Council needs to have the Dealing with Difficult People Policy, but at certain stages of interaction with council staff and services, some members of the public may become dissatisfied with the actions being undertaken and express their thoughts in response.

The Dealing with Difficult People Policy contains a number of intervention levels that can be implemented after due consideration, it is worth noting with the amendment to the Code of Meeting Practice Version 2.3, that this now needs to be reflected within the relevant policy. Included within this report is the proposed Dealing with Difficult People Policy Version 1.1. If resolved by Council it will be placed on public exhibition, calling for submissions, which will also result in a further report to Council for adoption of the revised policy, taking into account any submissions received.

OPTIONS:

1. Place the revised Dealing with Difficult People Policy Version 1.1 on public exhibition.
2. Make no changes to the Dealing with Difficult People Policy.

CONCLUSION:

To mirror the changes in the Code of Meeting Practice the appropriate amendments need also to be made in the Dealing with Difficult People Policy.

COUNCIL IMPLICATIONS:

a. Policy:

Dealing with Difficult People Version 1.0.

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
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.1 Council will be underpinned by good governance and transparency in its decision making process
- 1.2.1.5 Council Policies are compliant with legislation and guidelines
- 1.2.1.5.1 Council policies reviewed, reported to Council and placed on public exhibition as required

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Dealing with Difficult People Policy Version 1.1 (ECM 64424685)
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45 [TCS-CM] In Kind and Real Donations - October to December 2012

SUBMITTED BY: Financial Services



Supporting Community Life

SUMMARY OF REPORT:

Details of in kind and real donations for the period October to December 2012 are reproduced in this report for Council's information.

RECOMMENDATION:

That Council notes the total donations of \$68,128.67 for the period October to December 2012.

REPORT:

Council maintains a register of in kind and real donations. Details of these donations for the period October to December 2012 are reproduced as follows:

Financial Assistance

Amount	Recipient	Donated Item	
\$25,000.00	Murwillumbah Cricket Club	Budget Allocation - (Club House Extensions)	12/10/2012
\$387.60	Lock the Gate	Generator Transport Charge	15/10/2012
\$4,500.00	Murwillumbah Festival of Performing Arts	Donation - (Council Resolution)	14/11/2012
\$12,501.00	Marine Rescue Point Danger	Budget Allocation	21/11/2012
\$30.00	Uki Public School	Donation - Annual Presentation Day	5/12/2012
\$500.00	Festival of Ability (Far North Coast)	Donation (International Day of People with Disabilities)	8/11/2012
\$42,918.60			

Goods and/or Materials

Amount	Recipient	Donated Item	
\$105.00	Duranbah Public School	30 Mixed S/Tubes	01/11/2012
\$135.00	Banora High School	30 Shrubs	17/12/2012
\$240.00			

Provision of Labour and/or Plant and Equipment

Amount	Recipient	Donated Item	
\$539.69	Kingscliff Triathlon	Provision of Labour & Council Plant	22/11/2012
\$623.16	Kingscliff Triathlon	Provision of Labour & Council Plant	26/11/2012
\$432.17	Street Christmas Decorations	Provision of Labour & Council Plant & Traffic Control	12/12/2012
\$1,595.02			

Rates

Amount	Recipient	Donated Item	
\$1,566.15	Bilambil Literary Society	Council Rates 2012/2013	14/10/2012
\$2,003.55	Tyalgum Community Hall Association Inc	Council Rates 2012/2013	14/10/2012
\$1,572.10	Legacy Club of Coolangatta/Tweed Heads	Council Rates 2012/2013	14/10/2012
\$1,258.55	Trustee Kunghur Hall	Council Rates 2012/2013	14/10/2012
\$2,223.30	Uki Hall Reserve Trust	Council Rates 2012/2013	14/10/2012
\$1,909.65	Trustee Burringbar School of Arts	Council Rates 2012/2013	14/10/2012
\$1,320.05	Stokers Siding Hall	Council Rates 2012/2013	14/10/2012
\$940.25	Murwillumbah Autumn Club Inc	Council Rates 2012/2013	14/10/2012

Amount	Recipient	Donated Item	
\$2,478.40	Twin Towns Police & Community Youth Club	Council Rates 2012/2013	14/10/2012
\$2,958.30	Tweed Coast Community Centre	Council Rates 2012/2013	14/10/2012
\$1,273.85	Crabbes Creek Hall Pty Ltd	Council Rates 2012/2013	14/10/2012
\$19,504.15			

Tweed Link Advertising

Amount	Recipient	Donated Item	
\$97.20	Various Community Notices	Advertising	02/10/2012
\$67.50	Various Community Notices	Advertising	09/10/2012
\$45.90	Various Community Notices	Advertising	16/10/2012
\$67.50	Various Community Notices	Advertising	23/10/2012
\$191.70	Various Community Notices	Advertising	30/10/2012
\$89.10	Various Community Notices	Advertising	06/11/2012
\$72.90	Various Community Notices	Advertising	13/11/2012
\$89.10	Various Community Notices	Advertising	20/11/2012
\$178.20	Various Community Notices	Advertising	27/11/2012
\$72.90	Various Community Notices	Advertising	04/12/2012
\$116.10	Various Community Notices	Advertising	11/12/2012
\$118.80	Various Community Notices	Advertising	18/12/2012
\$1,206.90			

Room Hire

Amount	Recipient	Donated Item	
\$45.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	02/10/2012
\$150.00	Tweed Heads Hospital (Fete Set Up)	Room Hire - Tweed Heads Civic Centre	04/10/2012
\$230.00	Tweed Heads Hospital (Fete)	Room Hire - Tweed Heads Civic Centre	05/10/2012
\$230.00	Tweed Heads Hospital (Fete)	Room Hire - Tweed Heads Civic Centre	06/10/2012
\$45.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	09/10/2012
\$45.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	11/10/2012
\$105.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	14/10/2012
\$45.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	16/10/2012
\$45.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	18/10/2012
\$115.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	19/10/2012
\$115.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	20/10/2012
\$115.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	21/10/2012

\$115.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	26/10/2012
\$115.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	27/10/2012
\$115.00	Tweed Theatre Company	Room Hire - Tweed Heads Civic Centre	28/10/2012
\$75.00	Christmas Day Lunch Committee	Room Hire - Tweed Heads Civic Centre	24/12/2012
\$190.00	Christmas Day Lunch Committee	Room Hire - Tweed Heads Civic Centre	25/12/2012
\$50.00	Blind & Vison Impaired Support Group	Room Hire - Coolamon Room Banora Pt Com Centre	15/10/2012
\$50.00	Blind & Vison Impaired Support Group	Room Hire - Coolamon Room Banora Pt Com Centre	19/11/2012
\$35.00	Twin Towns Friends	Room Hire - South Tweed HACC	10/10/2012
\$35.00	Twin Towns Friends	Room Hire - South Tweed HACC	14/11/2012
\$35.00	Twin Towns Friends	Room Hire - South Tweed HACC	12/12/2012
\$85.00	Tweed Heads Hospital Ladies Auxiliary	Room Hire - Tweed Heads Meeting Room	02/10/2012
\$75.00	Tweed Heads Hospital (Fete Set Up)	Room Hire - Tweed Heads Meeting Room	04/10/2012
\$75.00	Tweed Heads Hospital (Fete Set Up)	Room Hire - Tweed Heads Meeting Room	05/10/2012
\$75.00	Tweed Heads Hospital (Fete)	Room Hire - Tweed Heads Meeting Room	06/10/2012
\$85.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	13/10/2012
\$84.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	10/11/2012
\$85.00	Tweed Heads Hospital Ladies Auxiliary	Room Hire - Tweed Heads Meeting Room	03/12/2012
\$2,664.00			

\$68,128.67 **Total Donations 2nd Quarter (October, November, December 2012)**

OPTIONS:

Not Applicable.

CONCLUSION:

For Councillor information and inclusion in Annual Report.

COUNCIL IMPLICATIONS:

a. Policy:

Donations and Subsidies Version 1.2.

b. Budget/Long Term Financial Plan:

Funding of these in kind and real donations is taken into account across various budget allocations including the specific In Kind support allocation of \$10,000 within Engineering and Operations.

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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46 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 28 February 2013

SUBMITTED BY: Financial Services



Civic Leadership

SUMMARY OF REPORT:

This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

There is a requirement by Council's investment consultant to allow at least five (5) working days following the end of the month to provide the statistics for this report. Due to this time constraint and the Council requirement to receive reports ten (10) days prior to the Council meeting, there will be an addendum report provided to Council for consideration at its meeting on 21 March 2013.

RECOMMENDATION:

Refer to addendum report.

REPORT:

As per summary.

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Local Government (General) Regulations 2005 - Section 212 - Reports on council investments

"(1) The responsible accounting officer of a council:

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:

(i) if only one ordinary meeting of the council is held in a month, at that meeting, or

(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and

(b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

(2) The report must be made up to the last day of the month immediately preceding the meeting."

d. Communication/Engagement:

Inform - We will keep you informed.

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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REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

47 [SUB-TRRMAC] Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 17 January 2013

SUBMITTED BY: Community and Cultural Services



Supporting Community Life

SUMMARY OF REPORT:

The Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 17 January 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 17 January 2013 be received and noted.

REPORT:

The Minutes of the Tweed River Regional Museum Advisory Committee Meeting held Thursday 17 January 2013 are reproduced as follows for the information of Councillors.

Venue:

Coolamon Cultural Centre

Time:

2.00pm

Present:

Cr Michael Armstrong; David Oxenham (Director Community & Natural Resources); Judy Kean (Museum Director); Gary Fidler (Community); Sandra Flannery (Community); Fay O'Keeffe (Community); Janet Swift (Community); Peter Budd (Community); Joan Smith (Tweed Heads Historical Society); Denise Garrick (Tweed Heads Historical Society); Helena Duckworth (Uki & South Arm Historical Society); Mary Lee Connery (Uki & South Arm Historical Society); Max Boyd (Murwillumbah Historical Society); Beverley Lee (Murwillumbah Historical Society).

Apologies:

Nil

Chairperson, Max Boyd, welcomed all members to the first meeting of the new year, and expressed his delight at the progress of the Museum project, and his appreciation of Council's support.

Minutes of Previous Meeting:

Moved: *Joan Smith*

Seconded: *Fay O'Keeffe*

RESOLVED *that the Minutes of the Tweed River Regional Museum Advisory Committee meeting held Thursday 20 November 2012 be accepted as a true and accurate record of the proceedings of that meeting.*

Business Arising:

Nil

Agenda Items:

1. Museum Director's Report

Museum building and development

Collections store

The official opening of the Museum collections store was held following the Museum Advisory Committee meeting on 20 November 2012. Fifteen volunteers were awarded Certificates of Appreciation by the Mayor, Councillor Barry Longland.



All but heavy items requiring special uplift, some fragile items and some items from the computer room have been relocated from Murwillumbah to the store. Relocation of remaining items will be achieved by the end of February 2013. Installation of compactus units and air conditioning to the pod area at the store is scheduled for completion by the end of January.

TRRM Murwillumbah

Tenders for construction were called in December and close on 24 January 2013. A decision regarding the successful tenderer is expected by March.

Construction of the perimeter retaining wall commenced on 28 November and will be completed in mid January 2013.



21 Dec 2012



21 Dec 2012

TRRM Tweed Heads - Kennedy Drive

Additional maintenance issues at Boyds Shed and the front wall of the RSL building are being addressed.

TRRM Flagstaff

Nothing further to report.

Collections

Assessment and Relocation project, Murwillumbah

6163 items at Murwillumbah have been tagged and photographed. All data collected as part of the project has been consolidated into Vernon CMS. Museum staff are now refining the process for systematic unpacking and documentation of items as they are unpacked and placed at final locations at the Museum Store.

Assessment and Relocation project, Tweed Heads

Museum staff will meet with Tweed Heads volunteers in late January to begin the process of relocating collections in storage at Tweed Heads to the new Museum collections store. Museum Director will give a talk to Tweed Heads Historical Society members in February to provide a comprehensive update on Museum redevelopment.

De-accessioning program

As outlined in my previous report and discussed at a number of meetings in 2012, the detailed data collected at Murwillumbah has provided an opportunity for close physical examination of objects and is helping to identify: items without an identifying number, and/or donor names; without recorded information associated with them; and/or in poor condition; or items which should not be accessioned.

In response to the de-accessions list circulated prior to the meeting, it was decided to make the following amendments:

MUS1996.83 "From the Australian front: Christmas 1917" [book] brought home by Sgt J. Hair, 49th Battalion. Will be retained in the collection due to Sgt Hair being local to the Tweed.


Various reel to reel audio recordings that are unlabeled will be deaccessioned. However, prior to disposal contents will be investigated further. If they contain local radio program broadcasts, content will be transferred to an accessible storage format.

MUS2000.29 Telephone Exchange installation records. This relates to an object held in the collection (MUS1998.19.3) so will be retained for the object file.

MUS1998.92.2 Papers from Dept of Agriculture NSW on Corkwood Duboisia. This will be retained for the Research Files.

The general 'war books' that have been deaccessioned will be offered to the local library in the first instance. If they refuse them, they will then be offered to the local RSL organisation.

Acquisitions

ARTIFACT	DESCRIPTION & DATE	DONOR	REPORT	IMAGE
Objects, photographs and papers belonging to the Vidler family.	Objects, photographs and papers belonging to the Vidler family, a family local to the Tweed. 1920s-1990s	Karen Vidler	Relates to themes of: - people, leisure & culture of the district; - children's & women's history; - locally made objects.	

Additional acquisitions tabled at the meeting:

TITLE	DESCRIPTION	DONOR
<i>B&W photo of Ken Highfield in Masonic regalia 1952.</i>	<i>B&W photo of Ken Highfield wearing Masonic regalia taken inside the Masonic Lodge Uki in 1952. He is standing in front of carved chair, with gavel on table in front and wearing cuffs, apron, neck ribbon and jewel.</i>	<i>Esma Thompson</i>
<i>Certificate of Proclamation awarded to Kenneth Highfield 20 September 1997.</i>	<i>Certificate of Proclamation awarded to Kenneth Highfield for having served as the Worshipful Master of Uki Lodge for the 1996/1997 Masonic year and having been re-elected to fill that Office was Proclaimed as the Worshipful Master for the 1997/1998 Masonic year.</i>	<i>Esma Thompson</i>
<i>Certificate of Re-installation awarded to Kenneth Highfield 21 September 1996.</i>	<i>Certificate of Re-installation awarded to Kenneth Highfield recording his re-installation before a qualified Board as the Worshipful Master of Uki Lodge for the 1996/1997 Masonic year. Dated 21 September 1996.</i>	<i>Esma Thompson</i>
<i>Masonic Lodge jewel in case</i>	<i>Masonic Lodge jewel in a black leather case. Jewel is gold and pale blue in colour. An intricate worked badge hangs off a pale blue ribbon with four other gold pins attached to the ribbon. Two of these pins are engraved with details of terms held; one engraved '2nd Term 1996 - 1997', and another engraved '3rd Term 1997 - 1998'.</i>	<i>Esma Thompson</i>
<i>Cricket cap "baggy blue".</i>	<i>Blue cricket cap, known as the "baggy blue", presented to Joyce Dalton by Cricket NSW in 2012. The caps were presented to current and former players to celebrate the contribution of female cricketers to the State's history. The addition of the Waratah pin was to represent the important role the NSW Women's Cricket Association played in administering and developing the sport for females prior to integration with Cricket NSW in 2003.</i>	<i>Joyce Dalton</i>
<i>Hand coloured postcards (10) of Murwillumbah c1900 - 1920.</i>	<i>Ten black and white postcards, all hand coloured but one, depicting scenes of Murwillumbah in the early part of the 20th century. Writing on the reverse side of the postcards indicate that the cards were all sent to the same person, Aunt Fannie and a Mrs A S Golding, in Fern Hill, Sydney (area now known as Hurlstone Park). The postcards are signed off from Humphrey, Douglas and one other person whose signature is illegible. The scenes depicted include Murwillumbah after the 1907 fire, and other panoramic views taken of the town. Printing on the reverse side varies from F P Hobbs Photographer Murwillumbah, Empire branded postcards and one postcard is captioned as 'Mrs E A White "On the spot" Murwillumbah. Printed in England.'</i>	<i>Norman Cullen</i>

Collections Management System (CMS)

MD will meet with Historical Society members early in February to discuss process and protocols for future data upload, and likely timetable for roll out of Vernon.

Staff update

Kirsty Andrew's appointment in the position of Museum Assistant full time has been further extended to April 2013.

Following advertisement of a 12 month contract Museum Collection Assistant position (part time 4 days per week) 3 candidates were interviewed. Erika Taylor was the successful applicant and commenced in the position on 14 January 2013.

Kathryn King continues to work 2 days per week in the Museum Collection Assistant position.

Recommendation: That the Museum Director's report be received and noted by the Committee and the proposed acquisitions and de-accessions be accepted.

Moved: Beverley Lee

Seconded: Sandra Flannery

RESOLVED that the Museum Director's Report be noted and the proposed acquisitions and de-accessions be accepted, with the amendments outlined above.

2. Review of Tweed River Regional Museum Strategic Plan

Introduction - Director of Community & Natural Resources

David Oxenham outlined the following points:

It is a very important time for Museum at present.

The existing Strategic Plan is a very important document and has set the framework for the Museum so far.

The new Strategic Plan will also be a very important document and will determine the path forward for the Museum.

Co-operation from all stakeholders is necessary in this important process.

We need to think about the Museum but also about the wider community and how the Museum fits within this.

David Oxenham concluded by encouraging all stakeholders to participate in the process and thanked them in advance for their efforts.

Introduction - Museum Director

Judy Kean outlined the process involved in the Strategic Plan review:

The revised TRRM Strategic Plan will be formally endorsed by Council. The current schedule identifies the November meeting of Council. Certainly the task should be completed before the end of 2013. This means the Advisory Committee must have finalised the Plan by its September meeting.

Participants will have to move quickly to have it completed in this time frame, and not all the work involved will be done at Committee meetings.

It will be up to the Presidents of the various groups to consult their members and feed information back to the Museum Director, so that this information can be considered and included.

The schedule of feedback has been designed to fit in with Historical Society meetings, to make consultation possible.

If feedback is not received by the Museum Director by the date outlined in the schedule, it will be very difficult to include in the process.

Today's SWOT analysis is about putting issues on the table.

In the analysis, TRRM will be considered as one entity, not as 3 separate museums.

Denise Garrick has supplied a written analysis; this will be included in information forwarded to members.

A SWOT analysis on TRRM was carried out by the members. A record of the results will be sent to members separately.

Cr Michael Armstrong and David Oxenham left the meeting at 3:35pm.

On leaving, David Oxenham thanked members for their contribution and encouraged further contribution.

Max Boyd thanked him and spoke in appreciation of the great partnership between Tweed Shire Council and museum stakeholders.

Helena Duckworth left the meeting at 3:50pm.

Beverley Lee left the meeting at 4:10pm.

Summary of actions required prior to next Advisory Committee meeting:

Judy Kean advised that all feedback from stakeholder groups was to be forwarded to her by 27 February 2013. This will be incorporated into the documents for the next Advisory Committee meeting.

In answer to a query from Joan Smith on the function of the Strategic Plan, Judy Kean advised that the new Strategic Plan would be endorsed by Council and will shape the Museum project for the next 4 years. It will be a shorter document than the original Strategic Plan, but will be more focused and will dictate the specific goals and actions of the Museum.

General Business:

3. Future of Flagstaff Hill

Fay O'Keeffe enquired about the expected time frame of the Native Title claim on Flagstaff Hill, and whether it was worth pursuing this option or rethinking the whole thing.

Judy Kean advised that Tweed Heads representatives and members needed to decide what they wished to do with regards to this and approach Council with their views.

Next Meeting:

The next meeting of the Tweed River Regional Museum Advisory Committee will be held Thursday 21 March 2013.

The meeting closed at 4.15pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Tweed River Regional Museum Advisory Committee - reviewed 21 August 2013.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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.

48 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Tuesday 5 February 2013

SUBMITTED BY: Recreation Services



Civic Leadership

SUMMARY OF REPORT:

The Minutes of the Sports Advisory Committee meeting held Tuesday 5 February 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That the Minutes of the Sports Advisory Committee Meeting held Tuesday 5 February 2013 be received and noted.

REPORT:

The Minutes of the Sports Advisory Committee Meeting held Tuesday 5 February 2013 are reproduced as follows for the information of Councillors.

Venue:

Banora Point Community Centre (Cnr Leisure and Woodlands Drive, Banora Point)

Time:

5.00pm

Present:

Cr Gary Bagnall, Stewart Brawley, Merve Edwards, Leigh Tynan, Warren Polglase

Apologies:

Carolyn Pickering, Rob Neinhuis

Minutes of Previous Meeting:

Moved: Leigh Tynan

Seconded: Merve Edwards

RESOLVED that the Minutes of the Sports Advisory Committee meeting held Monday 3 December 2012 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

1. Murwillumbah Hockey Pitch

Stewart Brawley advised the Committee he had received advice from the Tweed Border Hockey Association on 17 January 2013, that SDI had arranged for the removal of excessive sand from the new synthetic pitch in December 2012. The Association provided a field service report from ABC Sports Clean which outlined the works undertaken and it was stated that the condition of the field was in "absolutely excellent condition". The Secretary of the hockey association advised Council that they are considering removing more sand and redistributing it in other areas in early 2013.

Merve advised the Committee he was still concerned about the quality of the pitch but would reserve further comment until determining the result of the field amendments. Merve also raised concerns about access for ambulances to the fields in wet weather. This is an issue to be addressed by the Association.

Agenda Items:

1. Committee Terms of Reference

The Committee reviewed the Terms of Reference and felt they were broad enough to cover the Committees function. It was noted that the Committee should generally be more focussed on strategic issues, although brief discussion of operational issues as they arise can be beneficial.

2. Asset Reserve Fund

Stewart Brawley handed out the Asset Reserve Fund guidelines and application forms and discussed the operation of the fund. Also distributed was the income and expenditure statement from 2006/2007.

3. Draft Youth Strategy

Stewart Brawley outlined to the Committee the current status of a draft youth strategy being developed by Council's Community Services. Of relevance to the Committee is a recommendation to consider liaising with local sporting clubs to assist marginalised young people to participate in organised sport. It was suggested the Committee may wish to consider supporting this concept and potentially funding a program through the Sports Asset Reserve Fund. The Committee unanimously endorsed the concept. Council's Youth Officer will be invited to the next committee meeting to discuss youth issues and a potential framework for such a program.

4. Arkinstall Park

Stewart Brawley gave the Committee a status report on Arkinstall Park Stage 1 which has attracted funding through the Regional Development Assistance Fund. Stewart also informed the Committee that he had commenced work on a brief to engage consultancy to undertake feasibility and concept design for Stage 2 consisting of an indoor sports facility and a grandstand.

5. January 2013 Floods

Stewart Brawley tabled photos of sports fields in Murwillumbah from Tuesday, 29 January 2013 showing the fields covered in flood water. Surprisingly, all fields were prepared and hosted competition games the following weekend including cricket on turf wickets.

General Business

6. Merve Edwards Field Fencing

Merve Edwards noted that the perimeter fence at the Walter Peate Fields had a number of large holes which could be dangerous. Stewart advised that the Hockey club had applied for funding for fencing and shelters through the Office of Communities Sport and Recreation which is anticipated will be announced shortly.

7. Future Meetings

The Committee discussed potential to conduct some future meetings at some of Council's sporting venues or arrange a tour for the Committee to inspect the facilities to provide them with a better understanding of the current status of facilities and sport in the Tweed Shire. Stewart will prepare a PowerPoint presentation for the next committee meeting illustrating Councils facilities.

Next Meeting:

The next meeting of the Sports Advisory Committee will be held 2 April 2013 at the Banora Point Community Centre commencing at 5.00pm.

There being no further business the Meeting terminated at 6.45pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Nil.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Sports Advisory Committee - reviewed 21 August 2013.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.4 Involve communities including youth, elderly and aboriginal groups in decision making that affects their area and the wider Tweed community

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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49 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 December 2012

SUBMITTED BY: Community and Cultural



Supporting Community Life

SUMMARY OF REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 December 2012 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

- 1. The Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 December 2012 be received and noted; and**
- 2. The Executive Management Team's recommendations be adopted as follows:**

Cultural Heritage Assessment for Station Street Burringbar

That Council develop a set of guidelines for development proponents to follow to ensure compliance with Aboriginal Cultural Heritage requirements and that the guidelines be developed as part of the Aboriginal Cultural Heritage Management Plan process.

REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 December 2012 are reproduced as follows for the information of Councillors.

Venue:

Minjungbal Museum and Cultural Centre, Tweed Heads South

Time:

9.00am

Present:

Aunty Joyce Summers (Canowindra representative), Jackie McDonald (Tweed Wollumbin Aboriginal Education Consultative Group representative), Des Williams (Tweed Byron Local Aboriginal Land Council representative), Leweena Williams (Tweed Aboriginal Corporation for Sport representative); Desrae Rotumah (Tweed Aboriginal Co-Operative Society Limited representative).

Ex-officio:

David Oxenham (Tweed Shire Council), Anne McLean (Tweed Shire Council).

Guest Observers (in order of arrival):

Ian Fox (Converge), Rob Appo (Converge), Tim Gall (Converge), Robyn Eisermann (Tweed Shire Council), Joshua Townsend (Tweed Shire Council), Judy Kean (Tweed Shire Council), Tim Mackney (Tweed Shire Council).

Apologies:

Barry Longland (Mayor of Tweed Shire), Jason Young (Tweed Shire Council).

Chair: Desrae Rotumah

Moved: Jackie McDonald

Seconded: Des Williams

RESOLVED that the Chair was declared vacant and nominations were called. Desrae Rotumah was nominated and was unanimously elected to Chair the meeting.

Desrae Rotumah opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Aunty Joyce Summers

Seconded: Des Williams

RESOLVED that the Minutes of the Aboriginal Advisory Committee meeting held 3 August 2012 be accepted as a true and accurate record of the proceedings of that meeting.

Outstanding Matters Report

O4 Pacific Highway, Banora Point Upgrade

Proposed wording for Wilsons Park signage tabled. Wording of signage discussed including "Ngandowal/Minjungbal" and "Goodjinburra Clan of Ngandowal/Minjungbal people".

Discussion suspended to commence Agenda Items.

Agenda Items:

A1(a) Aboriginal Cultural Heritage Management Plan

Ian Fox advised that two thirds of the mapping has been completed to date. Two maps were circulated. The Committee viewed the maps which are still a work-in-progress and noted some high probability sites may not be on the Aboriginal Heritage Information Management System (AHIMS) register. Des Williams attended the Tweed Coast sites with Converge to assist with site identification. Converge has met with some Aboriginal and non-Aboriginal community members at Fingal Head. Sites that have not been on AHIMS in the past are being recorded. National Parks have indicated resources may be provided to assist with registration of AHIMS sites.

Thematic history preparation has commenced and Converge will provide a draft to the next AAC meeting for comment. Ian Fox sought advice of who he should approach in relation to sporting history records. Aunty Joyce Summers asked if it would be a modern or traditional context and Ian advised that it would be both. Jackie McDonald suggested that individual families will have history. Rob Appo advised that the thematic history is looking at broader sporting associations rather than particular individuals. Jackie McDonald noted that in the past Aboriginal people were not allowed to participate at representative level and that is an important point to include in the history.

Jackie McDonald suggested that the Armed Forces are a topic and Ian Fox confirmed that it is included as a topic in the thematic history.

Ian Fox asked the Committee to let himself or Rob know about Aboriginal sporting identities and feats.

Tweed Shire Council (TSC) recently submitted a progress report to the NSW Heritage branch and it is very happy with the progress made to date.

145 confirmed sites and 150+ predictive sites.

Robyn Eisermann noted that the information will eventually go into a Management Plan that will be exhibited for public comment.

Robyn Eisermann provided copies of the signed Memorandum of Understanding to the AAC members.

A1(b) Draft Cultural Heritage Assessment for Oceanview Drive, Chinderah

Tweed Byron Local Aboriginal Land Council (TBLALC) has provided input and advised that a survey is required. Jackie McDonald has been involved as a community member as she grew up in the locality. A draft report has been provided to TBLALC, Jackie McDonald and Marvette Logan. There appears to be cultural material on the site but not in situ, probably brought in with fill. Details of findings are to be recorded in the final report.

A1(c) *Cultural Heritage Assessment for Station Street, Burringbar*
The site has recently been scraped clean removing grass and Camphor Laurels. No initial investigation or fauna and flora study was undertaken. Jackie McDonald asked when a cultural assessment was requested. Jackie McDonald asked who at Council monitors compliance. If an approval is granted with conditions, who is responsible for ensuring that the developer is complying. Ian Fox advised the Development Assessment Panel (DAP) meeting referred to a cultural heritage assessment.

In June 2011, a two lot subdivision was granted on the site without assessment conditions including no requirement to conduct a cultural heritage assessment. In December 2011 a DAP panel meeting was held to discuss a modification to the original DA proposing a 19 lot subdivision and it was suggested a cultural assessment be obtained, hence the engagement of Converge to undertake the assessment.

Action: Refer to Director Planning and Regulation to ascertain if the site clearing complies with the original DA.

Action: Seek advice from Director Planning and Regulation regarding monitoring of approved developments and compliance with consent conditions in relation to Aboriginal Cultural Heritage.

Des Williams noted there should be a safeguard mechanism at Council to ensure Aboriginal Cultural Heritage requirements are met and penalties should apply for not adhering to consent conditions.

Ian Fox noted issues with Office Environment and Heritage (OEH) and compliance with cultural heritage legislation. The community could refer the matter to OEH to investigate whether the site meets all due diligence requirements of being a potential site of interest.

Jackie McDonald asked if the DAP meeting suggests a cultural heritage assessment, can it also note the site should not be cleared or disturbed until the assessment is completed? Robyn Eisermann noted that DAP notes are meeting minutes and while points may be recorded it is not enforceable. David Oxenham suggested the Aboriginal Cultural Heritage Management Plan (ACHMP) could include strategies to assist.

RECOMMENDATION:

Moved: Jackie McDonald

Seconded: Des Williams

That Council develop a set of guidelines for development proponents to follow to ensure compliance with Aboriginal Cultural Heritage requirements and that the guidelines be developed as part of the ACHMP process.

Carried

A2(a) *PP10/0007 - 5861 & 5867 Tweed Valley Way, Mooball (Joshua Townsend - Tweed Shire Council)*

Planning proposal document prepared by Tweed Shire Council dated 7 December 2012 tabled.

Urban Release Strategy 2009 identified short, medium and long term land release. Two sites have been identified in that locality for potential urban release that are side by side but have separate applications.

The Aboriginal Cultural Heritage assessment submitted by the proponent with the application was considered by the AAC at its meeting on 1 June 2012. The AAC's resolution was referred to the proponent. The proponent was concerned about the timing of testing; that is the proponent would prefer not to undertake testing with the planning proposal but would sooner wait until rezoning was approved. Council asked the planning consultant to advise Council regarding the timing and it was confirmed that testing was not necessary before rezoning was granted but needed to be done before development commences.

The developer is preparing to enter into a Voluntary Planning Agreement (VPA) with Council to ensure the development does not proceed prior to test pits being done. Jackie McDonald asked if a statement can be included in the VPA that the ground surface cannot be altered in any way prior to testing.

Joshua Townsend noted the landholder may have rights to maintain vegetation. Ian Fox noted if it is an agricultural site, the landholder will have certain rights.

*A2(b) PP12/0002 5993 Tweed Valley Way, Mooball
Planning proposal document prepared by Tweed Shire Council dated 7 December 2012 tabled.*

This property was identified in the Urban Release Strategy however the rezoning application has only recently been lodged with Council. The Heritage Consultant's report differs to the AAC's view regarding the site.

Council recommended that further investigation is necessary prior to any development taking place however investigation is not required for rezoning. Council is proposing to enter into a VPA with the landowner which will stay with the land even if the site is sold so the obligation will rest with the land owner.

Des Williams noted the TBLALC may initiate legal proceedings to place a caveat on the site. Robyn Eisermann noted the VPA has a similar effect to a caveat as it transfers with the land.

A3. Migration Heritage Centre Funding and Introduction (Judy Kean - Tweed Shire Council)

The Museum Fact Sheet was tabled for the AAC to review.

Judy Kean outlined the existing Museum operations in the Tweed Shire under the banner of Tweed Shire Council and noted the storage space in Murwillumbah has been finalised and is operational. She further noted the Murwillumbah Museum site is being redeveloped.

Judy Kean advised of the oral history project "Sweet Harvests" and the preliminary work this had enabled in relation to Indian, South Sea Islander and Indigenous communities in the Tweed. Judy sought advice on the best way to start a dialogue with the local Aboriginal people in relation to oral history, and in relation to future displays and interpretation at the redeveloped Tweed River Regional Museum Murwillumbah. Judy enquired whether this was of interest to Aboriginal people. The Museum has some grant funds to deliver oral histories if it is of interest to the Aboriginal community. Part of the project includes extending

dialogue with the South Sea Islander community. The AAC advised Judy to liaise separately with the South Sea Islander community.

Jackie McDonald noted that some Tweed Historical Society files on Aboriginal families have gone missing and noted master copies of family history information should be retained elsewhere for safe keeping. Judy noted Council is trying to bring in systems to ensure protection of the collection. The Historical Society signed over the collections and research material to the care and control of the Council; however the Historical Society still has access to it and Historical Society volunteers coordinate the day to day activities at the Tweed River Regional Museum at Tweed Heads. Judy Kean asked that concerns about care of the collection be brought to her attention to empower her to act. Council is taking responsibility for the collections on behalf of the community to ensure donors' needs are met and systems are developed. It will take some time to tease out issues with the Historical Society members. Judy noted that in the past there was a positive relationship between Tweed Historical Society and the Aboriginal Community which may have lapsed one time.

Aunty Joyce Summers suggested someone in each family should have a master copy of the file.

Judy noted the community could set guidelines about how the data is retained and accessed. Judy asked if cultural material particular to Aboriginal people of Tweed should be held at Minjungbal Museum or other museums. Jackie McDonald and Desrae Rotumah both confirmed that visitors should be referred to Minjungbal Museum. Judy noted the Murwillumbah Museum will need to cover, even if briefly, a history of the Tweed Aboriginal peoples. Further discussions are to be held.

The AAC suggested the following actions in relation to Aboriginal historical material.

Action: Establish protocols for accepting South Sea Islander historical material for display.

Action: Establish protocols for accepting Aboriginal historical material for display.

Action: Identify existing files held in keeping by Historical Society that pertain to Aboriginal and South Sea Islander families.

Action: Establish guidelines for sign-in and sign-out of Aboriginal and South Sea Islander files

Action: Ensure master copies of Aboriginal and South Sea Islander files are made and kept in the control and care of Council in addition to files held by Historical Society.

Judy confirmed that Council is committed to developing appropriate systems and will continue the dialogue with the AAC over the next 12 months. Judy asked the preferred way to liaise with the community. The AAC confirmed that Judy should attend the AAC to keep the group updated.

Jackie McDonald raised the recent Tweed Historical Society publication that contained incorrect information. Judy noted the Historical Society still exists in its own right; Council can control Historical Society activities involving displays or collections however it is difficult to control Historical Society publications.

Judy Kean advised a new Museum Advisory Committee has recently been appointed by Council and will be developing strategic directions. Judy asked if a member of the AAC wished to participate on the Museum Committee. The preference of the AAC is for Judy to come to the AAC to keep them informed of projects relevant to the Aboriginal community.

A4. Kirkwood Road Project (Jason Young - Tweed Shire Council)

Jason Young was an apology for the meeting. He will be invited to a future meeting.

A5. Concept Landscaping at Clarrie Hall Dam (Tim Mackney - Tweed Shire Council)

This project is progressing well with construction planned for March/April 2013. Review Environmental Factors (REF) document was endorsed with recommendations of AAC in December 2011.

Have engaged Landscape Architects to design landscaping which will include signage areas. However, installation of signs will be undertaken by Council's Signage Unit and additional time will be allowed for development of wording in consultation with the AAC.

The existing information rotunda will need to be demolished and will be replaced by an open information area and viewing platform. Tim Mackney distributed a copy of the Landscape Plan to AAC members.

Jackie McDonald asked if there was further information of the scar tree. Tim Mackney advised he has been following up on the matter with Museums, Universities and the Aboriginal Heritage database but has found no record of where the scar tree has been laid to rest. Tim advised he will be attending a meeting next week which may provide further information. Tim distributed documents for the Committee.

Action: Anne McLean to locate electronic images of grinding groove and scar tree previously circulated to AAC members.

Action: Anne McLean to distribute hard copies of grinding groove and scar tree images to TBLALC.

Action: Tim Mackney to provide a list of organisations approached by Council to locate the resting place of the scar tree.

Tim Mackney asked where information for interpretive signage should come from. Council has some flexibility in relation to size and positioning of signage. The signage could include information about submerged caves, scar tree, grinding groove.

Action: Tim Mackney to liaise with Ian Fox to get costing proposal for developing interpretative signage in consultation with the AAC.

Integrated Water Cycle Management Strategy

The Integrated Water Cycle Management Strategy has been in place since 2006 and has driven a lot of water saving across the Shire. Council is updating the strategy to ensure currency. The Background Paper has been prepared. The Integrated Water Cycle Management survey is currently available on the website. Tim Mackney provided hard copies for members and distributed copies of the fact sheets.

Outstanding Matters Report

O4 Pacific Highway, Banora Point Upgrade

Discussion regarding proposed wording for Wilsons Park signage resumed.

The area of Banora Point is in the territory of the Goodjinburra clan of the Ngandowal language group.

It was agreed that the wording should read:

"Dreaming story of Wollumbin

This area of Banora Point is in the Ngandowal people territory.

Dreamtime and creation stories relayed to Aboriginal people described aspects of appropriate social behaviour and responsibility as well as interpreting through stories why and how things in the natural environment came to exist.

Mount Warning is known to Aboriginal people as Wollumbin, a sacred area tied to the social and cultural tradition of the local Ngandowal people.

A well-known Dreaming story of the Ngandowal is that of Wollumbin.

Wollumbin was the warrior chief of the mountain. The spirits that lived as part of the mountain were the Chief's warriors. You can see their battle scars displayed on the side of the mountain.

If you look at Wollumbin Mountain from the north, you can see the face of the Warrior Chief as part of the mountain's outline."

A6. Everick updates

Due to time constraints, this item was deferred to the next meeting.

General Business:

GB1. Code of Meeting Practice

Deferred to next meeting.

GB2. All Access Playground Working Group

Anne McLean made the Committee aware of a working group that is meeting to inform the design of the proposed All Access Playground at Tweed Heads. Anne asked members of the Committee to advise if they wish to attend the working group and to circulate details to interested persons in the community.

GB3. Junction Park Signage

Deferred to next meeting.

GB4. Goorimahbah "Three Brothers"

Anne McLean advised that the grant funding for this project has been withdrawn and Council is required to return the funds.

Next Meeting:

The next meeting of the Aboriginal Advisory Committee will be held 18 January 2013.

The meeting closed at 2.30pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

*Cultural Heritage Assessment for Station Street Burringbar
Nil.*

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

***Cultural Heritage Assessment for Station Street Burringbar
That Council develop a set of guidelines for development proponents to follow to ensure compliance with Aboriginal Cultural Heritage requirements and that the guidelines be developed as part of the Aboriginal Cultural Heritage Management Plan process.***

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Aboriginal Advisory Committee adopted 25 September 2012.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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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50 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 7 February 2013

SUBMITTED BY: Planning and Infrastructure



Supporting Community Life

SUMMARY OF REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 7 February 2013 are reproduced within the body of this report for the information of Councillors.

RECOMMENDATION:

That:

- 1. The Minutes of the Local Traffic Committee Meeting held Thursday 7 February 2013 be received and noted; and**
- 2. The Executive Management Team's recommendations be adopted as follows:**

A1 Clifford Crescent, Banora Point

That:

- 1. A "One Way" sign be installed on Clifford Crescent to reinforce the one-way circulation on the road.**
- 2. The "Keep Left" sign on the splitter island be upgraded to "B" size.**

A2 [LTC] Marine Parade, Kingscliff - Parking Zones

That the "No Parking" zone be extended at the end of Marine Parade, Kingscliff based on on-site assessment by Council officers to remove approximately 3 car spaces for manoeuvring.

REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 7 February 2013 are reproduced within the body of this report for the information of Councillors.

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 10.00am

PRESENT:

Committee Members: Mr Ian Shanahan, Roads and Maritime Services of NSW, Snr Constable Ray Wilson, NSW Police, Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed, Mr Rod Bates.

Informal: Mr Danny Rose (Chairman), Mr Ray Clark, Mr Leon McLean, Mr Michael Kenny, Mr Wayne Haayer, Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Cr Barry Longland (Mayor), Cr Michael Armstrong.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 20 December 2012 be adopted as a true and accurate record of proceedings of that meeting.

FOR VOTE - Unanimous

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC] Schedule of Outstanding Resolutions - 7 February 2013

1. *[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.

From Meeting held 7/2/13:

The Committee discussed this ongoing issue and considered that an option for controlling school related traffic within the cul-de-sac was installation of "No Parking" signage during school hours, however as this would also impact on those adjoining residences further consultation by the Road Safety Officer was recommended. The Road Safety Officer will also contact the school to follow up on access issues around the site.

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 1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 7 February 2013 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 B6).

2. [LTC] Pottsville Road (B2)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 56883966; Traffic - Committee; Traffic - Speed Zones; Pottsville Road

SUMMARY OF REPORT:

Council is requesting a review of the 100km/h speed limit on Pottsville Road due to the high incidence of speed related type crashes.

In the five year period July 2006 to June 2011 there were 31 recorded crashes with 27 of those crashes "off path on curve".

The 85th percentile speeds and Average Daily Traffic are as follows:

	Date	85 th Percentile Speeds	Date	ADT
POTTSVILLE ROAD - MOOBALL END	5/02/2008	80	5/02/2008	847
	3/07/2002	85		
POTTSVILLE ROAD - NORTH of TREATMENT PLANT	7/04/2011	85	7/04/2011	850
POTTSVILLE ROAD - NORTH of TWEED VALLEY WAY	7/04/2011	82	7/04/2011	852
	24/03/2010	85	24/03/2010	930
	5/02/2008	80	5/02/2008	847
			25/05/2005	1077
			28/08/2002	841
POTTSVILLE ROAD - OFF CUDGERA CREEK ROAD	15/02/2012	76	15/02/2012	1093
	31/03/2010	77	31/03/2010	1335
			25/05/2005	3390
			5/09/2002	2596

From Meeting held 7 February 2013:

COMMITTEE ADVICE:

That the speed limit on Pottsville Road be referred to Roads & Maritime Services (RMS) for review in consideration of the speed related crash history on this road and be placed on the Schedule of Outstanding Resolutions.

Current Status: That Item 4 from Local Traffic Committee meeting held 7 February 2013 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 18 October 2012 (Item B2).

3. [LTC] Pioneer Parade, Banora Point (B3)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 55902624; Traffic - Committee; Pedestrian Safety; Signs - Traffic Issues; Traffic - Speed Zones; Pioneer Parade; Short Street; View Street; Kittiwake Street; Banora Boulevarde

SUMMARY OF REPORT:

This item is brought forward from the Schedule of Outstanding Resolutions.

Request received for the installation of speed reducing devices on Pioneer Parade.

"The opening of Short Street with a four-way intersection recently has created a "race-way" for speeding vehicles along Pioneer Parade between Short Street and Kittewake Street. It is currently 5.22am and I have witnessed eighteen vehicles in the past twelve minutes, driving at excessive speeds along Pioneer Parade in both directions. Some of these vehicles have turned into and out of View Street, also at excess speeds.

There are a number of elderly people who regularly use the road for walking and to gain access to the Banora Point shopping centre using the pedestrian stairs off Banora Boulevarde.

We have a New South Wales public primary school located on Pioneer Parade. The children attending New South Wales primary schools are between five and twelve years of age. There are many parents and carers who walk their young families to and from school along Pioneer Parade.

We have no footpath on Pioneer Parade between Short Street and Kittewake Street, to walk our children safely to school so do our best to negotiate the safest route possible along grass across driveways and on and off the road. I have concerns about the increased traffic use of Pioneer Parade and in particular the excessive speed that the vehicles are currently travelling on this stretch of road.

Please help keep our kids safe and install physical speed reducing devices on Pioneer Parade to avoid a serious injury or death of a child due to speeding vehicles on a residential road. We do not have signage currently erected indicating traffic speeds on Pioneer Parade. Once this is in place, I do not believe that this alone would be enough to slow down the traffic.

I appeal to you personally and as a collective group of parties with an interest in this stretch of road to please ensure the safety of our pedestrians and specifically our young school community."

COMMITTEE ADVICE:

That speed and vehicle counts be conducted on Pioneer Parade to determine any changes in traffic conditions and this item be placed on the Schedule of Outstanding Resolutions for further consideration.

Current Status: That Item 3 from Local Traffic Committee meeting held 22 November 2012 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 18 October 2012 (Item B1).

For Meeting 20 December 2012:

Counts were carried out between 29 November and 6 December 2012 at 3 locations on Pioneer Parade being south of Short Street (A), south of Kittiwake Street (B) and north of Kittiwake Street (C). Traffic information is as follows:

<i>Location</i>	<i>85th Percentile</i>	<i>ADT</i>
<i>A</i>	<i>51</i>	<i>915</i>
<i>B</i>	<i>51</i>	<i>1042</i>
<i>C</i>	<i>57</i>	<i>786</i>

Previous counts prior to completion of the Highway works at Point C showed an 85th percentile speed of 51km/h and ADT of 800.

A breakdown of speed data confirms that there are a small number of vehicles travelling well in excess of the posted speed limit, up to 90 to 100 km/h at all 3 locations.

The Committee considered that traffic calming devices should be investigated in order to address the speeding issues and that concept designs be brought back to a future Committee meeting for consideration.

COMMITTEE ADVICE:

That Pioneer Parade Banora Point be placed on the Schedule of Outstanding Resolutions pending draft concept designs for traffic calming devices.

Current Status: That Item B3 from Local Traffic Committee meeting held 7 February 2013 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 18 October 2012 (Item B1).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Clifford Crescent, Banora Point

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 62394988; 62396031; Traffic - Committee; Traffic - Local Area Traffic Management; Traffic - Safety; Clifford Crescent; Old Ferry Road; SGN13/0002

SUMMARY OF REPORT:

Request received for one way sign at Clifford Crescent, Banora Point. It is reported that motorists are ignoring the keep left signage and double centre line markings and are approaching Old Ferry Road on the wrong side of the roadway and encountering vehicles entering Clifford Crescent from Old Ferry Road.

"Full Details:

TrafSignCR - More traffic signage required at Clifford Crescent indicating one way traffic. Cars are travelling the wrong way on the street (it is a one way street that travels in a circle).

More signage required at the apex of the island in the middle of the street indication one way on entrance and wrong way on the exit so that it can be seen when entering the street. Also one way or no entry should be painted on the road way."

The Committee considered options for signage and linemarking to reinforce the one-way nature of this street and also considered that enforcement was necessary. From inspection the existing "Keep Left" sign on the splitter island is also obstructed by vegetation and needs to be rectified.

COMMITTEE ADVICE:

That a "No Entry" sign be installed on Clifford Crescent to reinforce the one-way circulation on the road.

RECOMMENDATION TO COUNCIL:

That:

- 1. A "One Way" sign be installed on Clifford Crescent to reinforce the one-way circulation on the road.*
- 2. The "Keep Left" sign on the splitter island be upgraded to "B" size, and vegetation be trimmed around the sign.*

FOR VOTE - Snr Const Ray Wilson, Mr Geoff Provest, Mr Ian Shanahan
PRESENT. DID NOT VOTE - Mr Thomas George

A2 [LTC] Marine Parade, Kingscliff - Parking Zones

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 62343845; Traffic - Committee; Traffic - Parking Zones; Marine Parade, Kingscliff

SUMMARY OF REPORT:

Request received regarding parking near the entrance to the Reflections complex at the southern end of Marine Parade, Kingscliff.

"..... a traffic safety issue near the entrance to the Reflections complex at the southern end of Marine Parade in Kingscliff.

Members of the Ratepayers Association and residents of Reflections were very disappointed late last year when the Traffic Committee declined to act on our suggestion that a no-parking zone be created immediately opposite the entrance to Reflections. We were talking a reduction of two car spaces. In responding to the committee's decision the secretary of the Ratepayers' Association forwarded two photographs taken by myself to illustrate the problems being encountered when people parking legally block the passage of residents trying to enter the Reflections car park.

At the entrance to Reflections there is a convergence of many forms of traffic: people driving into and out of the Reflections car park, people parking on Marine Parade near the boat ramp, elderly residents of reflections with eyesight and mobility problems entering the complex as pedestrians, pedestrians and cyclists going on and off the Cudgen Creek walkway, people with companion animals and children getting into and out of parked cars. The opportunities for serious accidents are evident every day of the week. A Reflections resident who lives next to the driveway has reported that in recent times ambulances and garbage trucks have had great difficulty negotiating this entrance. The issue is particularly serious when people driving vans and utilities opt to park immediately opposite the Reflections entrance - as shown in one of the attached photographs."

This item has been considered previously by the Committee. Various inspections of this site have taken place most recently during the Christmas holidays where the potential for obstruction of the Reflections driveway was apparent and this has been confirmed by the photos submitted with this request. It is considered that by installing 'No Parking' signage at the end of Marine Parade to remove the last 3 spaces or so this would provide adequate manoeuvring for Reflections and others using this street.

COMMITTEE ADVICE:

That "No Parking" signage be installed at the end of Marine Parade, Kingscliff to remove approximately 3 car spaces for manoeuvring.

RECOMMENDATION TO COUNCIL:

That the "No Parking" zone be extended at the end of Marine Parade, Kingscliff based on on-site assessment by Council officers to remove approximately 3 car spaces for manoeuvring.

*FOR VOTE - Snr Const Ray Wilson, Mr Geoff Provest, Mr Ian Shanahan
PRESENT. DID NOT VOTE - Mr Thomas George*

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] Battle on the Border 2 to 5 May 2013

ORIGIN:

Planning & Infrastructure

FILE NO: *ECM 62904717; 62904732; Traffic - Committee; Traffic - Control; Festivals - Events; Gunnamatta Avenue; Cane Road; Wharf Street, Murwillumbah; Bells Boulevard; Cudgen Road; Clothiers Creek Road; Tweed Valley Way*

SUMMARY OF REPORT:

Request received for approval to conduct the Battle on the Border event from Thursday 2 May to Sunday 5 May 2013. This is the fifth year for the event. The program is as follows:

Date	Location	Time	Activity	Participants
Wednesday 1st May	Mantra on Salt, Gunnamatta Avenue	5.00pm to 9.00pm	Registration and welcome dinner	Up to 1000 participants
Thursday 2nd May	Point Danger, Mooball, Stokers Siding to Mount Warning	9.30am to 2.00pm	Stage 5 - NRS Men's Teams Road Race in one convoy. 110km	140 NRS Men in teams
	Martha's Kitchen	2.00pm	Official welcome & presentations	200 people
Friday 3rd May	Murwillumbah Showgrounds to Bilambil, Hogans Pocket, Chillingham, Tyalgum circuit	9.30am to 2.30pm	Stage 1 – Road Races between 80km and 140km for 9 divisions	600 to 700 athletes including NRS Men's and Women's
	Mantra on Salt, Gunnamatta Avenue	6.30pm-8.00pm	Presentations	500 people
Saturday 4th May	Murwillumbah Showgrounds to Cane Road circuit	6.30am to 11.00am	Stage 2 – Individual Time Trial	600 to 700 athletes every 20 seconds including NRS Men's and Women's
	Murwillumbah town centre, Wharf St,	1.00pm to 5.00pm	Stage 3 - Criterium	600 to 700 athletes in 9 races including NRS Men's and Women's
	Mantra on Salt, Gunnamatta Avenue	6.30pm-8.00pm	Presentations	500 people
Sunday 5th May	Salt Park, Bells Bvd, Cudgen Rd, Clothiers Creek Rd	6.30am – 2.30pm	Stage 4 – Road Race	600 to 700 athletes in 9 races including NRS Men's and Women's
Sunday 5th May	Salt Park, Tweed Valley	6.00am-3.30pm	56km / 136km / 177km Social Ride	3 ride distances up to 500 people

COMMITTEE ADVICE:

That the Battle on the Border event from Thursday 2 May to Sunday 5 May 2013 be supported subject to standard conditions of approval, NSW Police and RMS approval being obtained, community and business consultation and advertising in the Tweed Link.

B2 [LTC] Kingscliff Triathlon Multisport Weekend 9 to 10 March 2013

ORIGIN:

Planning & Infrastructure

FILE NO: *ECM 62904324; Traffic - Committee; Traffic - Safety; Traffic - Control; Festivals - Events; Festivals - Kingscliff; Bridges - Cudgen Creek; Boat Ramps; Parks - Jack Julius; Parks - Faulks - Kingscliff; Lions Park; Bicycle Matters - General; Cudgen Creek; Marine Parade; Wommin Bay Road; Chinderah Bay Drive; Moss Street; Sutherland Street*

SUMMARY OF REPORT:

Request received for Local Traffic Committee approval to conduct the Kingscliff Triathlon Multisport Weekend on 9 to 10 March 2013.

*"The Kingscliff Triathlon Multisport Weekend is held over 2 days:
- Saturday:*

A 62km Social Ride and a 5km Fun Run. The Social Ride must abide by local traffic laws and have a minimal impact on the community. The Fun Run will use the walkway from Kingscliff to Salt.

- Sunday:

The Triathlon will start from 6:45am and finish approximately at 1.00pm.

1,000 competitors - 2,500 spectators

Setup Saturday: 9.00am - 10.00am

Setup Sunday: from 4.00am

On the Sunday the commentator will be using the PA from 6.15am until 1.00pm

Parking is available along Marine Parade on grasslands north of the Bowls Club, and near the Cudgen Bridge.

Event parking will not be permitted in the Kingscliff shopping centre and marshals located on Pearl St and Turnock St. They will be redirecting event participants to the St Anthony's Catholic School car park which will be open from 5:30am.

Swim - Cudgen Creek

Ride - Marine Parade, Wommin Bay Road, Chinderah Bay Drive

Run - Moss Street, Sutherland Street, Sutherland Point, Cudgen Boardwalk"

Confirmation of cover from 23 July 2012 to 23 July 2013 for Sports Liability Insurance has been received for:

Public Liability \$10,000,000

Products Liability \$10,000,000

Professional Indemnity \$2,000,000

COMMITTEE ADVICE:

That the proposed Kingscliff Triathlon on Saturday 9 and Sunday 10 March 2013 be supported subject to standard conditions of approval, NSW Police approval being obtained, community and business consultation and advertising in the Tweed Link.

B3 [LTC] Dry Dock Road, Tweed Heads South

ORIGIN:

Planning & Infrastructure

FILE NO: *ECM 62635886; Traffic - Committee; Traffic- Pedestrian Crossings; Traffic - Safety; Pedestrian - Safety; Dry Dock Road, Tweed Heads South*

SUMMARY OF REPORT:

Request received for the installation of a pedestrian crossing on Dry Dock Road opposite the shopping centre and in front of the bus stop and boat ramps.

"At present there is a pedestrian centre refuge at this spot. many people choose to ignore this and cross closer to a point opposite the entrance to the shops and the entrance to the Palms Village.

There are a large number of users who would benefit from the installation of a crossing.

The residents of Palm Village have difficulty crossing Drydock Road with the large traffic numbers on this road.

Recreational and commercial fishermen are constant users of the Council car park and often buy supplies from the shops.

The commercial precinct would benefit from the public having easier access across Drydock Road

Bus users would have safer entry and exit with the installation of a crossing.

Sailability on Tweed's volunteers, carers and clients would benefit.

The public toilets located in the waterside parkland would be more accessible

Having observed a high level of crossings taking place in this area over a period of years, I believe there is a considerable risk of an accident occurring, particularly to the aged and people with disabilities and while this section of road has a 50kph speed limit it is frequently exceeded. As well the road has 2 gentle bends which at certain times of the year drivers can be looking into the sun."

The correspondence from Mr Bill McKennariey was tabled and addressed at the meeting.

A similar request for a marked pedestrian crossing was discussed previously by the Committee. Whilst this area can be busy, the pedestrian warrants are unlikely to be met.

Pedestrian counts will be undertaken by Council officers and should the warrants be met the item will be referred back to the Committee.

The Road Safety Office will contact Mr McKennariey and explain the warrant requirements for mid-block pedestrian activated signals.

COMMITTEE ADVICE:

That the installation of a marked pedestrian crossing and or midblock pedestrian activated signals on Dry Dock Road, Tweed Heads South near the Palm Village is not supported.

B4 [LTC] Proposed Audit of Safety and Accessibility of Infrastructure Adjacent to Local Schools

ORIGIN:

Planning & Infrastructure

FILE NO: *ECM 62398160; Traffic - Committee; Traffic - School Zones; Traffic - Safety; Pedestrian - Safety; Equal Access Advisory Committee*

SUMMARY OF REPORT:

At the 15 November 2012 meeting, Council considered a Notice of Motion and resolved as follows:

"Audit of Safety and Accessibility of Infrastructure Adjacent to Local Schools:

RESOLVED that Council officers prepare a report with respect to the state of repair of existing roads, footpaths and pedestrian crossing which service local schools, upon the criteria of safety and equality of access within designated school zones. The report to be presented to Council prior to the commencement of the 2013 NSW School Year."

In consideration of this resolution, Council officers completed a desk top investigation that identified within Tweed Shire:

- 42 Schools (primary and secondary)*
- 21.3km road within associated school zones*
- 11.5km footpath within associated school zones*
- 10 school crossings and 12 pedestrian crossings within school zones*
- 306 school zone signs*

To complete an audit of these facilities, to include asset ratings (physical condition), safety assessment (review existing infrastructure and conditions), operational assessment (observation of school operations during morning and afternoon peaks), and equal access assessment (requiring a consultant), funding of approximately \$74,000 would be required.

It was also noted that completion prior to the 2013 school year was not feasible, with a more realistic timeframe to complete the above and report to Council being April 2013.

The findings of the desktop investigation were considered by Council at the 13 December 2012 meeting. This report recognised that such an audit could realistically only deal with issues within Council's own control, and the costs of this audit are a significant impost on the community. In order to take an all of government / inter-agency approach to the audit, the advice of Local Traffic Committee was recommended in order to provide a more effective and equitable approach. Council adopted the recommendation and resolved as follows:

"[SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 7 February 2013

*Cr M Armstrong
Cr P Youngblutt*

RESOLVED that:

- 1. Council defer the audit proposed in the Council Resolution of 15 November 2012 and seek the Local Traffic Committee's (RMS, Police, local members of the NSW Parliament and Council representatives) advice on how to best address safety and equal access issues in the vicinity of schools.*
- 2. Further action on the audit be deferred until Council has authorised necessary expenditure pending receipt of advice referred to above.*

The Motion was Carried

FOR VOTE - Unanimous"

ADVICE FOR COUNCIL

In response, the Committee considered the following issues were of primary concern for road and pedestrian safety within school zones:

- *Lack of designated and controlled pick up / drop off points within school property*
- *Lack of separation of car, bus, cyclist and pedestrian traffic*
- *Increasing volumes of car traffic at peak times in favour of other modes*

These factors lead to poor compliance with parking controls, conflicts between modes and poor practices such as dropping children on the opposite side of the street. However these issues are largely beyond Council's ability to solve in existing urban areas without heavy involvement and investment by the schools and the Department of Education and Communities (DEC).

At this stage the Committee is unable to make any specific traffic / road safety recommendations for particular schools. The Committee deals with such specific issues as they arise in response to correspondence from the schools, parents and adjacent residents.

Where issues relating to the state of repair of road and footpath infrastructure are raised, LTC refers these requests to the Works Unit for action via the Customer Request management system. The Works Unit then addresses the assessment and rectification of this infrastructure in accordance with asset management plans.

On consideration of these issues the Committee recommended that the existing resources and databases of the RMS and DEC be utilised to provide an initial audit of known safety and access issues around schools and that this information be reported back to LTC for further discussion. The Committee considered that understanding of this base information will better inform further communication with individual schools and their representatives.

Other options considered by the Committee included surveys and other means of consultation directed to school Principals, P & Cs and public transport providers (buses, taxis, special needs vehicles etc).

It was acknowledged that Council may not be the lead agency for many issues relating to safety and access around schools and an important step is to request the policies of DEC relating to traffic around schools and related facilities for further analysis.

Overall the Committee was mindful that the scope of issues relating to the Council resolution needs to be well defined to ensure the process is manageable and useful.

COMMITTEE ADVICE:

That:

1. Council writes to Roads & Maritime Services (RMS) and Department of Education (DEC) requesting access to existing databases and audit reports relating to safety and equal access in school zones for Tweed Shire.
2. Council liaise with DEC Regional Director to obtain relevant policies and procedures relating to traffic management, equal access and provision of facilities for state schools.
3. Council liaise with the relevant bodies for the independent schools within the shire seeking similar policy and procedure information.
4. Local Traffic Committee (LTC) seeks feedback from the Equal Access Advisory Committee with regard to known access issues relating to schools.
5. This item be listed on the Schedule of Outstanding Resolutions so that the findings of the above can be reported back to the Committee for further consideration.

B5 [LTC] Cudgera Creek Park, Hastings Point (Council Car Park)

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 62309671; Traffic - Committee; Traffic - Parking Zones; Car Parks - Other Places; Cudgera Creek

SUMMARY OF REPORT:

Request received for the installation of signage for the Council car park south of the bridge over Cudgera Creek Bridge at Hastings Point.

It is reported that parking is a problem at this location and the installation of signage prohibiting vehicles over 6 metres in length from parking is requested. These vehicles use numerous spaces as they need to parallel park, or obstruct the through access by parking nose-in.

The report above is anecdotal and Council officers will continue to observe the area to determine the extent of the issue.

COMMITTEE ADVICE:

That no action be taken for the installation of signage at the Council car park south of the bridge over Cudgera Creek at Hastings Point, and that it be brought forward to the Committee should the issues raised be confirmed by Council officer inspections.

B6 [LTC - LATE] Laura and Anderson Streets, Banora Point

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 62904300; Traffic - Committee; Traffic - Safety; Traffic - Speed Zones; Pedestrian Safety; Laura Street; Anderson Street; Pty: 9230

SUMMARY OF REPORT:

Request received for the installation of a raised traffic island and pedestrian crossing at the intersection of Laura and Anderson Street, Banora Point.

"I am requesting that Council install a raised traffic island and pedestrian crossing at this intersection, as well as a metal guard rail on the corner of my property. Had a pedestrian been crossing at this Council-designated pedestrian crossing, or had my wife been gardening on that corner as she often does at the time that the accident occurred, they would likely have been killed.

Late today (Friday 25 January 2013), a utility containing two young males crashed at the notorious T-intersection on the corners of Laura St and Anderson Ave in East Banora Point. The car flipped upside down onto a Council-designated pedestrian crossing. Witnesses reported that had a bystander been using the crossing, they would have surely been struck by the vehicle. The young driver of the car was heard screaming hysterically from inside the cabin until neighbours assisted him out. He appeared to sustain injuries to his head and arm and was taken to hospital by ambulance. Police and fire brigade attended the scene. The male passenger seemed unhurt and was escorted by police to Tweed Heads Police station for questioning.

I and other residents have complained to Council about this trouble-spot which drivers, often young P-platers, daily cut short at frightening speeds. I placed my concerns in writing to the Council and cited several accidents in the same area, including when a car became airborne and plunged into the back of a parked van, and another occasion when a car smashed through our brick wall and almost plunging into our swimming pool. In response to complaints, Tweed Shire Council attended the site where I demonstrated the pedestrian blind spot that is experienced by young children and the elderly when they cross from west to east into the very spot of the recent accident. Council denied residents' suggestions of installing a raised traffic island and pedestrian crossing at the accident site. Instead, Council painted a traffic island on the corner. This paint work has done nothing to deter the constant flow of reckless drivers who simply speed over the top of the painted island, often on the wrong side of the road. I said in my previous letter that it was only a matter of time before someone was killed at this pedestrian site.

One neighbour who had to help pull the injured driver from today's wreck commented that Council never does anything until someone is killed. I am petitioning Council to do something before someone is killed. Please install a raised traffic island and pedestrian crossing at the T-intersection, as well as a metal barrier on the corner in front of 26 Laura St where today's accident occurred and where cars too often crash."

The Local Traffic Committee considered a similar item at its June 2010 meeting where it was recommended that a splitter island be installed on Anderson Street at the intersection with Laura Street. Based on observations of bus and truck movements a painted splitter island was installed incorporating raised rumble bars.

A marked pedestrian crossing at this location would not meet the pedestrian warrant.

Guardrails are generally not installed in residential areas due to constraints such as driveway accesses and its impact on pedestrian movements. Driver sight lines may also be affected.

COMMITTEE ADVICE:

That:

- 1. A raised centre median be installed on Anderson Street such that it still caters for turning movements for buses and other large vehicles from Laura Street.*
- 2. The installation of a pedestrian crossing is not supported due to non compliance with Roads & Maritime Services warrants.*
- 3. The installation of a guard rail is not supported in this urban location.*

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 7 March 2013 in the Mt Warning Meeting Room commencing at 10.00am.

There being no further business the Meeting terminated at 12.30pm.

SECTION A - FORMAL ITEMS SECTION - DELEGATIONS FOR REGULATORY DEVICES FOR ENDORSEMENT BY COUNCIL:

A1 Clifford Crescent, Banora Point

That:

- 1. A "One Way" sign be installed on Clifford Crescent to reinforce the one-way circulation on the road.**
- 2. The "Keep Left" sign on the splitter island be upgraded to "B" size.**

A2 [LTC] Marine Parade, Kingscliff - Parking Zones

That the "No Parking" zone be extended at the end of Marine Parade, Kingscliff based on on-site assessment by Council officers to remove approximately 3 car spaces for manoeuvring.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.3.

Terms of Reference - Local Traffic Committee.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.4 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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

51 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 13 February 2013

SUBMITTED BY: Community and Natural Resources



Civic Leadership

SUMMARY OF REPORT:

The Minutes of the Tweed River Committee Meeting held Wednesday 13 February 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

1. The Minutes of the Tweed River Committee Meeting held Wednesday 13 February 2013 be received and noted; and
2. The Executive Management Team's recommendations be adopted as follows:

BA1. Purchase of Land

That Council commences discussion with the landholders of the land known as Windmill Corner near Stotts Island with a view to the long term revegetation and management of the site.

A3. Estuary and Upper Catchment Management Project Funds

That Council approves \$5000 from the education component of the river management budget for funding student activities on World Environment Day.

GB3. Coal Seam Gas

That Council notes the Tweed River Committee's objection to Coal Seam Gas exploration and mining in Tweed Shire.

REPORT:

The Minutes of the Tweed River Committee Meeting held 13 February 2013 are reproduced as follows for the information of Councillors.

Venue:

Canvas & Kettle Meeting Room

Time:

9.15am

Present:

Robert Quirk (NSW Cane Growers' Association) (Chair); Cr Gary Bagnall; Ben Fitzgibbon (Office of Environment and Heritage); Pat Dwyer (Department of Industry & Investment NSW); Carl Cormack (Roads and Maritime Services); Rhonda James (Restoration Industry); Claire Masters (Tweed Landcare Inc); Nigel Greenup (Community Representative); Eddie Norris (Community Representative); Max Boyd (Community Representative); Jane Lofthouse, Tom Alletson, Mark Kingston (Tweed Shire Council).

Informal:

Cathey Philip (Minutes Secretary); Matt Bloor (Tweed Shire Council).

Robert opened the meeting and acknowledged the traditional owners of the Tweed and elders past and present.

Apologies:

Cr Katie Milne; Scott Petersen (Tweed River Charter Operators); Ian Hanson (NSW Land & Property Management Authority); David Oxenham, Sebastien Garcia-Cuenca, (Tweed Shire Council); Lance Tarvey (Office of Environment and Heritage); Bob Loring (Department of Primary Industries - Fisheries); Sam Dawson (Caldera Environment Centre).

Minutes of Previous Meeting:

Moved: Max Boyd

Seconded: Pat Dwyer

RESOLVED that the Minutes of the Tweed River Committee meeting held Wednesday 21 November 2012 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

BA1. Purchase of Land

At the meeting of 21 November 2012 the Committee resolved to recommend to Council as follows:

That Council investigates the purchase of several small parcels of privately owned riparian land, located at each end of Tumbulgum and at Windmill Corner (north of Stotts Island), on the basis that it could be regenerated by Council.

Council's executive has recommended that the Committee not pursue this initiative. Tom explained the Executive Management Team's reasoning for not supporting the Committee's recommendation and advised that the following recommendation was presented to Council:

The following recommendation was submitted to Council:

That Council notes the Tweed River Committee request "That Council investigates the purchase of several small parcels of privately owned riparian land, located at each end of Tumbulgum and at Windmill corner (north of Stotts Island), on the basis that it could be regenerated by Council."

Mark provided comment regarding the desirability of purchasing land for the purpose of environmental management or rehabilitation. A major constraint in this issue is having the necessary funds to manage land, dealing with weeds, feral animals, fire etc. There is a deficit in funds required to manage bushland currently owned by Council, and there are some major issues forecast in managing natural areas being dedicated to Council in association with large developments. He said that ad hoc acquisitions of small parcels may be beneficial if funds were available.

After discussion it was decided to submit the following recommendation to Council.

RECOMMENDATION:

Moved: Max Boyd

Seconded: Cr Bagnall

That subject to negotiation with adjacent owners and approval from the Department of Lands, Council approve revegetation of the road reserve comprising the river bank on the land known as Windmill Corner, near Stott's Island.

Agenda Items:

A1. Strategic Planning

As per the adopted Terms of Reference a discussion was held on the prioritisation of preparation of a number of important strategic level documents.

There was lengthy discussion on the various positive and negative aspects of the four projects identified in the Tweed River Committee work plan, these being:

- *Upper Catchment Management Plan*
- *Future of the Tweed River Plan*
- *State of the Tweed River Report*
- *Review of the Estuary Management Plan*

Nigel suggested that a State of the Tweed River Report would be an important first step and would essentially inform any of the other initiatives. There was general support for this principle. Rhonda requested that any work include an audit and update on the implementation of projects via the Tweed River Committee in response to previously prepared/adopted plans and studies. Ben proposed an integration of the two ideas.

Tom proposed to prepare a draft scope for a project incorporating both a State of the Tweed River and audit of past actions.

Tom to provide an electronic copy of his presentation to members.

RESOLVED:

Moved: Ben Fitzgibbon

Seconded: Rhonda James

That the Committee requests Council staff to prepare a scoping study on the State of the Tweed River report. This study should include an audit of what has been done and the impact of river related works.

Item for Next Agenda:

Tom to present the upper and lower river estuary management plans and other relevant documents as a refresher on what has been done over the past 20 years.

A2. Project Proposals - Oxley River Bank Erosion, Platypus Project

Tom and Matt presented two proposals that are considered iconic/flagship projects for the short term for the Tweed River Committee. The purpose of the presentation was to gain the Committee's endorsement of the projects.

Oxley River Bank Erosion

Tom gave an overview of the scale and severity of river bank erosion upstream of the Old Lismore Road crossing at Byangum on the Oxley River. It was noted that the cost to undertake stabilisation works could be in excess of \$100,000, and that a combination of Council and State Government funding, as well as land owner in-kind support, would be required to achieve a successful project.

RESOLVED:

That the Committee endorses the concept of the Oxley River bank stabilisation project.

Platypus Project

Matt provided details on a proposed project to gauge the numbers of platypus in the Tweed, and the benefits of promoting platypus conservation as a means of increasing community commitment to riparian rehabilitation.

Actions would include trialling a platypus count and production of an educational poster and signage. It was also suggested that Matt consider seeking the assistance of a post-graduate student in undertaking this work.

RESOLVED:

That the Committee endorses the Platypus project concept.

Matt is to provide the Committee with regular updates on the project.

A3. Estuary and Upper Catchment Management Project Funds

Tom provided an update on funds available to be used for existing and possible future river management projects. The Committee noted the presentation.

Tom requested Committee endorsement to provide \$5000 to Council's Environmental Education Officer for funding student activities on World Environment Day in June.

RECOMMENDATION:

Moved: Max Boyd

Seconded: Claire Masters

That Council approves \$5000 from the education component of the river management budget for funding student activities on World Environment Day.

A4. Cobaki and Terranora Broadwater Catchment Management Plan

As requested at the last meeting, Tom provided an update (hardcopy) of the status of actions from the management plan.

An electronic copy of the document is to be sent to members and any comments or queries are to be forwarded to Tom.

A5. Update on River Health Grant Implementation

Matt provided a brief description, including photos, of several key projects.

It was requested that a copy of the presented spreadsheet be provided to members with minutes of the meeting when circulated.

Rhonda reiterated the need to have a complete picture of Natural Resource Management project locations in the Tweed to assist with strategic planning of other projects. Matt will provide Rhonda with lot and DP numbers of all river health grants.

The Committee was advised of the great commitment to sustainable land and river management being shown by the O'Hare family at Kunghur. Max suggested that this landowner's good work should be publicised, perhaps through an article in the Tweed Link.

A6. Update on Budd Park

Tom provided a brief update.

RESOLVED:

The Committee congratulate Tom on the work carried out at Budd Park and thanked him for his efforts.

Max suggested a photograph from Tumbulgum Road be published in the Tweed Link demonstrating how good Budd Park appears from across the river.

A7. National River Prize

Tom advised of his intent to submit an entry to the National River Prize. The submission will tie in with work done by the Water Unit and other initiatives by the Natural Resource Management Unit.

Pat noted that the fact that no fish kills had occurred during recent floods was a significant achievement, pointing to the success of Natural Resource Management initiatives in the Tweed, and something that could be included in the submission.

General Business:

GB1. Update on Illegal Works at Byangum

Cr Bagnall requested an update of what was happening with the illegal weir constructed at Byangum. Tom provided background to the Committee on the event and then advised where the situation was up to. Tom advised that NSW Office of Water is following up with legal action against the landowner. Tom anticipates the rocks removed from the weir in the December will be used to stabilise the bank of the river.

GB2. Rural Land Study

Mark advised that the above study is underway and being carried out by Council's Planning Reforms section. The outcome and process should be of interest to various committee members, as well as Natural Resource Management, Biodiversity, Waterways and Sustainable Agriculture Programs.

It was suggested that Stuart Russell from Planning Reforms be invited to a future meeting to provide information on the scope and progress of the project and to give feedback on issues of concern from the Committee.

It was also suggested that the consultants be invited to attend the meeting with Stuart.

GB3. Coal Seam Gas

Max stated that he felt the Committee should support Council's stance regarding Coal Seam Gas.

At Council's meeting of 25 October 2012 it was resolved as follows:

That:

- 1. Council reaffirms its moratorium with respect to Coal Seam Gas (CSG) and declares and actively promotes the position that Tweed Shire be free of CSG and other unconventional gas operations.*
- 2. Council calls on local State and Federal Members of Parliament to express their support for Council's position on CSG mining.*
- 3. Council seeks a review of the NSW Government's Strategic Regional Land Use Policy given that it fails to rule out CSG development on productive agricultural land and sensitive environmental areas.*
- 4. As part of the forthcoming "White Paper" on the review of the NSW Planning system, Council makes a submission that planning powers be delegated to local government with regard to the consideration of development applications that deal with mining or gas extraction.*

Robert stated that the sugarcane industry cannot co-exist with Coal Seam Gas. The State Government said it will protect prime agricultural land but because of flooding most of Tweed Shire's agricultural land is not considered as prime, and therefore could potentially be subject to exploration and mining.

RECOMMENDATION:

Moved: Max Boyd

Seconded: Claire Masters

That Council notes the Tweed River Committee's objection to Coal Seam Gas exploration and mining in Tweed Shire.

Eddie Norris voted against motion.

GB4. Erosion - Tumbulgum Bridge

Max raised concerns about erosion occurring below Tumbulgum Bridge on the roadside and asked who pays for restoration work.

Tom advised that where roads are threatened, Council's Works Unit is responsible for funding and the River Management Program is responsible where land is public open space.

Jane stated that Tom is requested to provide advice on proposals for bank stabilisation through the approval process.

GB5. DVD on Tweed River Management Projects

Jane advised she had a limited number of copies available if any member would like one.

Next Meeting:

The next meeting of the Tweed River Committee will be held on Wednesday 10 April 2013..

The meeting closed at 12.20am.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

BA1. Purchase of Land

As the road reserve is not continuous around the riverbank, this recommendation in part is impractical.

A3. Estuary and Upper Catchment Management Project Funds

Nil.

GB3. Coal Seam Gas

Nil.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

BA1. Purchase of Land

That Council commences discussion with the landholders of the land known as Windmill Corner near Stotts Island with a view to the long term revegetation and management of the site.

A3. Estuary and Upper Catchment Management Project Funds

That Council approves \$5000 from the education component of the river management budget for funding student activities on World Environment Day.

GB3. Coal Seam Gas

That Council notes the Tweed River Committee's objection to Coal Seam Gas exploration and mining in Tweed Shire.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

BA1. Purchase of Land

That Council commences discussion with the landholders of the land known as Windmill Corner near Stotts Island with a view to the long term revegetation and management of the site.

A3. Estuary and Upper Catchment Management Project Funds

That Council approves \$5000 from the education component of the river management budget for funding student activities on World Environment Day.

GB3. Coal Seam Gas

That Council notes the Tweed River Committee's objection to Coal Seam Gas exploration and mining in Tweed Shire.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Tweed River Committee adopted 21 November 2012.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

52 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 13 February 2013

SUBMITTED BY: Community and Natural Resources



Civic Leadership

SUMMARY OF REPORT:

The Minutes of the Minutes of the Tweed Coastal Committee Meeting held Wednesday 13 February 2013 are reproduced in the body of this report for the information of Councillors.

RECOMMENDATION:

That:

- 1. The Minutes of the Tweed Coastal Committee Meeting held Wednesday 13 February 2013 be received and noted; and**
- 2. The Executive Management Team's recommendations be adopted as follows:**
 - A1. Terms of Reference and Meeting Procedures**
That Council adopts the amended Terms of Reference and Meeting Procedures for the Tweed Coastal Committee as attached.

REPORT:

The Minutes of the Tweed Coastal Committee Meeting held 13 February 2013 are reproduced as follows for the information of Councillors.

Venue:

Canvas & Kettle Meeting Room

Time:

1.05pm

Present:

Terry Kane (Cabarita Beach-Bogangar) (Chair); Cr Gary Bagnall; Ben Fitzgibbon (Office of Environment and Heritage); Rhonda James (Restoration Industry); Jason Pearson (Kingscliff); David Cranwell (Pottsville); Roger Graf (Fingal Head); Jane Lofthouse, Tom Alletson, Stewart Brawley (Tweed Shire Council).

Informal:

Cathey Philip (Minutes Secretary).

Apologies:

Cr Barry Longland; Ian Hanson (NSW Land & Property Management Authority); Pat Dwyer (Department of Industry & Investment NSW); Lance Tarvey (Office of Environment and Heritage); John Harbison (Mooball); Michael Munday (Bogangar); Peter Sloan (Bogangar); Tim Jack Adams (Kingscliff); Sebastien Garcia-Cuenca, Mark Kingston (Tweed Shire Council).

Minutes of Previous Meeting:

Moved: *David Cranwell*

Seconded: *Roger Graff*

RESOLVED that the Minutes of the Tweed Coastal Committee meeting held Wednesday 21 November 2012 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

BA1. Revetment Wall, Mooball Creek Pottsville

David asked for an update regarding the revetment wall. Tom advised that it was listed for action when resources available. David advised a wall further upstream is also collapsing.

Agenda Items:

A1. Terms of Reference and Meeting Procedures

The draft Terms of Reference and Meeting Procedures for the committee were reviewed and discussed.

Jane advised that she would include "Cudgen, Cudgera and Mooball Creeks" in the description under Part 1 "Purpose" of the Terms of Reference.

RECOMMENDATION:

Moved: Roger Graf

Second: Jason Pearson

That Council adopts the amended Terms of Reference and Meeting Procedures for the Tweed Coastal Committee as attached.

A2. Coastal Zone Management Plan for Tweed Coast Estuaries - Public Exhibition

Tom provided details of the public information sessions to be held during the public exhibition period for the CZMP. Sessions will be held on 19 February (Kingscliff) and 27 February (Pottsville) for members of the public to drop in and discuss the management plan.

A report will be prepared for Council upon receipt and consideration of the submissions from the public. Submissions are due by 28 March.

Rhonda expressed concerns regarding the report. She felt it was not easy to read and there were not enough specific actions and recommendations, particularly for restoration priorities.

David expressed concerns about seagrass in Mooball Creek; stating the report does not map the grasses and demonstrate how boats would be able to navigate around them.

A discussion was held regarding seagrass. Jane suggested a pamphlet be compiled to assist getting the message out to the public regarding the locations and importance of seagrasses.

Tom said he thought the performance of the consultants was good in gathering and collating ecological information but wants to increase focus specific management actions.

A high priority is to be given to the need to include "restoration plan" actions and priorities.

Ben left the meeting at 1.45pm

Members were reminded to contact Tom if they wish to meet with him to discuss the CZMP in more detail.

A3. 2013 Work Plan

Jane provided a work plan (below) for the committee for the coming year.

Project	Description	Completion date	Status
Area 5 POD	preliminary operations design report and feasibility analysis. Volume 660,000m3 available	Sep-12	complete - feasible
Area 5 Dredging EIS		Mar-13	progressing
Area 5 dredging & sand placement EIS	combining EIS documents for Area 5 dredging (2013) and sand placement EIS (2008); submit for approvals	mid-late 2013	to commence
Seawall Options report (WRL)	several types of terminal seawall and levels of sand nourishment considered and costed	March 2013 final	Draft received - information to feed into CBA
Kingscliff Groynes report (WRL)	consideration of groyne field design and feasibility (addendum to above report)	March 2013 final	draft not yet received

<i>Tweed Coast Hazards 2012 (BMTWBM)</i>	<i>Update of Tweed Coast Hazard Study; detailed consideration of Kingscliff processes</i>	<i>Apr-13</i>	<i>draft received</i>
<i>Kingscliff Cost Benefit Assessment</i>	<i>assess economic and social impacts of various foreshore mgmt options: Do nothing; planned retreat; beach nourishment; seawall 6m + nourishment; seawall 5m + nourishment</i>	<i>May-13</i>	<i>commenced; stakeholder workshop 27 March</i>
<i>Kingscliff CZMP options & consultation</i>	<i>feed current studies into review of Kingscliff CZMP, determine preferred option/s; consultation</i>	<i>Sep-13</i>	<i>Preliminary studies</i>
<i>Kingscliff CZMP</i>	<i>Finalise CZMP and adoption by Council</i>	<i>Mar-14</i>	<i>Not yet commenced</i>
<i>Tweed Coast Estuaries CZMP</i>	<i>CZMP for Cudgen, Cudgera and Mooball Creeks and catchments</i>	<i>August 2013 final</i>	<i>Draft on exhibition till 29 March</i>
<i>Bank erosion Rotary Park, Kingscliff</i>	<i>Works on erosion along Cudgen Creek</i>		<i>To be designed</i>

A4. Kingscliff Foreshore and Tweed Coast Studies Update

An update was provided on numerous studies currently underway. Status provided in table above.

A5. Kingscliff Foreshore Cost Benefit Analysis

Jane advised that the Griffith University Centre for Coastal Management has been engaged to undertake a Cost Benefit Analysis for foreshore protection options at Kingscliff. A workshop with a focus group is proposed for Wednesday 27 March. The focus group will consist of members of the Tweed Coastal Committee and additional invited representatives from Kingscliff community.

A6. Funding Application - Coast and Estuaries Program

Tom provided details of a funding application to the Office of Environment and Heritage Coast and Estuaries Program for an Acid Sulfate Soil investigation and remediation project and explained the work that Sebastien Garcia-Cuenca has been undertaking. Work is to be undertaken in the catchment areas of Cudgen, Cudgera and Mooball Creeks.

A7. Tweed DuneCare Coordinating Committee - Minutes of Previous Meeting

A copy of the minutes of the meeting held 31 January 2013 was circulated and briefly discussed.

Rhonda stated that Ross Pierce is to be congratulated on the excellent work being done at Casuarina and that his area of works could be expanded.

Stewart left the meeting at 2.30pm
Jason left the meeting at 2.35pm

General Business:

GB1. Little Tern

Terry asked for an update on the little tern that was nesting on Kingscliff Beach. Jane advised that one egg hatched and fledged as far as we are aware.

GB2. Proposed Cabarita South Holiday Park

Terry provided an update on the current status of the proposal noting that the footprint for the park needed to be reduced to accommodate environmental and bushfire protection concerns.

GB3. Emergency Beacon

Roger advised that beacon FNL05 is not there. This matter has previously been reported to Council and referred to Stewart Brawley. Terry noted that a recent beach safety report recommended that all tracks to the beach, whether informal or formal, should be signposted.

GB4. Horses on Cabarita Beach North

Terry advised that horses are still being run along beach within the Cudgen Nature Reserve. Jane to refer to NPWS and Rangers. This is a regular event from 9am every Wednesday.

Next Meeting:

The next meeting of the Tweed Coastal Committee will be held Wednesday 10 April 2013.

The meeting closed at 2.40pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1. Terms of Reference and Meeting Procedures

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

A1. Terms of Reference and Meeting Procedures

That Council adopts the amended Terms of Reference and Meeting Procedures for the Tweed Coastal Committee as attached.

Tweed Coastal Committee

Proposed Terms of Reference (as at 13 February 2013)



1. Purpose

The Tweed Coastal Committee (TCC) is the advisory committee to Tweed Shire Council regarding the ecological health and recreational use of the Tweed Coastline, including the ocean beaches, estuaries, non tidal tributaries and catchments of Cudgen, Cudgera and Mooball Creeks. The committee will focus on integrated management, promoting cooperation between community, government and industry.

The TCC's role is to oversee and advise Council on the preparation and implementation of long-term, strategic-level coast and estuary management plans and works. Other Council NRM programs will on occasion utilise the TCC as a consultative forum on relevant issues.

As an advisory committee to Tweed Shire Council, the TCC can make recommendations to Council but does not have authority to make or enact decisions on behalf of Council. Advisory committees carry no budgetary decision making capabilities.

2. Workplan for 2012/2013 – 2015/2016

Action	2012/13	2013/14	2014/15	2015/16
Implementation of High Priority Actions in the Coastal Zone Management Plan (CZMP) for Tweed Coast Estuaries	☒	☒	☒	☒
Completion of Environmental Impact Study, seek approval and licence for Sand Extraction Area 5 Tweed River	☒	☒		
Undertake preliminary studies for Tweed Coast CZMP	☒			
Develop Kingscliff CZMP	☒	☒		
Implement High Priority Actions in the Kingscliff CZMP		☒	☒	☒
Develop Tweed Coast CZMP		☒		

3. Committee Reporting

The committee will report progress to Council via meeting minutes, relevant notes and written recommendations.

4. Membership

Tweed Shire Council has discretion to decide when committees are elected and appointment of committee members.

In the current term, TCC consists of two Tweed Shire Council Councillors, relevant Tweed Shire Council staff, relevant State Government Representatives, Industry and Community Representatives from the following sectors:

- Fingal Head
- Cudgen/Kingscliff
- Cabarita Beach/Bogangar
- Hastings Point
- Pottsville
- Agriculture
- Bushland Restoration Industry

Community representatives are to demonstrate affiliation with, and endorsement from, local community groups such as community associations and interest groups.

Tweed Coastal Committee

Proposed Terms of Reference (as at 13 February 2013)



5. Quorum

A quorum of the committee shall consist of 50% plus one member. If a quorum is not present within 20 minutes of the time appointed for the commencement of the meeting, the meeting shall lapse.

If a quorum fails after the commencement of the meeting, the meeting shall lapse.

Business that is unfinished at the completion of a meeting may at the discretion of the Chairperson be referred to the next meeting of the Committee.

6. Meeting Frequency

Meetings to be held once every two months on the 2nd Wednesday.

7. Meeting Venue

Canvas and Kettle Meeting Room, Tweed Shire Council, Murwillumbah or other location as advised.

8. Meeting Duration

Two and a half hours.

9. Terms of the Committee

The term of the Committee shall be concurrent with the term of the Council.

Associated documents:

1. Tweed Coastal Committee Terms of Reference (as at September 2012)
2. Tweed Coastal Committee Draft Proposed Procedures (13 February 2013)
3. Tweed Shire Council Code of Meeting Practice (Section 9 – Committees, their Members and Functions)
4. Tweed Shire Council Agenda Report, Thursday 25 October 2012: [TCS-CM] Community Membership on Council Committees

Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



1. Tweed Coastal Committee Members - 2012 to 2016

- Cr Barry Longland (Chair)
- Cr Gary Bagnall
- Tim Jack Adams
- Peter Sloan
- Rhonda James
- John Harbison
- David Cranwell
- Roger Graf
- Terry Kane
- Michael Munday
- Jason Pearson
- Ben Fitzgibbon - Office of Environment and Heritage (Coasts and Estuaries)
- Ian Hanson - NSW Land and Property Information
- Pat Dwyer - Department of Primary Industries - Fisheries
- Lance Tarvey - Office of Environment and Heritage (NPWS)
- David Oxenham - Director Community and Natural Resources, Tweed Shire Council
- Jane Lofthouse - Coordinator Natural Resource Management, Tweed Shire Council
- Tom Alletson - Waterways Program Leader, Tweed Shire Council
- Stewart Brawley - Manager Recreation Services, Tweed Shire Council
- Mark Kingston - Biodiversity Program Leader, Tweed Shire Council

2. Committees of Council including Advisory Committees

Tweed Shire Council (TSC) can establish advisory committees only by resolution of the Council.

- The purpose of an advisory committee is to use its power to make recommendations to the Council but not have authority or make or enact decisions on behalf of Council.
- Advisory committees carry no budgetary decision making capabilities.
- A recommendation of an advisory committee is mostly used to assist the Council in making informed decisions on complex matters, which may include those of a budgetary nature.
- Recommendations by the Tweed Coastal Committee (TCC) are reported in the TCC minutes, via Council's Executive Management Team, to Council meetings. Council's Executive Management Team may endorse or qualify TCC recommendations.
- Advisory committees mostly consist of a combination of experts, professional people, Council staff, government employees and community representatives.
- Minutes and agendas of advisory committee meetings are presumed to be open to public access unless there is an overriding public interest against disclosure under *S5 Government Information (Public Access) Act 2009* (NSW), ('GIPA').
- It is proposed that all minutes of committee meetings will be presented to Council under delegates reports where the Councillor delegate will have an opportunity to discuss the recommendation made by the committee.

3. The Role and Responsibilities of the Chairperson

The chairperson of the committee is elected by the Committee.

Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



The role of the chairperson is vital to the efficient and effective functioning of the committee and ensuring the committee focuses on matters that are central to its purpose, aims and current work plan.

The chairperson is responsible for facilitating meetings based primarily on collaboration and consensus decision making (see below point 4). Their role is to ensure the relevant meeting agenda forms the basis of the committee's deliberations and discussions; that timekeeping aligns with the meeting's agenda and 2.5 hour duration; and that appropriate meeting communication occurs.

It is recommended that the chairperson liaise with the committee's secretariat (Coordinator Natural Resource Management - Jane Lofthouse) regarding the development of each meeting's agenda and ongoing committee functioning and priorities.

The chairperson may also be called upon by the Council and committee to represent the TCC at relevant regional meetings, functions and events.

4. The Role and Responsibilities of Committee Members

Committee members represent TSC, relevant State Government departments, industry sectors and community networks and organisations with expertise and a particular interest in the Tweed Coast and coastal estuaries.

The committee operates primarily on a consensus decision making model. Committee members, under the facilitation of the chairperson, are encouraged to participate in collaborative deliberations and discussions about matters relevant to the purpose of the committee. Voting will only be undertaken when consensus cannot be reached.

It is important that committee members focus their contributions on matters relevant to each meeting's agenda and support the chairperson's facilitation of the committee meetings.

Committee members are expected to attend every TCC meeting (six per year). If a member is unable to attend a meeting they must register their apology with either the chairperson or the secretariat.

It is important that committee members communicate with their constituent groups about the TCC's priorities and activities. As the TCC makes *recommendations* to TSC, formal decisions made by the committee are not able to be communicated by members to their constituent groups until the TCC's recommendations are resolved by Council. In 2013, committee agendas and minutes will be made available for the community on Council's website and also via an RSS feed (Really Simple Syndication), that community members can subscribe to and receive advice when anything is added to a particular area.

Please see Appendix A: Meeting Procedures - at the end of this document for an overview of basic meeting procedures and how members can fully participate in meetings in an informed way.



Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



5. Absence from Committee Meetings

A member ceases to be a member of the committee if they:

- 5.1 Have been absent from three (3) consecutive meetings of the Committee without having given reasons acceptable to the committee for their absence; or
- 5.2 Have been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for their absences.

6. Voting

Motions are normally resolved on a consensus basis as the committee is providing *recommendations* to Council and not making its own binding decisions.

However, if voting is required for internal process or issue-based decision making, voting members include the two TSC Councillors, the senior TSC staff member in attendance, community and sector members, and NSW Government staff.

Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee has a casting vote as well as an original vote.

Voting at a committee meeting is by open means (such as by show of hands or by voice).

7. Role and Responsibilities of Convenor

TSC Coordinator Natural Resource Management, Jane Lofthouse, provides secretariat services for the TCC. These services include:

- 7.1 Developing each meeting agenda based on TCC aims, purpose, work plan and previous committee meeting resolutions and discussions. It is recommended that this process also involves the TCC chairperson.
- 7.2 Providing an interface between the TCC and TSC particularly in the delivery of on-ground planning and actions that implement TCC recommendations and priorities.
- 7.3 Ongoing communication with the TCC chairperson about the committee's interface with Council and supporting good communication with committee members.
- 7.4 Reporting to the committee about Council progress in implementing TCC priorities.
- 7.5 Organising committee meeting logistics including confirmation of venue, catering, equipment etc.
- 7.6 Sending out the notice of each meeting and meeting agenda to each committee member at least one week prior to each meeting.
- 7.7 Where necessary, liaising with relevant Council staff to support the TCC's functioning (e.g.) Community Engagement Coordinator, Corporate Governance Manager, Marketing Coordinator.
- 7.8 Receive and register member apologies for meetings.

Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



8. Notice of Committee Meetings

The secretariat of the TCC (Coordinator Natural Resource Management, Jane Lofthouse) will send to each committee member, at least one week before the committee meeting, a notice specifying:

- 8.1 The time, place and date of the next meeting,
- 8.2 The agenda for that meeting.

9. Meeting Minutes

The committee must ensure that full and accurate minutes of meeting proceedings are kept, using the TSC format for Minutes from Working Groups/Committees. Council staff prepare the Committee's minutes.

In particular, the committee must ensure the following matters are recorded in committee minutes:

- 9.1 Details of each motion moved at a meeting and of any amendments to it.
- 9.2 The names of the mover and seconder of the motion or amendment.
- 9.3 Whether the motion or amendment is passed or lost.

The outcome of voting (for and against) on a motion will not ordinarily be recorded, however individual committee members may request that their position be recorded, if they so wish.

An item will be included with the Agenda and Minutes recording matters that have not been finalised by the committee, for example, outstanding resolutions, recommendations or requests for information.

Associated documents:

1. Tweed Coastal Committee Terms of Reference (as at September 2012)
2. Tweed Coastal Committee Draft Proposed Terms of Reference (13 February 2013)
3. Tweed Shire Council Code of Meeting Practice (Section 9 - Committees, Their Members and Functions)
4. Tweed Shire Council Agenda Report, Thursday 25 October 2012: [TCS-CM] Community Membership on Council Committees



Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



Appendix A Meeting Procedures

This is a broad overview of generally accepted meeting procedures. Note, some items will differ slightly for the Tweed Coastal Committee because of the specific Local Government regulations it operates under. This information is from:

http://www.cdaeg.com.au/comm_dev/cd_mtgproced.html

Introduction

Meetings occur when groups of people gather to discuss, and try to resolve matters which are of a mutual concern. Recommendations are made, directions given and courses of action decided. For a meeting to effectively achieve these goals, a structure needs to be in place. If a meeting has little or no structure, the results are unproductive and dissatisfying for all concerned.

The Agenda

Prior to the meeting, an agenda is prepared and circulated to all members. This agenda forms the structure of the meeting. It states where and when the meeting will take place and what matters will be discussed. A copy of the minutes of the previous meeting, along with any other relevant material that the members should read prior to the meeting, are distributed at the same time as the agenda.

The Meeting Structure

Opening the Meeting... the meeting begins after the Chairperson declares the meeting opened.	The meeting is unable to begin until the Chairperson declares a quorum. This means that there are enough people in attendance to allow debates to be conducted and decisions to be voted upon. If a quorum cannot be declared within 30 minutes of the meetings designated starting time, the meeting should be called again for a similar time and place a week later. If no more members attend the reconvened meeting, the Chairperson may be allowed by the standing orders to conduct the business with those who arrived. If a Chairperson has not taken the chair 15 minutes after the meeting was due to begin, the meeting should elect another Chairperson from among the members present to act temporarily.
Apologies... those unable to attend.	The Chairperson states the names of those members who formally notified that they were unable to attend the meeting.
Minutes of the Previous Meeting ... the Chairperson moves that the minutes of the previous meeting be accepted or	The Chairperson tables the minutes of the previous meeting making them open as a topic of discussion. At this point the Chairperson will ask the members to adopt the minutes. If the members do not agree that the draft minutes are accurate, changes may be suggested. The Chairperson should ask the meeting to vote on those corrections. If there are only a few minor corrections, the Chairperson may ask the members to accept the minutes

Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



<p>adopted.</p>	<p>with the corrections. The vote to adopt the minutes can then go ahead on that basis. Once the Minutes have been adopted the Chairperson should sign every page of the minutes and hand them to the meeting secretary for filing. It is not appropriate at this time, to indulge in debates on decisions which were made at the previous meeting. Anyone who wishes to change a motion should wait until the same subject arises in the general business of the current meeting or raise it in the part called "Any Other Business". The most important advice about the minutes of a previous meeting is to make sure you read them.</p>
<p>Business arising from Minutes of the Previous Meeting ...</p>	<p>Often the issues for Business arising from the Minutes of the Previous Meeting are listed in the agenda. Any reports, pieces of information or other matters of substance that were requested at the previous meeting are debated and a vote is taken on the appropriate action to take.</p>
<p>Correspondence ... letters that have been sent to the meeting are tabled and debated, if the meeting wishes to do so.</p>	<p>Any letters, facsimiles and the like, which have been received by the committee are discussed here. The Chairperson should summarise correspondence which cover similar issues, or express similar opinions and discuss them as a single issue. The Chairperson presents a piece of correspondence to the meeting by putting a motion that the meeting "receive the correspondence". This is an acknowledgment by the meeting that the correspondence as been formally received and that it may now be discussed and acted upon, if necessary. If correspondence sent to the meeting is considered offensive, the meeting can vote on a motion, "not to receive" it. Alternatively, the meeting can decide that the correspondence should be "received and lie on the table". This means it will not really be dealt with. It is effectively in limbo until such time in the future that it is "taken from the table" and discussed.</p>
<p>Reports ...reports written for the meeting are tabled and debated, if the meeting wishes to do so.</p>	<p>Reports and submissions that have been written for the meeting or include information relevant to the work of the meeting are tabled and discussed. A motion is required to be put that a report be received. This means that the report exists, as far as the meeting is concerned, and a discussion or debate may now take placed on the contents, interpretation and recommendations of the report. Motions are able to be put for or against the recommendations of the report or ask the author to consider further issues or</p>



Tweed Coastal Committee

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	reconsider issues on the basis of particular information. A member of a meeting can even put forward a motion to change the wording of a report or submission.
General Business ...items so listed in the agenda are debated. The debate usually begins with the Chairperson calling on someone to move a motion.	General business items are announced singly by the Chairperson and a discussion or debate follows each one. Motions that suggest methods of resolving issues are put forward and to a vote. Once the motions receive a simple majority, or a majority as defined in the standing orders, they become resolutions. Sometimes amendments to a motion are put forward. Only after the amendments are debated and voted upon can the revised substantive motion be brought to the vote. In the case of more formal meetings, general business consists of motions that are moved and seconded by participants of the meetings. A seconder is someone who agrees that a motion should be debated. In most meetings however, the need for a member to support a motion is ignored.
Any other Business ...when all items on the agenda have been debated, the Chairperson may call for items not listed in General Business.	It is at this point in time, that the members are able to raise issues they feel are important. These include any items which were not listed on the agenda. No extremely important or complex issues should be raised unannounced during this part of the meeting. If an urgent matter must be dealt with by the meeting, the Chairperson should be informed before the meeting begins. A revised agenda can then be drawn up in the time that remains before the meeting is due to begin. If the Chairperson feels that any of the issues brought up for discussion are too complex or troublesome, he may call for another meeting to discuss the issue or alternatively, put it on the agenda for the next scheduled meeting.
Close of Meeting	Once all the issues have been put forward and discussed, the Chairperson advises members of the date and time of the next meeting. The meeting is now officially closed.

What can you do?

To be active and effective member of meeting, you must:

- be well prepared
- make sure you have read the agenda
- be aware of the topics that will be discussed
- be involved
- be a good listener

Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



There are four steps to good listening.

- hearing - receiving the sound
- attending - focusing on what you are hearing
- understanding - interpreting and evaluating what you listen to
- remembering - storing the information

Reference

Walsh, F., The Meeting Manual, AGPS, Canberra, 1995.



Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



Appendix B Consensus Decision Making

Consensus Rule Processes

Conflict Research Consortium, University of Colorado, USA

<http://www.colorado.edu/conflict/peace/treatment/consenpr.htm>

Groups governed by consensus rule processes cannot make formal decisions or take action unless all participants agree. Such processes provide a basis for interest-based negotiations and are a primary mechanism through which win-win agreements are negotiated. These processes can be used to address procedural questions as well as the underlying dispute or core conflict. Consensus building efforts depend upon a willingness of the parties to compromise and give up some of what they want so that others can have some of what they want. If one party insists upon complete victory or the absolute defeat of their opponent, then consensus approaches are likely to fail.

Successful consensus requires that the parties implement workable strategies for dealing with many of the problems outlined in this training program. Here the first step involves the determination of the parties to be involved in the process and their interests. (This requires successful efforts to address [scoping](#) problems).

Once interested parties and their concerns have been identified, the next challenge is to frame the consensus building effort in a way which allows everyone to pursue their interests. This may require the establishment of a number of different objectives for the process. For example, efforts to build a consensus over a new mining project might focus upon efforts to 1) protect the region's agricultural and forest industries, 2) control human health risks associated with air and water pollution, 3) protect the region's tourism industry, 4) find new homes for people who will have to be moved to make room for the mine, 5) expand the school system to serve mine worker families, and 6) relocate highways and rail lines--as well as establishing the mine.

Consensus processes require that everyone at the table agree on all decisions that are made. There is no [majority rule](#) voting or [decision making](#) by one person in authority. Rather, the whole group examines the problem, [brainstorms](#) about possible solutions and then works together to develop a solution which everyone can support. This kind of process is being used more and more often in the United States to deal with difficult public policy issues--environmental conflicts, for example. Although consensus cannot always be found, it can be developed more often than might be expected.

The advantage of consensus processes is that the resulting decision is one that meets the interests of all the parties and that everyone can support. The disadvantage is that developing such a decision can be a very slow process, involving many people over a long period of time. There is also a relatively high probability of failure. If a quick decision is needed, the consensus approach may not work. Consensus rule processes also tend to favour those that oppose change and want to preserve the status quo. All these people have to do is refuse to support any consensus compromises and they will win (at least as long as they can delay change).

Tweed Coastal Committee

Proposed Procedures (as at 13 February 2013)



Successful consensus building also requires successful efforts to control [escalation](#) so that people will focus upon the issues and not inter-personal animosities. Consensus building also benefits from strong [fact-finding](#) capabilities and an ability to deal with a variety of [procedural problems](#) including: persuading people to participate in the process, developing a workable process structure, ground rules, and representation.

Consensus building can also benefit from the services of a mediator or facilitator who may follow either problem-solving model like [principled negotiation](#) or a [transformative model](#). These individuals can help the parties get to know and value each other as individuals. This is essential to the breaking down of purely selfish approaches to a problem (which is a precondition for effective consensus building).

While consensus resolution of the core dispute is desirable, it is often not realistic. Less ambitious but still very useful alternatives focus upon the pursuit of consensus agreements on as many sub-issues as possible, with the understanding that the parties are still free to pursue the remaining issues through alternative (often force-based) strategies.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice.

Terms of Reference - Tweed Coastal Committee - reviewed August 2012.

b. Budget/Long Term Financial Plan:

Not applicable.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Inform - We will keep you informed.

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION IN COMMITTEE

1 [PR-CM] Leda Cobaki Development Site - Compliance Issues - Unauthorised Subdivision Works

REASON FOR CONFIDENTIALITY:

Report contains "Without Prejudice" matters

Local Government Act

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

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



Civic Leadership

2 [PR-CM] Breach of Legislation, Tweed River Hacienda Caravan Park

REASON FOR CONFIDENTIALITY:

This report has been made Confidential so as not to prejudice any future legal proceedings.

Local Government Act

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

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



Caring for the Environment

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

3 [EO-CM] Review of Quarry Operating Business Plan

REASON FOR CONFIDENTIALITY:

Disclosure of the information contained in this report would influence the sale price of Council assets and provide commercial information about Council's business undertaking to competitors in the field.

Local Government Act

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

- (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.



Civic Leadership

4 [EO-CM] Bilambil Sports Club

REASON FOR CONFIDENTIALITY:

Privacy of the individual board members of the Bilambil Sports Club Ltd while the liquidation/bankruptcy process proceeds

Local Government Act

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

- (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

5 [EO-CM] Wharf Street, Tweed Heads - Licence for Car Parking Purposes

REASON FOR CONFIDENTIALITY:

The commercial arrangements proposed should not be disclosed to the public to retain confidentiality with the proponents.

Local Government Act

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.



Civic Leadership

6 [EO-CM] Disposal of Council Land

REASON FOR CONFIDENTIALITY:

This report is confidential because it contains commercial information in relation to the disposal of Council land, the disclosure of which would be likely to prejudice the commercial position of the sale if it was provided. Accordingly, disclosure of the information is not in the public interest.

Local Government Act

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) 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.



Civic Leadership

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