

Mayor: Cr B Longland (Mayor)

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



TWEED
SHIRE COUNCIL

Agenda

Ordinary Council Meeting Tuesday 20 March 2012

held at Murwillumbah Cultural and Civic Centre
commencing at 10.30am

COUNCIL'S CHARTER

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

Tweed Shire Council has the following charter:

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

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CONFIRMATION OF MINUTES

1 [CONMIN-CM] Confirmation of the Minutes of the Ordinary and Confidential Council Meetings held Tuesday 21 February 2012

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Minutes of the Ordinary Council Meeting held Tuesday 21 February 2012 (ECM 46672487).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 21 February 2012 (ECM 46664977).
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2 [CONMIN-ECM] Confirmation of the Minutes of the Extraordinary Ordinary and Confidential Council Meetings held Monday 27 February 2012

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Minutes of the Extraordinary Council Meeting held Monday 27 February 2012 (ECM 46820311).
 2. **Confidential Attachment** - Minutes of the Extraordinary Confidential Council Meeting held Monday 27 February 2012 (ECM 47311088).
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3 [CONMIN-ECM] Confirmation of the Minutes of the Extraordinary Ordinary and Confidential Council Meetings held Tuesday 6 March 2012

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Minutes of the Extraordinary Council Meeting held Tuesday 6 March 2012 (ECM 47176915).
 2. **Confidential Attachment** - Minutes of the Confidential Extraordinary Council Meeting held Tuesday 6 March 2012 (ECM 47177945).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

4 [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

FOR COUNCILLOR'S INFORMATION:

16 February 2010

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne
Cr K Skinner

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

Current Status: A report will be submitted to a future Council meeting dependent on outcomes of discussions with the Department of Planning on draft LEP 2010. This item has been initially addressed through the officer's report and Council resolution at 15 February 2011 Council meeting for a new Tweed Tree Preservation Order 2011, and interim protection measure for koala habitat.

19 October 2010

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

23 [CNR-CM] Tweed District Water Supply - Demand Management Strategy

686

Cr K Milne

Cr B Longland

RESOLVED that Council:

....

6. Develops a water friendly garden Policy.

Current Status: Policy development currently programmed for first half of 2012.

19 April 2011

ORDERS OF THE DAY

56 [NOM-Cr K Milne] National Iconic Landscape Meeting Request with Federal Member

225

Cr K Milne

Cr B Longland

RESOLVED that Council provides a report on recommendations that could be included in the Council's Subdivision Manual to provide for planning provisions appropriate to further protection of the values of the National Iconic Landscape.

Current Status: A letter, signed by the General Manager, was forwarded to Ms Justine Elliot MP on 27 April 2011 advising of the resolution to the Motion and requesting Ms Elliot to make time available to meeting with Council to progress the potential role of government in protecting the values of the National Iconic Landscape. To date there has been no response from the office of Ms Elliot. Following February 2012 Council meeting a follow up letter has been forwarded.

16 August 2011

ORDERS OF THE DAY

56 [NOM-Cr D Holdom] Non Potable Water Harvesting in Commercial and Industrial Precincts

504

Cr D Holdom

Cr W Polglase

RESOLVED that the:

1. General Manager investigates and reports back to Council on a new Policy for Tanks (non potable water harvesting) in Commercial and Industrial Precincts within the Tweed Shire Local Government area.
2. Investigation to also consider retrofitting possibilities in existing Commercial and Industrial Precincts.
3. Possibility of any rebate schemes being implemented.

Current Status: Awaiting outcome following the implementation of the top 20 non-residential program. Anticipate that policy would follow in mid 2012.

18 October 2011

ORDERS OF THE DAY

55 [NOM-Cr K Milne] Sustainability Development Control Plan

643

Cr K Milne

Cr B Longland

RESOLVED that Council brings forward a report on developing a Sustainability Development Control Plan for medium to large subdivisions utilising a sustainability assessment tool for subdivisions.

Note: such as the Landcom Precinct X Sustainability Tool

Current Status: Report to be prepared.

24 January 2012

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

21 [EO-CM] Chinderah Bay Drive Foreshore Masterplan

35

Cr W Polglase

Cr P Youngblutt

RESOLVED that Council:

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

Current Status: Report to be prepared.

ORDERS OF THE DAY

40 [NOM-Cr K Milne] Roadside Fruit and Vegetables Stalls

NOTICE OF MOTION:

53

Cr K Milne

Cr P Youngblutt

RESOLVED that a report be brought forward on:

1. Potential obstacles in the current policies applying to road side fruit and vegetables stalls, and
2. Appropriate recommendations to improve these policies with the aim of encouraging such activities.

Current Status: Report to be prepared for the April Council Meeting.

43 [NOM-Cr K Milne] Albert's Lyrebird

NOTICE OF MOTION:

55

**Cr K Milne
Cr D Holdom**

RESOLVED that Council brings forward a report on the current situation for the Albert's Lyrebird and the merits of applying for this species to be listed as Endangered on the State and National Threatened species list.

Current Status: Report to be prepared.

46 [NOM-Cr K Milne] Light Rail Extension to Tweed Heads

NOTICE OF MOTION:

57

**Cr K Milne
Cr K Skinner**

RESOLVED that Council seeks urgent representations with the Cross Border Commissioner once appointed to discuss a range of issues relating to maximising benefits to the Tweed and NSW resulting from the Commonwealth Games being held in 2018, particularly around public transport issues.

Current Status: A suitable meeting is to be organised with the Cross Border Commissioner to discuss associated issues.

21 February 2012

ORDERS OF THE DAY

40 [NOM-Cr B Longland] Small Business Assistance Package

116

AMENDMENT

**Cr J van Lieshout
Cr K Milne**

RESOLVED that Council supports the development of a Small Business Assistance Package for businesses establishing in the Tweed and conducts a Workshop.

Current Status: Workshop to be scheduled.

42 [NOM-Cr K Milne] Seniors' Age Specific Exercise Facilities

NOTICE OF MOTION:

117

Cr K Milne
Cr J van Lieshout

RESOLVED that Council brings forward a report on the possibility of expanding the provision of seniors' age specific exercise facilities in some Council parks.

Current Status: Report to be prepared.

MAYORAL MINUTE

5 [MM-CM] Mayoral Minute - Period from 06 February to 03 March 2012

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors,

COMMITTEE MEETINGS

Attended by the Mayor

- 07 Feb 2012 - Richmond Tweed Regional Library Committee Meeting - Byron Shire Council, Mullumbimby
 - 13 Feb 2012 - Australia Day Committee De-brief Meeting - Canvas & Kettle Meeting Room, Murwillumbah Civic Centre
 - 14 Feb 2012 - Destination Tweed Board morning tea with Northern Rivers Tourism Board - Mantra on Salt, Kingscliff
 - 15 Feb 2012 - Destination Tweed Board Meeting - Twin Towns Services Club, Tweed Heads
 - 15 Feb 2012 - Art Gallery Foundation Meeting (Warren Polglase also attended as Chairman)
 - 17 Feb 2012 - Sub-committee meeting, Margaret Olley Art Centre Steering Committee - Tweed River Art Gallery (Warren Polglase also attended as Foundation Chairman)
 - 23 Feb 2012 - Local Traffic Committee Meeting - Mt Warning Room, Murwillumbah Civic Centre
-

INVITATIONS:

Attended by the Mayor

- 13 Feb 2012 - Cabarita Beach Business Association Meeting - Cabarita Surf Lifesaving Club
- 14 Feb 2012 - Tweed Chamber of Commerce Breakfast, Tweed Heads Bowls Club
- 15 Feb 2012 - Private Citizenship Ceremony - Mayor's office, Murwillumbah Civic Centre
- 16 Feb 2012 - Inaugural Tweed Shire Housing and Homelessness meeting - Coolamon Cultural Centre, Murwillumbah
- 17 Feb 2012 - Opening of the new building at Pottsville Beach Neighbourhood Centre (PBNC) - PBNC, Elizabeth Street, Pottsville (Cr Holdom and van Lieshout also advised their attendance)
- 19 Feb 2012 - Kingscliff Triathlon - Cudgen Surf Life Saving Club
- 20 Feb 2012 - South Sea Islander Observance Day Committee - Tweed Heads Civic Centre
- 22 Feb 2012 - 4CRB Radio Talkback with the Mayor - 4CRB, 8 Stevenson Court, Burleigh Heads, QLD
- 25 Feb 2012 - Murwillumbah Rotary Club Suicide Prevention and Awareness Workshop - Greenhills, Murwillumbah
- 29 Feb 2012 - Pop-up Murwillumbah Taskforce Meeting regarding developing Arts Precinct - Mt Warning Room, Murwillumbah Civic Centre
- 01 Mar 2012 - Kirkwood Road 'Turning of the First Sod' - Kirkwood Road, Tweed Heads South (also attended by Cr Holdom)
- 01 Mar 2012 - Meeting of the Steering Committee of the Cabarita Community and Economic Development Plan (CEDP) - Cabarita Surf Life Saving Club, Pandanus Avenue
- 02 Mar 2012 - Murwillumbah Chamber of Commerce Breakfast - Greenhills on Tweed
- 02 Mar 2012 - Harry Williams' funeral - Anglican Church, Riverview Street, Murwillumbah
- 02 Mar 2012 - Private Citizenship Ceremony - Mayor's office, Murwillumbah Civic Centre
- 03 Mar 2012 - NSW Surf Life Saving Championships, Junior formalities - Faulks Park, Kingscliff

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

- 08 Feb 2012 - Tweed Coastal Committee meeting - Canvas & Kettle Meeting Room, Murwillumbah Civic Centre (Chaired by Cr Milne for Mayor)
- 19 Feb 2012 - Councillors Community Catch-up - Pottsville Market, Cnr Coronation Drive & Phillip Street, Pottsville (Crs Holdom and van Lieshout attended)

Inability to Attend by or on behalf of the Mayor

- 07 Feb 2012 - Community Information Sessions on the Community Based Heritage Study - South Sea Islander Room, Tweed Shire Civic Centre, Tweed Heads

REQUESTS FOR WORKSHOPS:

Date of Request	Requested by Councillor	Topic	Councillors For	Councillors Against	Proposed Workshop Date
16/02/12	Cr K Milne	Draft LEP	Milne	6 Remaining Councillors	Not proceeding
20/02/12	Cr D Holdom	Study of Impact of Wake on Tweed River Bank Erosion	Holdom Longland Milne	4 Remaining Councillors	Not proceeding
20/02/12	Cr D Holdom	Tweed Urban Stormwater Quality Management Plan	Holdom Longland Milne	4 Remaining Councillors	Not proceeding
23/02/12	Cr K Milne	Wakeboarding Workshop	Milne Longland Holdom Skinner	3 Remaining Councillors	13/03/12

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 7-8 Feb 2012 - "A" Division Conference - Rockpool Motor Inn, 45 McIntyre St, South West Rocks - hosted by Kempsey Shire Council (Crs Longland and Skinner attended).
- 21-24 Feb '12 - Floodplain Management Association (NSW) Conference - Batemans Bay Soldiers Club, Batemans Bay, NSW - Refer <http://www.floodplainconference.com>. (Cr Skinner attended)

Information on Conferences to be held

- 18-19 April - Australian Water Congress and Expo 2012 - Grace Hotel, 77 York Street, Sydney - *With a theme of Innovation in water management, this event brings together key stakeholders in Australia's water industry and provides a platform for industry specialists to discuss government policy and new industry initiatives. Presentations provide insight and solutions to the core challenges currently facing Australia's water industry including: federal, state and local government policy; Murray-Darling Basin Plan; industry case studies; reform; regulation; pricing; privatisation; water management; water markets; catchment management; planning; mining regulation; rural water services; major user perspective; water quality; sustainability; smart water; irrigation strategies; infrastructure development and funding; and more!* - Registration \$1,205 by 30 March plus flights and 2 nights accommodation - Refer www.activebusinesscommunications.com/water/index.php

- 17-20 June - 2012 National General Assembly, 'National Voice, Local Choice – Infrastructure, Planning, Services' - National Convention Centre, Canberra - *The National General Assembly (NGA) brings together hundreds of delegates from councils across Australia to debate issues of national significance to local government. It provides an opportunity for local councils to develop and express a united voice on core issues affecting their communities with access to influential decision-makers of the federal government, at both the political and departmental levels.* - Registration \$880 by 27 April (or \$990 after 27 April) plus flights and 3 nights accommodation. Registration excludes 2 dinner events at an additional cost of \$215. One Day registration is also available at \$470 per day for 18th and 19th - Refer <http://www.alga.asn.au/?ID=6515>

SIGNING OF DOCUMENTS BY THE MAYOR:

- 24 Feb 2012 - Request and Transfers - Road Closure and Opening - Cylinders Drive Kingscliff

 - 24 Feb 2012 - Deed of Transfer of Easement - Essential Energy - Overall Drive Pottsville

 - 28 Feb 2012 - Acceptance of Funding Variation - Ageing, Disability and Home Care
-

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.2.

b. Budget/Long Term Finance 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
- 1.2.2.1 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 06 February to 03 March 2012 be received and noted.**
2. **The attendance of Councillors at nominated Conferences be authorised.**

UNDER SEPARATE COVER:

Nil.

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6 [MM-CM] Mayoral Minute - 2012 National General Assembly (NGA) - Call for Motions

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors,

2012 NATIONAL GENERAL ASSEMBLY (NGA) - CALL FOR MOTIONS

The Australian Local Government Association (ALGA) has called for motions for the 2012 National General Assembly (NGA), to be held in Canberra 17 – 20 June 2012. Councillors have previously been provided with eligibility guidelines for motions and the Discussion Paper to assist councils in preparing motions. The ALGA has requested that motions are submitted no later than 27 April 2012. Councillors are reminded to provide any Notices of Motion for consideration for submission to the National General Assembly.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.2.

b. Budget/Long Term Finance Plan:

Not applicable.

c. Legal:

Not applicable.

d. Communication/Engagement:

Not applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 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 for consideration at the National General Assembly of Local Government:-

UNDER SEPARATE COVER:

Nil.

7 [MM-CM] Mayoral Minute - General Manager Recruitment Process

SUBMITTED BY: Cr B Longland, Mayor



Civic Leadership

Councillors,

The process for recruitment of a new General Manager was resolved at an Extraordinary Meeting of Council on 22 November 2011. At that meeting, a decision was taken to include all seven Councillors and the recruitment consultant as the selection panel for the appointment. In the report to Council on 22 November 2011, specific reference was made to the requirements of the Local Government Act 1993, in particular Section 349 (use of merit selection principles) and Section 344 (equal employment opportunity principles). These references were included to inform Councillors of their relevance to the selection process.

The position was advertised nationally with applications closing on 31 December 2011. A total of 41 applications were received.

The applications were distributed to Councillors on 13 January 2012 and the selection panel (including Cr Milne) met on 17 January 2012 to establish a short-list for interview. At that meeting, the recruitment consultant emphasised the need for confidentiality to be maintained and detailed the applicability of the Guidelines for the Appointment and Oversight of General Managers (July 2011). These Guidelines are issued by the Division of Local Government pursuant to Section 23A of the Local Government Act 1993 and provide unambiguous advice to those involved in the selection process.

On 19 January 2012, the Tweed Shire Echo published the names of two male applicants which led to embarrassing public comment on the merit of these applicants including a confronting lecture to Councillors at Community Access on the same day from Mr John Anderson (aka FastBucks), a resident of Byron Shire.

In the same edition of the Echo, Cr Milne was reported as saying that "it would be wonderful to see a female general manager get the top job" - a statement which was not denied by Cr Milne.

Clearly, a public statement of an inherent bias (intentionally or otherwise) from a member of the selection panel was capable of undermining the probity of the process where all applicants were entitled to the belief that their claims would be considered against EEO principles. It was expected that a proper reading of Sections 344 and 349 of the Local Government Act 1993, which were drawn to the attention of Councillors on 22 November 2011, would have prevented such a comment.

At the Council Meeting of 24 January 2012 it was resolved to exclude Cr Milne from the Selection Panel in order that the process was fair and transparent, for all applicants, both men and women.

The five shortlisted applicants were interviewed by six Councillors and the recruitment consultant on 10 February 2012. As a consequence, the most meritorious applicant was agreed unanimously by the selection panel who were completely satisfied with the results of post-interview investigation work carried out by the recruitment consultant.

An Extraordinary Meeting was called for 27 February 2012 in order to put the recommendation for the appointment to the full Council (including Cr Milne). Prior to that meeting on 26 February 2012, I met with Cr Milne in order to take her through the process of selection and I allowed her to read referee reports and comments from the recruitment consultant. This was done as a courtesy to ensure that she had this information prior to the meeting at which she would be called on to vote on the selection panel recommendation.

Cr Milne chose to be absent from the meeting on the basis that she did not have enough information on which to base her decision. Her request for leave of absence was received two minutes before the scheduled start of the meeting. That request was put to the meeting and was unanimously rejected by the Councillors present.

During the period between her exclusion from the selection panel and the meeting of 27 February 2012, Cr Milne has made repeated claims that her error of judgement was a consequence of a lack of training in EEO principles - that she could not be held responsible for something that she did not know was inappropriate. I contend that the provisions of Sections 344 and 349 of the Local Government Act 1993 could not be clearer on the topics of merit selection and EEO. Also, the Guidelines for the Appointment of General Managers give fulsome elaboration of the responsibilities of selection panels. Cr Milne had every opportunity to raise any misunderstanding on these provisions after they were brought to her attention in the Council Report of 22 November 2011 but chose not to do so.

There have been claims in the Press again by Cr Milne since the appointment that she could not vote as she had "virtually no information". This is notwithstanding that she was part of the short-listing process where she has acknowledged that she had advocated for the successful candidate's inclusion and that she received a thorough briefing from the Mayor on the day prior to the Meeting at which the recommendation was to be considered.

I am very confident that the unanimous decision of Council on the new General Manager at its meeting of 27 February 2012 was correct and thoroughly merit-based. It was unfortunate that Cr Milne, through her actions, could not participate fully in the process and personally chose to withdraw from the formal adoption by the full Council, of the selection panel recommendation. Her continued attempts to remove herself from responsibility for her actions are regrettable.

COUNCIL IMPLICATIONS:

a. Policy:

Code of Meeting Practice Version 2.2.

b. Budget/Long Term Finance Plan:

Not applicable.

c. Legal:

In accordance with the Guidelines for the Appointment and Oversight of General Managers (July 2011).

d. Communication/Engagement:

Not applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.2 Improve decision making by engaging stakeholders and taking into account community input
- 1.2.2.1 Priority decision making
- 1.2.2.1.1 Council decisions will be in accordance with the Community Strategic Plan

RECOMMENDATION:

That the Mayoral Minute - General Manager Recruitment Process be received and noted.

UNDER SEPARATE COVER:

Nil.

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ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

8 [GM-CM] Customer Service Charter

SUBMITTED BY: Communications and Marketing

FILE NUMBER: Not Applicable



Civic Leadership

SUMMARY OF REPORT:

Council's Customer Service Charter outlines the organisations standards of service that residents, ratepayers and organisations can expect from interactions with Tweed Shire Council.

The Customer Service Charter outlines Council's opening hours, locations, contact information, standards of service over the phone, in writing, in person and online, monitoring and reporting and also highlights some additional customer service tools.

The current Customer Service Charter has been updated due to the establishment of the Customer Contact Centre in July 2010 and the organisation's overall focus on providing quality customer service for residents, ratepayers and organisations.

The major enhancements to the revised Customer Service Charter include:

- Further detail about the way Council provides customer service over the phone, in person, via written correspondence and online.
- Reiteration that professional staff are not always available for walk-in appointments and the need for more technical customer queries to have suitable appointments to ensure the most efficient use of customer and staff time.
- Re-enforcement that the Tweed Heads office is a branch office and whilst it offers a range of customer service across all areas of Council, more technical queries should be directed to the main office in Murwillumbah.
- Change in customer service hours to enable a training and development environment for customer service staff and enable them to improve the quality and accuracy of information provided.

- Overall benchmarks for measuring standards of service including monitoring and reporting.

RECOMMENDATION:

That the revised Customer Service Charter Version 1.2 be placed on public exhibition for a period of 28 days, inviting public submissions for a period of 42 days.

REPORT:

Tweed Shire Council is committed to meeting the needs of our ratepayers, residents and clients in a professional and ethical manner with courteous and efficient service.

Council, at its meeting of 16 June, 2009, resolved:

“that Council endorses the establishment of an integrated customer Contact Centre within three years, beginning at Murwillumbah (with a satellite office at Tweed Heads), to manage the significant majority of all customer interactions and transactions through its consolidated counter services, call centre, the web and email, subject to funding availability.”

Tweed Shire Council's Contact Centre provides a streamlined link between the Tweed Shire Council and the local community, offering a centralised point of reliable information for residents, ratepayers and organisations.

The Contact Centre, launched in June 2010, consists of a multi-skilled customer service team which provides a 'one stop shop' servicing a wide range of inbound customer interactions including telephone, face to face and electronic communications, with the aim of resolving the majority of customer enquiries at the first point of contact.

The Customer Service Charter provides the foundation on which Council can monitor its levels and standards of customer service and provides a framework of best practice.

Various improvements in customer service are ongoing across the organisation as the Contact Centre staff continue to undergo training in a diverse range of services and programs. Still in its implementation phase the Contact Centre is continually looking at ways we can improve customer service.

CONCLUSION:

The Customer Service Charter provides the foundation on which Council can monitor its levels and standards of customer service and provides a framework of best practice. It is important to have established levels of service standards for all staff to professionally serve the members of our community.

COUNCIL IMPLICATIONS:

a. Policy:

An update to the current Customer Service Charter 1.1

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:

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
- 1.2.5 Effective communication between Council and Community groups
- 1.2.5.5 Improve Customer service

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. (Existing) Customer Service Charter Version 1.1 (ECM47319423)
 - 2. (Revised) Customer Service Charter Version 1.2 (ECM47319428)
-

9 [GM-CM] Online and Social Media Policy

SUBMITTED BY: Communications and Marketing

FILE NUMBER: Not Applicable



Civic Leadership

SUMMARY OF REPORT:

This report introduces the Online and Social Media Policy for consideration of Council. It is important for any organisation to have a Policy in place to address the introduction of social media with the rapidly growing technology developments and changes in behaviour and usage of social media.

This policy provides guidelines on Council's use of web and social media as communication tools and will evolve as new technologies and networking tools emerge.

Local governments, like other organisations face the challenge of incorporating web 2.0 technologies as communication tools and keeping up with changes in these technologies. Council's Communications and Marketing section actively monitors social media activities and trends that relate to Council operations.

Tweed Shire Council's Community Engagement Strategy identifies its website and social media tools as methods to rapidly and officially communicate directly with the community as part of Council's online communications.

Council's Community Engagement Strategy defines web 2.0 as technologies that include blogs, wikis, forums, social media and social networking sites, instant messaging and syndicating tools.

From day- to-day operations to times of emergency, websites and social media play a role in informing the broad Tweed community. These tools offer:

- Rapid sharing of information.
- A wide dissemination of information.
- Low-cost marketing and communication to build reputation and brand.
- Avenues to reach target audiences, such as young people.
- Increased traffic to Council's corporate website.

This Policy is in preparation for Council to consider its resources in the online/social media environment. There are no immediate plans to launch into new social media activities until the resources for doing so have been fully considered, however as the organisation is already participating in these environments with use of Council websites and online forums it is recommended we have a Policy to govern its use.

RECOMMENDATION:

That the Online and Social Media Policy be placed on public exhibition for a period of 28 days, inviting public submissions for a period of 42 days.

REPORT:

Any official Tweed Shire Council presence on social media sites or services is an extension of Council's information networks and is governed by other Council policies including:

- Media Policy
- Community Engagement Strategy
- Code of Conduct
- Privacy Management Plan
- Use of Electronic Communications Devices Protocol
- Records Management Program

The Online and Social Media Policy addresses:

- **Websites** for Tweed Shire Council and its sub-brands including every day use and emergency use and the need for TSC website to be compliant with various accessibility and functionality standards.
- **Social Media** and account management (who and how), content (the types of information to be posted on social media sites), acceptable use and citizen conduct.

Tweed Shire Council is in the process of developing a new website as one of its primary communication tools. Moving to a content management system the new site, which will be launched in the second half of 2012, will feature:

- Major improvements to the site structure and ease of finding information
- Significant enhancements to searching and A-Z listing for ease of finding information
- Improvements for accessibility including font sizes, searching and print styles,
- Improved layout and design of the site.

Approximately one month after the launch of the new website, the Communications and Marketing section will further investigate the intention to launch a Facebook page and other social media activities depending on resources.

OPTIONS:

Not Applicable.

CONCLUSION:

Not Applicable.

COUNCIL IMPLICATIONS:

a. Policy:

Creation of the Online and Social Media Policy.

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:

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
- 1.2.5 Effective communication between Council and Community groups
- 1.2.5.5 Improve Customer service

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. Online and Social Media Policy Version 1.0 (ECM47321523)
-

10 [GM-CM] Second Round Applications for Financial Assistance 2011/2012 - Donations Policy

SUBMITTED BY: Communications and Marketing

FILE NUMBER: Not Applicable



Supporting Community Life

SUMMARY OF REPORT:

Through its Donations Policy, Tweed Shire Council recognises a need to assist non-profit community groups, organisations and individuals who are interested in and are working towards the enhancement and the well being of its residents and the Tweed.

Council advertises in the Tweed Link and invites applications for financial assistance from eligible organisations in accordance with its Donations Policy twice a year under Section 356 of the Local Government Act, 1993. Applications for financial assistance close at the end of July for the first round and end of February for the second round.

Second Round applications for financial assistance were invited under Council's Donations Policy and closed on 28 February 2012. Tweed Link advertisements calling for applications appeared in Issue 746, 7 February 2012.

RECOMMENDATION:

That Council:

- Allocates the Second Round Donations for 2011/2012 under the Donations Policy as follows:-**

Applicant	Amount
Blind Citizens Australia (Tweed Branch)	\$ 875
Northern Region SLSA Helicopter Rescue Service	\$ 2,000
Bray Park Neighbourhood Watch	\$ 200
Twin Towns Friends Association Inc	\$ 2,000
Gold Coast Tweed Regional Committee of CAQ	\$ 300
Friends of the Pound (Tweed) Inc	\$ 1,000
You Have A Friend Inc	\$ 2,000
Tweed Heads PCYC	\$ 1,500
TOTAL	\$ 9,875

2. **Officers review the capability and services provided by Vibe Care Ltd prior to consideration of the remaining allocation of \$2,000 and this be reported to a future Council meeting.**
3. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
 - (a) personnel matters concerning particular individuals (other than councillors)

REPORT:

Under the recently adopted Events Strategy 2011-2016 Council is currently reviewing its Festivals and Donations Policies. However in the July business paper report Council was advised that it is intended to maintain two different policies as they currently exist, with the Donations Policy to remain as it is, offering Donations twice a year.

Council has \$23,429 allocated in the 2011/2012 budget for the Donations Policy. The total amount allocated in Round One was \$11,500. It is recommended that the balance of funds of **\$11,929** be allocated in Round Two.

The following criteria is required to be used to determine the applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- The funds are not to be used for a social activity for members of the organisation exclusively.

A panel of three professional senior staff members reviewed the applications and agreed on the recommendations provided to Council for their consideration.

The Assessment is contained in Confidential Attachment A.

First Round Donations Funding for 2011/2012 - Council Decision

Resolved that Council:

1. Allocates the First Round Donations for 2011/2012 under the Donations Policy as follows:-

Applicant	Amount
St Vincent de Paul Society	1000
Voice Weavers Acappella Choir	1000
Murwillumbah Friendship Club	500
Caldera Institute for Sustainable Community Development	1000
The Merry Marions	100
Tweed Shire Women's Service Inc	1000
Coolangatta Senior Citizens Centre Inc	1150
Murwillumbah Community Men's Shed Inc	1000
Tweed Valley Woodcrafters Association	1000
Riding for the Disabled Tweed Valley Centre	1250
Friends of the Koala Inc.	1500
Mt Warning Community Preschool	1000
TOTAL	\$11,500

List of Applicants for Second Round 2011/2012 funding:

Applicant	Amount	Summary
Murwillumbah Festival of Performing Arts	\$2,500	Towards running costs of the festival 14 June – 12 July 2012.
Cabarita Beach Pottsville Beach Lions Club Inc	\$3,500	Towards running costs of major event – Greenback Fishing Comp held 9 – 10 June 2012.
Murwillumbah Leukaemia and Cancer Research Society Inc	\$1,000	Raising funds for cancer research and support for palliative care patients.
Blind Citizens Australia (Tweed Branch)	\$ 875	For stationary, printer and toner cartridges to assist in operating this successful support service for vision impaired
Northern Region SLSA Helicopter Rescue Service	\$2,000	Updating the emergency egress air devices for air crews in case the aircraft is submerged
Tyalgum Community Hall Assoc Inc	\$2,000	Replace old fridge in kitchen, to assist with functions and events
Bray Park Neighbourhood Watch	\$ 200	To assist with printing and delivery of 1600 newsletters
Variety Special Children's Christmas Party	unspecified	Towards costs of local children being bussed to event in Coffs Harbour
Twin Towns Friends Assoc. Inc.	\$2,000	To assist volunteers who provide support and company to the frail and lonely in Tweed Heads
Tweed Valley Woodcrafters Association	\$1,750	Towards safety equipment and training for active seniors membership
Gurukula Hall & Arts Centre	\$2,000	Building of a small retaining wall and landscaping of community hall.
Northern Rivers Guardians	\$2,000	Purchase presentation and communication equipment such as lite-pro, screen and digital camera.
Gold Coast Tweed Regional Committee of CAQ (Croquet)	\$500	Administration costs such as printing of programmes, postage, travelling expenses and promotion of the annual croquet tournament held predominantly in Tweed and Murwillumbah.
Friends of the Pound (Tweed) Inc	\$5,000	To support the de-sexing voucher program which enables low income Tweed residents to de-sex their cat or dog at a subsidised cost.
Vibe Care Ltd **	\$4356	Purchase 3 commercial quality display freezers for the storage and distribution of food to disadvantaged and low income individuals in the Tweed area.
You Have A Friend Inc	\$2,000	Funds used to fuel 3 vans used by the charity to provide meals and second hand clothes to homeless and marginalised in the Tweed Shire and Coolangatta.

Applicant	Amount	Summary
Tweed Climate Action Now Inc	\$400	Hire of commercial auditoriums for presentations and workshops, advertising and public liability insurance.
Apex Club of Murwillumbah Inc	\$1,950	To pay annual National and Licence fees.
Cabarita Youth Service Inc	\$2,000	To assist with storage, removalists, furnishings and setting up Service in new premises in Hastings Road, Bogangar.

** Vibe Care Ltd is a new organisation within the Tweed and an appropriate review of their services provided is currently being undertaken.

Background

List of recipients of Donations Funding 2010/2011:

Round One

Applicant	Amount
Tweed River Classic Boat Regatta	\$1500
Riding for the Disabled Tweed Valley	\$2000
Tweed Guides	\$950
Vintage Vehicle Touring Enthusiasts	\$1000
WollumbinBUG (Bicycle Users Group)	\$500
Cooloon Children's Centre	\$1500
Friends of the Pound (Tweed) Inc	\$1200
Mary Mackillop Conference/St Vincent de Paul	\$280
Tyalgum Community Preschool	\$1285
Chillingham Community Preschool	\$1250
You have a friend inc	\$2000
Sailability New South Wales Inc. Tweed Branch	\$2000
Total:	\$15,465

Round Two

Applicant	Amount
Neighbourhood Watch Area 14	\$200
Twin Towns Friends Association Inc	\$2000
Tweed Shire Women's Service Inc	\$1256
Northern Region Life Saver Rescue Helicopter	\$2000
Tweed Palliative Support Inc	\$1800
Story Dogs Inc	\$400
Total:	\$7656

OPTIONS:

Not Applicable.

CONCLUSION:

The amount available for allocation in the second round is no more than \$11,929.

COUNCIL IMPLICATIONS:

a. Policy:

Donations and Subsidies Version 1.2

b. Budget/Long Term Financial Plan:

The 2011/2012 Budget was prepared on the following basis:

\$23,429	Donations Funding
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The amount available for allocation in the first round is **no more than \$11,500.**

The amount available for allocation in the second round is **no more than \$11,929.**

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:

- 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
- 2.1.1.7 Build community resilience

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment** - Assessment - Donations Policy Funding Second Round 2011/2012 (ECM47221542)
-

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

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

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
 - (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

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

ORIGIN:

Director Planning and Regulation

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 2012 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.

REPORT:

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

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

DA No.	DA11/0487
Description of Development:	two storey dwelling with basement garage, gatehouse and inground concrete swimming pool
Property Address:	Lot 51 DP 1031933 No. 51 She-Oak Lane, Casuarina
Date Granted:	28/2/2012
Development Standard to be Varied:	Clause 32(B)(4)(b) - Overshadowing
Zoning:	2(e) Residential Tourist
Justification:	A SEPP 1 application has been submitted in relation to the subject property due to overshadowing of the waterfront opens pace. Shadow diagrams submitted indicate that the shadow cast will be minimal and will be similar to shadows presently cast by existing properties within the vicinity. It is therefore considered that the standard is unreasonable and unnecessary in this particular circumstance and it is recommended that the SEPP 1 objection be supported.
Extent:	Clause 32B of the NCREP requires that Council must consider an objection under SEPP1 for any shadow cast into the waterfront open space before 7pm midsummer daylight saving time. The shadow will be cast into the waterfront open space will be consistent with other development along the Tweed Coast. The extent of the shadow cannot be expressed in terms of a percentage of the development standard. It is recommended that the SEPP1 objection be supported.
Authority:	Tweed Shire Council under assumed concurrence

DA No.	DA11/0526
Description of Development:	extensions to existing storage facility and reconfiguration of existing depot for truck storage and landscaping supplies
Property Address:	Lot 2 DP 863736 No. 942 Cudgera Creek Road, Cudgera Creek
Date Granted:	23/2/2012
Development Standard to be Varied:	Clause 24 - Set backs to designated roads
Zoning:	1(a) Rural
Justification:	Development setback at 22.4m instead of 30m from Cudgera Creek Road.
Extent:	7.6m short of the minimum 30m requirement as per Clause 24. This is a 25.33% variation to the development standard.
Authority:	Tweed Shire Council under assumed concurrence

DA No.	DA11/0212
Description of Development:	Detached garage
Property Address:	Lot 10 DP 9563 No. 132 Chinderah Road, Chinderah
Date Granted:	8/2/2012
Development Standard to be Varied:	Clause 24 - Set backs to designated roads
Zoning:	1(a) Rural
Justification:	Application is for a garage located 13 metres from Chinderah Road, being a designated road. A 30 metre setback is required. The request has been made to vary the standard as neighbouring dwelling to the subject property are only setback approximately 6 metres from the front property boundary. The garage will be set back 7 metres behind the established Building line in this area of Chinderah Road. Councils Director Of Planning has no objections to the vibration and to the application being approved under delegate authority.
Extent:	Application is for a garage located 13 metres from Chinderah Road, being a designated 17m encroachment into the required 30 metre setback, equating to approximately 56%
Authority:	Tweed Shire Council under assumed concurrence

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

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12 [PR-CM] Development Application DA11/0444 for a 68 Lot Subdivision (Including 1 Open Space Lot) at Lot 29 DP 1027531 & Lot 30 DP 1027531 Casuarina Way, Casuarina

ORIGIN:

Development Assessment

FILE NO: DA11/0444 Pt2

SUMMARY OF REPORT:

The proposed development is to undertake a sixty eight (68) lot torrens title subdivision (which includes 1 open space lot) at Casuarina Way, Casuarina.

A State Environmental Planning Policy No. 1 (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 represents approximately 8.85% 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 the subdivision to include the 7(f) zoned land within proposed lots 1 to 18.

The application was referred to the NSW Department of Planning requesting the Director-General's Concurrence. Concurrence was 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 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. In addition, Council officers do not have the delegation to determine subdivisions involving 50 lots or more.

After consideration of applicable environmental planning instruments, the Tweed Development Control Plan and various policies, the proposal is recommended for approval.

RECOMMENDATION:

That Development Application DA11/0444 for a 68 lot subdivision (including 1 open space lot) at Lot 29 DP 1027531 & Lot 30 DP 1027531; Casuarina Way, 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:**

- Plan No 208477-04 (Rev H) – Proposed Subdivision, prepared by RPS and dated 14 February 2012;
- Plan No 208477-08 (Rev H) – Parking Analysis Proposed, prepared by RPS and dated 14 February 2012
- Plan No 208477-09 (Rev E) – Building Envelope, prepared by RPS and dated 14 February 2012,

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. All construction works shall comply with Part 6.2 Recommended Acoustic Treatments for Onsite Construction Activities of the Traffic Engineering Assessment CRG, 31 August 2011.

[GEN0135]

5. All construction works shall comply with Part 6.2 Recommended Acoustic Treatments for Onsite Construction Activities of the Traffic Engineering Assessment CRG, 31 August 2011.

[GENNS01]

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

[GENNS02]

7. The developer is to undertake care and maintenance operations on all streetscapes and casual open space for a minimum of 12 months after the Subdivision is registered with the Land Titles Office. This is the establishment period for new plantings. Such maintenance will include all soft landscaping, particularly mowing and weed control. Any power and water consumption costs during this period must also be met by the developer.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. 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]

9. 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]

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 detailed on the application for a Construction Certificate.

[PCC0485]

11. 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]

12. 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.

Urban Road

- (a) Construction of an urban bitumen sealed road formation (Proposed Road 1) to a pavement width of 10.8m and with upright kerb and guttering.
- (b) Construction of an urban bitumen sealed road formation (Proposed Road 2) to a pavement width of 6m with upright kerb and guttering.

Driveways

- (c) The driveways as detailed on the "Proposed Parking Provision" plan prepared by RPS, dated 14 February 2012 are to be constructed at the subdivision stage to accommodate the proposed car parking on Road 1. The driveways are to be designed and constructed in accordance with Council's standards for driveways. The driveway details are to be shown on the Construction Certificate.

Pedestrian Refuge

- (d) A pedestrian refuge or similar alternative is to be constructed on Casuarina Way for the purpose of crossing to the proposed park. The pedestrian refuge is to be placed in a suitable location to not create conflict with the existing bus layback areas on Casuarina Way.

Right of Carriageway

- (e) The proposed right of carriageway is to be constructed to 150mm thick, 4.5m wide reinforced concrete over a compacted roadbase material. The easement / right of carriageway shall be 1m wider than the pavement and any associated batters, catch drains or service corridors.

Reticulation

- (f) The proposed water main in Road 3 is to be constructed as a standard cul-de-sac loop as per Council's standard drawings for water reticulation.

[PCC0875]

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

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. 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)

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]

14. 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.

[PCC1105]

15. 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]

16. Prior to the issue of a construction certificate a construction management plan (which addresses as a minimum sediment control, water quality monitoring, construction noise management, dust control) shall be submitted to the satisfaction of the General Manager or his delegate. All work shall comply with that approved plan.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

17. 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]

18. 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) 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 approval and issue of any Construction Certificate, 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.

[PCW0815]

19. 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.

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]

20. Prior to the commencement of work, a detailed landscape plan prepared by a qualified landscape architect must be submitted for all areas of casual open space, structured open space and streetscapes to be dedicated to Council. Such a plan must be approved by the Manager, Recreation Services, Tweed Shire Council and include embellishments such as listed in Councils Subdivision Manual (Section A5 of the Tweed Development Control Plan) and Development Design Specification (D14) and related Standard Drawings and include grassing, landscaping, seating, and shade cover. The plans must provide slope information and indicate all underground services.

[PCWNS01]

DURING CONSTRUCTION

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

[DUR0005]

22. **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]

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

- A. Short Term Period - 4 weeks.**

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

- B. Long term period - the duration.**

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

[DUR0215]

24. **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]

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

[DUR0815]

26. **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]

27. **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]

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

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

[DUR1005]

29. 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]

30. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

31. 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]

32. 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.

[DUR1875]

33. 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

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) 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) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Sewer Pump Station

- (a) Excavation
- (b) Formwork/reinforcement
- (c) Hydraulics
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) 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".

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

[DUR2015]

35. The applicant shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".

The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

[DUR2035]

36. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition.

[DUR2185]

37. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

38. 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]

39. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

40. 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.

[DUR2435]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

41. 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]

42. 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.

A Subdivision Certificate shall NOT be issued unless the Certifying Authority is satisfied provisions pursuant to Section 109J of the EP&A Act, 1979 have been complied with and the Certifying Authority has sighted Councils contributions sheet and 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:	64.6 ET @ \$11571 per ET	\$747,486.60
South Kingscliff Water Levy:	64.6 ET @ 269 per ET	\$17,377
Sewer Kingscliff:	65 ET @ \$5560 per ET	\$361,400

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

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.

[PSC0165]

43. 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 authorized 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 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:

422.5 Trips @ \$1145 per Trips \$483,763

(\$1145 base rate + \$0 indexation)

S94 Plan No. 4

Sector7_4	
LCA4 - Casuarina:	\$70,980
422.5 trips at \$168 per trip	
(\$168 base rate + \$0 indexation)	
b. Shirewide Library Facilities:	
65 ET @ \$792 per ET	\$51,480
(\$792 base rate + \$0 indexation)	
S94 Plan No. 11	
c. Bus Shelters:	
65 ET @ \$60 per ET	\$3,900
(\$60 base rate + \$0 indexation)	
S94 Plan No. 12	
d. Eviron Cemetery:	
65 ET @ \$120 per ET	\$7,800
(\$101 base rate + \$19 indexation)	
S94 Plan No. 13	
e. Extensions to Council Administration Offices & Technical Support Facilities	
65 ET @ \$1772.82 per ET	\$115,233.3
(\$1759.9 base rate + \$12.92 indexation)	
S94 Plan No. 18	
f. Casuarina Beach/Kings Forest Community Facilities:	
65 ET @ \$2153 per ET	\$139,945
(\$2153 base rate + \$0 indexation)	
S94 Plan No. 19	
g. Casuarina Beach/Kings Forest Open Space:	
65 ET @ \$1231 per ET	\$80,015
(\$717 base rate + \$514 indexation)	
S94 Plan No. 19	
h. Cycleways:	
65 ET @ \$451 per ET	\$29,315

(\$447 base rate + \$4 indexation)

S94 Plan No. 22

i. Regional Open Space (Casual)

65 ET @ \$1042 per ET \$67,730

(\$1031 base rate + \$11 indexation)

S94 Plan No. 26

j. Regional Open Space (Structured):

65 ET @ \$3656 per ET \$237,640

(\$3619 base rate + \$37 indexation)

S94 Plan No. 26

[PSC0175]

- 44. Proposed lot 999 shall be dedicated as open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan.**

[PSC0195]

- 45. 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 works (minimum as tabled in Council's 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 Subdivision 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]

- 46. Prior to the issue of a Subdivision Certificate, a performance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.**

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

[PSC0225]

- 47. 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]

- 48. 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]

- 49. 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]

- 50. 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) Right of carriageway.**
- (c) Proposed allotments 42 to 44 are prohibited from gaining access onto Casuarina Way. These allotments are to gain access only from the right of carriageway.**
- (d) Roof water from dwellings or structures must be discharged to an infiltration pit sized to accommodate the 3 month average recurrence interval storm.**
- (e) Any infiltration pit created on a lot burdened shall be approved by the certifying authority that certifies any construction certificate for any dwelling constructed on a lot burdened and any application to the certifying authority for a construction certificate in respect of a dwelling shall be accompanied by a design for the proposed infiltration pit.**
- (f) A restriction to user to show the 7(f) environmental zoning for proposed allotments 1 to 18. No building is permitted in the 7(f) zoning.**

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]

51. 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]

52. 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]

53. 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
- (b) Compliance Certificate - Water Reticulation
- (c) Compliance Certificate - Sewerage Reticulation
- (d) Compliance Certificate - Sewerage Pump Station
- (e) 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]

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

[PSC0925]

55. 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]

56. 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]

57. 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]

58. 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. 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]

59. In accordance with the Federal Government's National Broadband Network (NBN) initiatives, the Developer is required (at the Developer's expense) to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN CO's Specifications, to allow for the installation of Fibre To The Home (FTTH) broadband services.

[PSC1205]

60. Prior to the issue of a subdivision certificate a post earthwork surface radiation survey shall be completed by a suitably qualified person and submitted to the satisfaction of the General Manager or his delegate. Should radiation levels exceed background radiation levels, further detailed investigation and validation (including depth investigations) shall be submitted to the satisfaction of the General Manager or his delegate as required.
61. Prior to the issue of a subdivision certificate a 1.8m high acoustic fence shall be provided along the boundary with the Tweed Coast Road, to the satisfaction of the General Manager or his delegate, in accordance with the recommendations of the Traffic Engineering Assessment CRG, 31 August 2011. A validation statement confirming placement and adequacy of the fence shall be provided from a suitably qualified person.

[PSCNS01]

62. Prior to the issue of a subdivision certificate the sales centre on proposed Lot 37 shall be removed from the site.

[PSCNS02]

63. Prior to the release of a Subdivision Certificate, casual open space is to be embellished consistent with the approved detailed landscape plans.

[PSCNS03]

64. Prior to issue of a Subdivision Certificate, Work as Executed Plans (WAX) must be submitted for all landscaped casual open space. These must show all underground services, irrigation systems and the location of concrete paths, structures, other park infrastructure and garden bed outlines.

The plans are to be certified by a registered surveyor or consulting engineer.

Two categories of WAX plans are to be provided:

- (a) The original approved plan with any variation to this indicated.
- (b) Plan showing only the actual as constructed information,

The plans are to be submitted in the following formats:

- (a) 2 paper copies of the same scale and format as the approved plan.
- (b) A PDF version on CD or an approved medium.

An electronic copy in DWG or DXF format on CD or an approved medium

[PSCNS04]

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

1. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bushfire Protection 2006'.

REPORT:

Applicant: Brookfield Multiplex Developments Australia Pty Ltd
Owner: Multiplex Casuarina 29 Pty Ltd
Location: Lot 29 DP 1027531 & Lot 30 DP 1027531 Casuarina Way, Casuarina
Zoning: 2(e) Residential Tourist and 7(f) Environmental Protection (Coastal Lands)
Cost: \$6,300,109

BACKGROUND:

Land and Environment Court Consent for Kings Beach

In December 1998, the NSW Land and Environment Court granted consent to 'Stage 1 Kings Beach Approval'. This consent was for a Development Plan and a 14 lot master plan development for the purpose of residential, tourist and commercial development.

The Consent allowed for some stormwater and road works but generally did not permit any works to be undertaken on the site until further development consent were obtained for each precinct.

The Consent required the future development of the management lots (1 – 7) to be subject to future development applications, with the consent providing population estimates for each of the management lots. The subject subdivision application is located within Lot 2 of the approved Kings Beach Approval, which has an identified population yield of 620.

Department of Planning Approval – Cotton Beach

In February 2006, the NSW Department of Planning granted consent to a development known as 'Cotton Beach'. This staged consent was for the construction and strata subdivision of a 3 storey residential flat building consisting of 129 dwellings, café/restaurant, basement car parking for 224 vehicles, construction and dedication of 144 public car parking spaces, roads, pathways and parks.

The approval incorporated Lots 29, 30 & 31 DP 1027531, part Lot 54 DP 1030322 and existing road reserve.

The approval granted consent for Stage 1 only, noting that subsequent development for Lots 29, 30 & 31 DP 1027531, part Lot 54 DP 1030322 and the operation of first use for the café/restaurant would require separate development applications.

Stage 1 essentially incorporated: the 129 unit development on Lot 31; construction and landscaping of pathways within Lot 30; construction of roads, parks, bus stop facilities and public car parking (144); and stratum subdivision of the dwelling unit building.

The approved plans indicate a form of medium density development over Lots 29 and 30 (subject site), however no approval was granted in this regard.

SITE DESCRIPTION:

The subject site is part of the master planned development known as Casuarina Beach. The site is described as Lot 29 and Lot 30 DP 1027531, Casuarina Way, Casuarina.

The site is relatively flat, has been previously cleared for sand mining purposes and is predominantly grassland at present. Lot 29 is 1.485ha and Lot 30 is 3.975ha, resulting in a total site area of 5.46ha.

A sales centre is located in the south western corner of Lot 30, on the corner of Casuarina Way and Sterculia Court. The applicant has noted that while the sales centre will require removal at some point prior to the finalisation of the subdivision, it does not form part of this application and future works to the building will be the subject of a separate application.

Low density residential dwellings are located to the north of the subject site. A mixture of low and high density residential development is located to the south. To the west, beyond Tweed Coast Road is the Cudgen Nature Reserve and to the east is the coastal foreshore, which includes a strip of cycleways / pathways.

Lots 29 and 30 are surrounded by the following road network:

Casuarina Way – is an 11m wide urban collector road within a 20m wide road reserve and is located between Lot 29 and Lot 30. A 2m wide concrete footpath is on the eastern side and a 1.2m wide footpath is located on the western side. Approximately 21 constructed parallel car parking spaces are located on either side of Casuarina Way. 2 bus stops are located on the road, one in each direction. The road is relatively new and the pavement is in good condition.

Casuarina Way also functions as a bus route.

Dryandras Court – is a 7.8m wide (pavement width) urban local road within a 24.3m wide road reserve located to the north of Lot 30. A 2m wide footpath is on the northern side of the road adjacent to 30 ninety degree car parking spaces. A 1.8m footpath is located on the southern side adjacent to 33 ninety degree car parking spaces.

Sterculia Court – is a 8.3m wide (pavement width) urban local road within a 22.3m wide road reserve located to the south of Lot 30. A 2m wide footpath is on the northern side adjacent to 30 ninety degree car parking spaces. A 2m wide footpath is located on the southern side adjacent to 31 ninety degree car parking spaces.

All of the above mentioned roads have flat vertical and horizontal alignment. The roads are relatively new and the pavement is in good condition.

PROPOSAL:

Council is in receipt of a development application for a residential subdivision of Lots 29 and 30 DP 1027531. The proposed subdivision layout incorporates 67 residential allotments, a landscaped open space allotment (local park) and two new internal access streets and associated landscaping.

The proposed subdivision is configured in a standard grid pattern, to enable regular shaped allotments. The size of the lots range from 450m² to 950m², with the larger lots predominantly located adjacent to the coastal foreshore to the east. These lots include a 20m building setback from the rear (eastern) boundary, which incorporates land zoned 7(f) Environmental Protection.

The proposed open space area is a 2505m² local park, located along the western boundary between Casuarina Way and Tweed Coast Road. The park incorporates a recreational open space area, covered picnic table, drinking fountain and park benches.

Access to proposed Lots 1 to 36 will be via a local access street (Road 1) with an 18m road reserve, which will connect Sterculia Court in the south to Dryandras Court in the north. Lots 42 to 44 are proposed to gain access off proposed Road 1 via a right of way, due to the existing bus route obstructing direct access from Casuarina Way for these three (3) allotments. Lots 37 to 41, Lots 45 to 54 and Lots 66 to 67 will be accessed from Casuarina Way. Lots 55 to 65 will be accessed by way of a cul-de-sac with 14m wide road reserve (Road 2) from Casuarina Way.

A 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) zone.

SITE DIAGRAM:

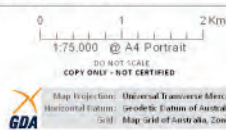


Locality Plan

Lot 29 DP 1027531 & Lot 30 DP 1027531
Casuarina Way, Casuarina

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representation or warranty as to the 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 'Call 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.

Cadastre: 29 February, 2012
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Boundaries shown should be considered approximate only.



Civic and Cultural Centre
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Murwillumbah NSW 2484
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T | (02) 6670 2400 | 1300 292 872
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Date: 20/03/2012 11:21:00 AM

SUBDIVISION PLANS:







Legend

- Site Boundary
- Original Parcel Boundary
- 30** No. of retained on-street parking space
- Proposed on-street parking space
- On-site parking space (1 per dwelling)
- Driveway location
- Traffic calming - cobblestone pavement banding to engineer's design

Note:
All dimensions and areas are approximate only, and are subject to survey and Council approval.
Dimensions have been rounded to the nearest 0.1 metres.
Areas have been rounded down to the nearest SqM.
The boundaries shown on this plan should not be used for final detailed engineering design.

Proposed Parking Provision

110 parking spaces retained
44 parking spaces proposed
154 parking spaces in total

REVISION A. 108 Show original parcel boundaries B. 108 Amend Casuarina Way boundary C. Amend Lot 30-35 and 41-44, 38-39 D. 08/10/12 Amend notes E. 08/10/12 Amend notes F. 08/10/12 Amend Lot 30 divided to 30A and 30B G. 14/02/12 Amend Road 1 Road		Level Datum Origin Scale Sheet 1 : 500 A1	Date 14 FEB 2012 Comp By WW/CWC DWG Name 208477-04 PRO Local Authority TWEED SHIRE Locality CASUARINA BEACH Job Reference 208477	CLIENT BROOKFIELD MULTIPLEX PROPOSED SUBDIVISION OVER LOT 30 ON DP 1027531 PARKING ANALYSIS - PROPOSED	PROJECT CASUARINA WAY CASUARINA BEACH Plan Ref 208477 - 08 Rev H	<p><small>RPS 100 Kippax Street Pty Ltd ACN 101 002 999 ABN 64 101 002 999 100 Kippax Street PO Box 1000 Tweed Heads NSW 2486 Tel: 1 800 900 000 Fax: 1 800 400 000 www.rps.com.au</small></p>
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- Ⓐ Shade Shed with picnic setting
- Ⓑ Recreational Open Space Lawn Area
- Ⓒ Ficus rubiginosa (Large Shade Trees)
- Ⓓ Medium Deciduous Shade Trees
- Ⓔ Screening hedge with buffer zone planting
- Ⓕ Central Axial Junction & Path
- Ⓖ Scope Of Landscape Works



KEY PLAN



Coastal Species Planting



Ficus rubiginosa



Lawn Area



Shade Shed and Picnic Table

Scale 1:250 @ A3
 Drawing Number 003
 Client Brookfield Residential Properties
 Site Image Job Number SS11 - 2048
 Date 12/12/2011



Local Park

SITE IMAGE CASUARINA WAY, CASUARINA

Sydney Local 1, 3 & 5 Impact Street, Surry Hills NSW 2050 Australia | T +61 2 9588 2898 | F +61 2 9588 2877 | www.siteimage.com.au | Site Image (NSW) Pty Ltd ABN 41 801 262 380 | 10/10/2011 11:23:41 AM
 10/10/2011 11:23:41 AM

- Legend**
-  Proposed Street Trees
 -  Proposed New Roads
 -  Coastal Zone Building Setback
 -  Existing Residential Development
 -  Tweed Coast Road Reserve
 -  Scope Of Landscape Works
 -  Existing Coastal Boardwalk
 -  Proposed Access Road Planting to Lot 29
 -  Local Park and Proposed Access Road Planting
 -  Proposed Local Street Planting to Lot 30



Scale: 1:2000 B/A3
 Drawing Number: 002
 Issue: C
 Date: 12/12/2011

Client: Brookfield Residential Properties
 Site Image Job Number: SS11 - 2049

SITE IMAGE CASUARINA WAY, CASUARINA

LANDSCAPE ARCHITECTURE (P/T/EM) PTY LTD
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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The Provisions of any Environmental Planning Instrument

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 4 - Aims of the Plan

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 LEP relates to ecologically sustainable development. The TLEP 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 ESD principles.

Clause 8 - Zone objectives

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 part zoned 2(e) Residential Tourism, 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 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 a sixty eight (68) lot subdivision of two residential development lots 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 the majority of the proposed residential lots (73%) are wholly within the land zoned 2(e) Residential Tourist. Only 18 of the 67 residential allotments incorporate a portion of 7(f) Environmental Protection zoned land (in the eastern most portion of each).

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 incorporates a 20m wide strip of land zoned 7(f) along the eastern boundary of the site. 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 22 – Development near Designated Roads

The intent of Clause 22 is to protect and improve the capacity, efficiency and safety of designated as well as to prevent development on designated roads that would detract from the scenic attractiveness of the area of Tweed and to prevent or reduce the potential impact of traffic noise on development adjacent to designated roads.

Tweed Coast Road is identified as a Council Designated Road on Council's mapping system and this clause is applicable to the site.

In terms of the impact of the proposal on Tweed Coast Road, the proposed lots are not directly fronting Tweed Coast Road. Council's Development Engineer has assessed the proposed development in terms of traffic generation and is satisfied that proposal will not create a poor level of service on the surrounding road network.

The proposed subdivision is sensitive to traffic noise, with allotments on the western side of Casuarina Way potentially being impacted by noise from traffic travelling along Tweed Coast Road. Noise mitigation measures have been recommended, as detailed later in this report.

The proposal does not detract from the scenic values of the locality as it is of a similar character to surrounding subdivision adjoining the designated roads.

Overall, the proposed development is considered to comply with the provisions of Clause 22.

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 sixty eight (68) 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 Lot 30 (approx 6m from the eastern property boundary), it is within the 20m wide 7(f) zone. No development is allowed within the 7(f) zone, therefore no earthworks or vegetation removal will take place that could influence coastal erosion processes. As such, 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 scope of works is relatively minor and bulk earthworks and major site disturbances have been completed previously (and was the subject of an ASSMP under the original consent). Major soil disturbances were also completed historically during sand mining activities. No further assessment is required in this regard. 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. Further details are provided in this regard later in this report. 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

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

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 Lot 30 (approx 6m 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 has noted that: the proposal will not result in the disturbance of any foreshore areas; the site is separate from the foreshore by the existing pedestrian / cycleway; all earthworks will be restricted to the subject site; and no structures will be built in the 7(f) zone.

It is considered the proposed subdivision is in accord with the Coastline Management Manual and the existing subdivision patterns within the area. Therefore, the proposal is compliant with Clause 33.

Clause 43: Residential development

Clause 43 of the North Coast Regional Environmental Plan 1988 (NCREP) provides guidelines for Council when considering residential development. These controls include density, site erosion and environmental constraints on the land.

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.

SEPP No. 1 - Development Standards

As discussed, a 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) zone.

The 7(f) zoned land represents approximately 8.85% of the site and the remainder of the site is zoned 2(e) Residential Tourist which has a minimum lot size of 450m². It is proposed as part of the subdivision to include the 7(f) zoned land within proposed Lots 1 to 18.

A SEPP No. 1 submission may be supported where the applicant demonstrates that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case and specifies the grounds of that objection. The applicant must also demonstrate the consistency with the aims of the SEPP.

In support of the proposed variation, the applicant has provided the following:

'The 7(f) zoning in this location aims to protect the visual amenity of the coastal foreshore, as well as restrict development in locations susceptible to coastal processes.

Development is restricted within the 7(f) zoning and there will be no structures built in this area as a result of the proposal. A 20m setback from the coastal foreshore will be retained, which will ensure that any structures are situated such that the impacts from coastal processes are minimised. Appropriate landscaping in this area will ensure that the visual amenity of the coastal foreshore is protected'.

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 fourth option which states:

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.

In this regard, the applicant notes the following:

'The current area of 7(f) land is already far less than the minimum lot size and therefore it is unreasonable (impossible) to comply with the standard. (Note that it is recognised that the State government and not Council that was responsible for approving previous developments which resulted in this scenario). Council have approved many other developments within the Casuarina area which has resulted in further fragmentation of the 7(f) zone.'

Comment:

Council does not agree with the applicant in that the development standard has been virtually abandoned. In this instance, Council is of the opinion that the first option (being the objectives of the standard are achieved notwithstanding non-compliance with the standard) is the most appropriate.

The objectives of Clause 21A are:

- *to protect the ecological or scenic values of coastal lands.*
- *to protect land that may be susceptible to coastal erosion processes from inappropriate development.*

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.

Despite not agreeing with the applicant's option for demonstrating that the objection is well founded, 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:

'The granting of development consent for the proposal would be consistent with the aim of SEPP 1 in providing flexibility in the application of planning controls. Compliance with the minimum lot size is unreasonable as outlined above.'

Comment:

The proposal provides for a 68 lot 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 SEPP1 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 (8.85%) 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 SEPP1 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:

- *The majority of the proposed residential lots are within the land zoned 2(e) Residential Tourist. Only the eastern strip of land in proposed Lots 1 to 18 consists of 7(f) Environmental Protection;*
- *Any residential dwellings proposed on Lots 1 to 18 will be situated entirely on land zoned 2(e). No buildings or other structures are permitted on the land zoned 7(f);*
- *The proposed uses of the lots will be for residential purposes, which is consistent with the surrounding land uses.*

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. The applicant has provided correspondence from the Department of Planning (dated 24 August 2011) identifying that the master plan requirement can be waived.

SEPP (State and Regional Development) 2011

The proposed development was initially lodged as a Joint Regional Planning Panel (JRPP) application, due to the number of proposed allotments in a SEPP 71 Coastal Zone (between 25 and 100 lots), triggering the need for the application to be determined by the JRPP.

The State and Regional Development SEPP refers to regional development as that described in Schedule 4A to the Act.

Schedule 4A of the Environmental Planning & Assessment Act 1979 relates to development for which regional panels may be authorised to exercise consent authority functions of councils. Clause 9 of Schedule 4A refers to coastal subdivision. Clause 9(b) notes that the threshold for subdivisions in the coastal zone is now 100 lots.

On 6 October 2011, the JRPP confirmed in writing that the proposed development is no longer a class of regional development and the application can be determined by Council without further reference to the Panel.

(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 Protection. 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. 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 (SEPP1 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 requested to demonstrate that awkward or corner shaped allotments would be able to comply with the relevant Site and Building Design controls contained within Section A1 to enable a future dwelling house to be erected. The applicant has provided a plan indicating the building envelope (10m x 15m) on such allotments with compliant setback and DSZ provisions for DCP A1. The applicant also notes that the lots...*'have been designed such that a 2-storey house could be accommodated on all allotments'*.

A2-Site Access and Parking Code

In terms of public car parking, Council's Development Engineer has provided the following comments:

"145 existing car parking spaces are located surrounding the proposed subdivision.

Proposed car parking is as follows:

- *Sterculia Court* *30 car parks still located on southern side
(no changes proposed)
19 car parks are proposed on northern side
(with 12 spaces removed from northern side)*
- *Dryandras Court* *30 car parks still located on northern side
(no changes proposed)
23 car parks are proposed on southern side*

(with 10 spaces removed from southern side

- *Casuarina Way 15 car parking spaces are proposed*

(6 spaces removed from Casuarina Way)

Please note the 'proposed parking provision' plan prepared by RPS dated 14 February 2012 removes a total of 28 existing car parks from Casuarina Way, Sterculia Court and Dryandras Way. Proposed Road 1 provides an additional 33 car parks due to the increase in pavement width (10.8m), allowing for vehicles to park on either side with a 6m through traffic width.

Further information was requested from the application to amend the intersection radius from 6m to 10m to be in accordance with Council's development design standards. These details have been amended, although the increase in the intersection radius has resulted in a loss of 4 additional spaces.

It is also noted that 4 parking spaces on the proposed parking provision plan are located too close to the intersection with Road 1 and adjoining roads Dryandras Court and Sterculia Court to be included as viable on street car parks, resulting in Road 1 providing a total of 33 car parks.

Overall an additional 5 car parks have been created within the subdivision layout design as compared with the existing carparking. To make this viable, the driveways as detailed within the proposed parking provision plan are to be constructed at the subdivision stage. This requirement has been included as a condition of consent.

The subdivision driveways as detailed on the "Proposed Parking Provision" plan prepared by RPS, dated 14 February 2012 are required to be constructed at the subdivision stage, to accommodate the proposed car parking spaces on Road 1. These details are to be shown on the application for the Construction Certificate."

Previous approvals for the Cotton Beach development (approved by the Department of Planning) required 144 spaces to be provided as public car parking. 145 on-street public car spaces were provided by the developer along Sterculia Court, Dryandras Court and Casuarina Way. The proposed development results in a loss of 28 of these spaces. However, the applicant has incorporated 33 on-street public car parking spaces along Road 1 (between Sterculia Court and Dryandras Court), resulting in a surplus of 5 spaces. Therefore, there is no net loss of public car parking provisions.

A5-Subdivision Manual

The proposed subdivision has been assessed against section A5 and is generally compliant. Relevant sections of A5 are addressed in more detail below.

A5.4.5 Environmental Constraints

A5 also requires that site constraints are identified including contaminated land, landslip, bushfire threatened species, ecological communities, coastal lands, significant vegetation, landscape character, acid sulfate soils, heritage or cultural items.

These matters have been addressed in this report and it is considered that applicable constraints can be effectively managed or the design has responded limit impacts.

A5.4.6 Landforming

Council's Development Engineer provided the following comments with regard to the proposed earthworks for the development:

"The engineering development report prepared by Cardno MBK, dated July 2004 describes engineering details not consistent with this development application for a 69 lot residential subdivision. The engineering report was lodged for DA04/1270 (Cotton beach apartments, plus road and parking infrastructure), as DA04/1270 was lodged over allotments Lot 29 & 30 DP1027531, which are the subject allotments of this application.

The engineering report provides details on earthworks and other engineering infrastructure which is inconsistent with this DA. The land is already formed with relatively new road infrastructure; although the report does provide the following information in relation to earthworks and imported fill material;

"Insufficient fill is available from within Lots 29, 30 and 31 to achieve the required recontouring. It is therefore proposed to import fill to achieve the required outcome. Fill will, of course, take place in such a way as to maintain existing levels at the boundaries of the lots, and to ensure that existing lots to north and south are not adversely affected.

It is anticipated that between 20,000 and 30,000m³ of external fill will be required to achieve the levels shown on Figure 1, although this amount will not be finalised until basement levels are also finalised during architectural detail. This fill will be sourced from local sand quarries, so as to ensure that exiting site infiltration characteristics are not compromised."

A 'Development Application Report' prepared by AT&L dated August 2011 has also been submitted. The report is basic and generic, not providing any information in relation to earthworks.

Filling and earthworks for the subdivision mainly occurred during the bulk earthworks phase for the entire Casuarina subdivision. Although as detailed above in the Cardno engineering report, other earthworks have occurred since the original bulk earthworks for the entire Casuarina development site.

It is noted that DA04/1270 (Cotton Beach apartments) does not contain any conditions in relation to Level 1 geotechnical certification. Therefore Level 1 geotechnical certification for the earthworks completed for the Cotton Beach development will need to be provided prior to the issue of the consent.

No geotechnical report has been lodged with the application. The previously developed stages of Casuarina have been sand. The area was previously sand mined in the 1960s and 1970s resulting in radioactive sand material."

A5.4.7 Stormwater Runoff, Drainage, Waterways and Flooding

Council's Planning & Infrastructure Engineer provided the following comment on stormwater for the proposed development:

"Appendix D of the SEE contains a Civil Design Statement and Plans. A Stormwater Management Plan is provided in this report.

The majority of the site grades to the frontal swale to the east, including existing road drainage. A small portion of Lot 29 drains to a box culvert that discharges to twin culverts under Tweed Cast Road to Cudgen Creek to the west. Treatment devices are located within the road cul de sacs. All of these systems and the grading of the site were established in previous approvals.

The stormwater management plan seeks to discharge to these existing systems. A new treatment device would be installed to treat the road catchment of Lot 29 draining west. To ensure capacity downstream the applicant has advocated on site detention (OSD) to 200L/s/ha, and also water sensitive urban design (WSUD) citing previous approvals that required 3 month roofwater infiltration. It is the second of these approaches that is considered most applicable to the site, and has worked effectively across the rest of the Casuarina development. This requirement is already applied to the subject land via 88B restrictions to user, created at the time of subdivision, and needs to be maintained for all new lots. DRAINS modelling should be refined in the construction certificate to reflect roof water infiltration on each residential allotment rather than OSD.

Appendix D also contains the original Engineering Report by Cardno MBK (2004) for the original Stage 1 works, however this does not consider the subject works in any detail."

Subsequent to the comments above, Council's Development Engineer concluded the following:

"As the majority of stormwater infrastructure is already in place, there are no significant issues with stormwater management for the proposed development, subject to preservation of the requirement for each allotment to provide on-site roof water infiltration.

The existing Restrictions on Title over this site relating to stormwater infiltration requirements are to be reiterated on the 88B instrument for this subdivision."

A5.4.8 Urban Structure

The Subdivision Manual seeks to ensure neighbourhood design is walkable, connected and includes an interconnected street network. It is also considered that a network of well distributed parks should be provided, as well as neighbourhood centres that act as a community focus and surrounded by higher density.

The configuration of the proposed subdivision results in each allotment being within a walkable distance to the foreshore and the proposed local park. Although no formal access is proposed to the foreshore, access would be via the existing access points at the end of Sterculia and Dryandras Courts. As such, the urban structure is considered suitable.

A5.4.10 Movement Network

This section of the Subdivision Manual seeks to ensure adequate street network and intersection design.

Proposed Intersections

Intersections 1 & 2

The intersection of Road 1 / Sterculia Court and Road 2 / Dryandras Court are proposed as standard 3 way intersections.

Intersection No. 3

The intersection of Road 2 and Casuarina Way is a standard three way intersections with Casuarina Way as the main through road.

Proposed Road Layout

The proposed road layout comprises of roads identified in the table below.

Road Number	Description	pavement width	verge width	road reserve width	footpath / cycleway	Cross fall
Road 1 Links between Dryandras Court and Sterculia Court	Provides access to proposed Lots 1 to 36. 267m in length	10.8m (6m through traffic and 2.4m wide parking lane either side of road).	3.6m	18m	1.2m on both sides of road	3%
Road 2	Provides access to proposed Lots 55 – 65 and park	6m	4m	14m	1.2m on both sides of road	3%

Council's Development Engineer has provided the following comment in this regard:

"A request for further information was provided to the applicant on the 19 October 2011 advising the applicant to amend Road 1 by either widening the road pavement width or amending the layout to allow for adequate parking due to the loss of parking created by proposed Road 1. (See comments in Section 7.2 – Proposed car parking).

Proposed Road 1 is considered acceptable as a 10.8m pavement width has been proposed (Council's standards require a 6 to 7.5m wide pavement width for a local access street). A area of 2.4m each side of the road has been designated for parking, with a 6m through traffic area not obstructed by parked vehicles. Footpaths are provided each side to facilitate access to the foreshore located at Sterculia Court and Dryandras Court.

The original application proposed a third road in the subdivision layout. This road has been removed due to non conformity with Council's standards. A cul-de-sac has been added to Road 2 with a 6m wide pavement width. The road layout complies with Council's development design specifications."

Pedestrians / Footpaths / Cycleways

Both proposed Road 1 and Road 2 have 1.2m wide concrete footpaths on either side as shown on the amended engineering plans prepared by AT& L, dated 17 January 2012.

Bus routes / Shelters

Council's Development Engineer has noted that Casuarina Way has been designed as a bus route and that all proposed lots within the subdivision are located within 400m of the two existing bus shelters situated on Casuarina Way. The following comment was provided:

"A designated bus shelter located on the eastern side of Casuarina Way is adjacent to proposed allotments 42 to 44. These allotments have access via a right of carriageway from Road 1, so the existing bus shelter and layback is not compromised. A 88B is required to reference the proposed right of carriageway and to prohibit proposed allotments 42 to 44 using Casuarina Way."

A5.4.11 Open Space Network

The proposed subdivision initially incorporated a local park which had an area of 2005m². This was based on the area requirements using a population based formula (1.13ha per 1000 persons) in Table A5-8.

However, during the assessment process, it was pointed out to the applicant that they need to also take into account the minimum area requirements for local parks under Table A5-8.2.1. The minimum area is 0.25ha (2500m²), with the park to be located in a position such that 95% of the residents are located within a 400m walking distance.

The applicant was able to suitably revise the proposed layout, by way of removing the proposed road to the south of the park, losing one allotment and re-orienting Lots 66 and 67 to face Casuarina Way. The revised layout results in the local park having an area of 2505m², which meets the requirements of DCP A5.

Council's Recreation Services Unit (RSU) provided the following comment on the revised subdivision layout:

"The key issue of the size of the casual open space to be provided has been resolved. The park size of 2,505m² now meets the minimum required size of 2,500m². Whilst the park still does not meet the criteria for 2 road frontages and is not a sufficient size to allow play equipment, RSU must accept the commercial and space restrictions that force this compromise.

Accordingly, the park size and location is accepted.

The drawings will require amendment prior to issue of construction certificate. Specific amendments include:

- *Street trees are shown on the property side of the footpath rather than road side. TSC standard drawings recommend the road side.*
- *Plantings in the park should have some amendments, including:*
 - *Ficus rubricosa: Please review this species. Our concern is the potential size of the canopy long term and the impact of roots on fences and adjoining properties. These are far too close to the boundary in the current plan.*

- *Also note Dwg 101 'Landscape Plan (park)' indicates 5 Ficus specimens while the plant schedule (Dwg 008) states there are 4. Please check and confirm all plants lists are accurate.*
- *Ensure trees and shrubs are a sufficient distance from the boundary so specimens do not overhang adjoining private property lines. A number of tuckeroos appear to be around 4 metres from the boundary, which is too close. Also shrubs are shown as close as 1metre from the boundary line. We suggest keep all shrub plantings a minimum of 2 metres from the boundary.*
- *These points all refer to the same issue – ensure plants do not overhang the boundary or impact on fences or adjoining properties.*
- *Ensure garden plantings are 500 to 1000mm back from any concrete path to ensure plants do not spread onto the path when mature.*

A more detailed drawing for the streetscape will be required.

Please note all street lighting must be reviewed and approved by the appropriate certifying authority. Indicating them on the landscape plan is very useful and appreciated, however endorsement of the landscape plan does not mean approval of the street light locations.

Dwg 007 (landscape details) indicates decomposed granite is proposed although I cannot see where on the landscape plan. Please do not use this."

A5.4.12 Lot Layout

Table A5-9.4 – Land in Zone 2 (e) Residential Tourist

The proposal complies with the minimum lot size for dwelling houses of 450m². Lot sizes are in the order of 450 – 950m².

All lots comply with the required minimum frontage width of 9 metres except for proposed Lots 42, 43 and 44, which are battleaxe shape. Battle axe blocks would not generally be accepted in this development. However, given that the existing bus route on Casuarina Way blocks access to the three allotments, the proposed battle axe configuration is considered to be acceptable.

The layout proposes access through a Right of Way over Lot 43 to allow access to Lot 42. Generally, Council would only accept the one allotment coming off the battle axe handle. However, an exception was made in this instance, given the applicant's willingness to change the overall layout to meet the minimum park area, which ultimately resulted in the loss on an allotment. The only other way to provide access (without a complete redesign of the lot configuration) would be to include a third battle axe allotment. The proposed development, having only 2 battle axe blocks is considered to be more appropriate.

A11-Public Notification of Development Proposals

The proposed development was notified for a period of 14 days from 28 September 2011 to 13 October 2011, during which twenty nine (29) submissions were received. Issues raised by the submissions are addressed later in this report.

B5-Casuarina Beach

Section B5 of the DCP provides broader planning guidelines and controls for the roll-out of subdivision across Casuarina Beach. Many of the provisions within Section B5 have been implemented in previous subdivision stages and through the Master Plan.

The DCP notes the total population yield from the development of the Management Lots (which are Lots 1- 7 on the court approved Development Plan). The subject site is located within Lot 2 of the original Development Plan, having a total population of 620.

Given that the staged Cotton Beach approval incorporated medium density development on the subject site, the applicant was asked to provide an overall assessment of Lot 2, to determine whether or not the proposed development satisfies the population yield estimate for the locality. The applicant provided the following response:

"Due to the quality of mapping associated with the development plan, it is difficult to determine exactly which land forms part of the original Lot 2. However it appears that the subject site as well as the Cotton Beach development to the south fall within Lot 2. Cotton Beach comprises 18 x 1 bed apartments, 59 x 2 bed apartments, 37 x 3 bed apartments and 15 x 4 bed apartments (total of 289 bedrooms). Based on 2006 census data, the average persons per bedroom in Tweed Heads was 1.1. This equates to a population of approximately 318 within the Cotton Beach development. Based on an average household size of 2.4 (2006 census data for Tweed Heads) the proposed 67-lot subdivision would result in an additional 161 persons. The total population for Cotton Beach and the proposed subdivision is estimated at approximately 479, which is 141 lower than the original predicted population.

The lower population yield is a result of the development within Lot 2 being at a lower density than originally envisaged as part of the master plan. Since preparation of the master plan, there have been changes in demand in the local area, and in particular Casuarina. Growth in the region has slowed and housing demand is now for affordable, lower density single dwellings rather than medium to high density attached dwellings and apartments. The proposed subdivision caters for this demand and provides a range of lot sizes to suit a range of affordabilities. The subject land has been vacant for some time and forms one of the last undeveloped portions of land in the immediate locality. The development of this land is desirable in terms of improving the amenity of the area for existing residents. Other major developments in the area, including Kings Forest, will also assist in catering for future population growth in the LGA.

On this basis, it is considered that the proposed population yield associated with the development is appropriate. The proposed development caters for the demand in the area and provides a mix of lot sizes to cater for a range of affordabilities."

The applicant's assessment of the proposed yield is considered to be acceptable. The proposal is generally consistent with the 1998 Court Consent and the Master Plan and does not contravene provisions within B5.

B9-Tweed Coast Strategy

Section B9 provides a broad overview of major strategic planning issues relevant to the Tweed Coast generally.

The DCP has a requirement for 300 car spaces per kilometre of ocean foreshore for public use, providing beach access for future developments in the area such as Kings Forest etc. This requirement was applied to the staged Cotton Beach approval (which incorporated the subject site). Therefore, no additional public car parking is required for the current application. The Cotton Beach approval required 144 public car spaces, which were constructed along Casuarina Way, Sterculia Court and Dryandras Court. The proposed Road 1 results in the loss of car spaces along Sterculia and Dryandras Courts. However, the applicant has proposed additional public car spaces along Road 1, resulting in a net gain of public parking for the locality.

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.

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

Clause 92(a) Government Coastal Policy

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies of the policy.

Clause 92(b) Applications for demolition

The existing structure on proposed Lot 37 will need to be removed in the future. A condition of consent has been applied in this regard.

Clause 93 Fire Safety Considerations

No buildings are proposed.

Clause 94 Buildings to be upgraded

No buildings are proposed.

(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

Context and Setting

The proposal is considered compatible with the existing density and character of surrounding Casuarina Beach development and coastal communities.

Access, Transport and Traffic

Council's Development Engineer noted the following, with regard to traffic generation:

"No traffic report has been lodged with the application.

The traffic generation rates used in the below table are sourced from the RTA Guide to Generating Developments (2002) which is preferable for trip generation rates.

<i>Dwelling type</i>	<i>Number of dwellings</i>	<i>Daily trip rate per dwelling</i>	<i>Estimate Daily Trips (vpd)</i>
<i>Single dwelling</i>	<i>68</i>	<i>9</i>	<i>612</i>

The development will create an additional 612 vehicle trips per day into the surrounding traffic network. This will impact on the surrounding roads, although will not create a poor level of service on the surrounding traffic network."

Noise Impact

Council's Environmental Health Unit provided the following comment with regard to potential noise impact as a result of traffic noise from the adjoining Tweed Coast Road:

"A Traffic Engineering Assessment CRG, 31 August 2011 has been submitted which considers potential impacts on future dwellings from existing Tweed Coast Road traffic noise and potential impacts from construction activities.

With respect to construction noise Part 6.2 makes a list of recommendations to ameliorate construction noise and Part 5.1.10 of the Statement of Environmental Effects, RPS Australia East, 31 August 2011 states that these measures be taken into account in preparing a Construction Management Plan prior to the commencement of works – condition to be applied.

With respect road traffic noise the report recommends that an acoustic barrier with a maximum height of 1.8m is provided along The Tweed Coast Road frontage. Despite this barrier the report identifies that internal noise levels for first floor construction on lots 59 - 62 and 67 - 68 may not comply and additional noise assessment may be required once building plans are finalised. It is appropriate that appropriate 88B notations be placed on the subject allotments.

No objection to the report recommendations is raised, subject to conditions."

Contamination

Council's Environmental Health Unit has provided the following comments with regard to potential contamination issues:

"The site has been subject to historical sand mining and radioactive residues have been detected along the Tweed Coast generally and within the northern precinct of the Casuarina Beach Subdivision.

Part 4.2 of the SEE states:

'Due to previous sand mining activities in the area, radioactive materials have been previously identified in the Casuarina Beach area. A Pre Development Surface Radiation Survey of the site has been undertaken by Cardno and is provided at Appendix H. The report concludes that the levels recorded do not exceed the Remedial Action Level for any type of occupancy criteria specified by the NSW Department of Health, or the generally accepted action level criteria adopted by Tweed Shire Council.

Although the site is considered suitable for the proposed use further detailed site radiation investigations may be required following any earthworks or excavations'.

Discussion - the following points are noted:

Major bulk earthworks have been completed historically for creation of the Casuarina Beach subdivision (including major earthworks and relocation of bulk materials from east to west on the site to create the Tweed Coast Road – the surface radiation survey submitted with this application is indicative that this work did not uncover any material above background). Major excavations were undertaken for the 'Cotton Beach' development immediately adjacent to the site, which did not uncover any materials of concern.

The subject area is remote from where radioactive materials were detected in the northern precinct and no materials above background levels have been detected in the subject location. This position is well documented - refer to file GS4/96/135 Pt25 A & B ECM doc 18488932 Report on Engineering & Environmental Matters, Cardno, Appendix E Radiation Report North Precinct 17 August 2001). Part 3.0 – "It has been established from former sand mining employees who worked on the site that waste deposits were isolated to the southern portion of the Northern Precinct, which was the location of the dry separation mill". Part 5.2 – "A comprehensive surface assessment was conducted No levels above background were recorded in the Southern and Central Precincts".

Refer ECM doc. 39268211 and Cardno Correspondence dated 14 August 2001 which indicates that after surface radiation monitoring over the entire Casuarina Beach site 'There is no radiation contamination in the South and Central precincts'. With respect to the possibility of materials at depth it is further noted that depth monitoring dated 13 November 2001 to a depth of 4.5m (51 boreholes) was completed and no materials above background levels were detected (ECM doc. 39268211).

Importantly, reference is made to Council's resolution of 21 November 2001 which was made following consideration of data supplied (refer above

examples) to Council regarding radiation investigations in the subdivision. That data indicated that the relevant area is unlikely to be contaminated by radioactive materials, and hence Council resolved not to 'require any further testing of sites' for radioactive materials.

Most recently, a surface radiation survey has been completed of the development area by Cardno dated 4 August 2011 and no surface radiation levels above background (0.2uSv/hr) were identified. The information has been discussed with Mr Rod Barry of Cardno who is the author of the 4 August 2011 information. Rod confirmed that radioactive material is unlikely in the southern precinct (based on historical investigations and information) and that a post earthwork surface survey would be appropriate to cover any remote possibility of materials being disturbed during placement of services etc – this is a conservative approach given Council's resolution of 21 November 2001 and should any material be identified by a post earthwork survey under the current application, then further investigation would be undertaken."

Flora and Fauna

The proposed development incorporated fauna and flora report. Having reviewed the report, Council's Ecologist provided the following comments:

"Both lots (the 'site') are considered highly disturbed due to previous vegetation clearing and earthworks. As a result of previous disturbances, the site is best defined as open grassland, with some scattered immature native trees. The site is regularly slashed to control weed growth. Council's GIS mapping system identifies the vegetation of the site as Highly Modified/Disturbed.

Vegetation clearing is unlikely to significantly impact upon habitats due to the disturbed nature of the site. Four (4) species of native flora proposed for removal, with the remainder of the identified species being exotic. Native species will be incorporated into the landscaping of the open space area and streetscaping thus contributing to an increase in habitat value.

*The species selected for landscaping within the open space allotment is deficient of native species. Several hybrid species have been selected; these are to be replaced with local native species as per Council's general landscaping condition of 80% local native and 20% non-native. In addition, streetscaping incorporating *Cupaniopsis laurina* is proposed. It is believed that this species has been incorrectly referred to and clarification regarding the specific species is required."*

All proposed landscaping is to be located within the existing / proposed road reserves, which will ultimately be under control of Council's Recreational Services Unit. As a result of additional information required by the Recreation Services Unit, the proposed landscaping plans were revised and plant species amended appropriately. The proposed development is supported by the Recreation Services Unit, subject to conditions of consent.

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.

The original subdivision design required amendment as it created two dead end mains albeit with cul-de-sac loops. The proposed Drawing DAC040 showed three new dead end mains including one on each side of Road 03 and shows no cul-de-sac loops. It also shows a reticulation main on both sides of Road 01. Council's Water Unit required that...*'a main only on one side of the streets and services crossing the road to the other side and rather than providing cul-de-sac loops, the opportunity to link the mains in Road 02 and Road 03 along Tweed Coast Road was noted to the applicant. This was the preferred outcome of Council as it removes dead end flushing requirements'*.

The subdivision layout was amended, deleting one of three roads, with Road 2 containing a cul-de-sac. The water reticulation detail shows a main located up each side of the road to provide service to the proposed allotments located either side of the road.

Council's Senior Water & Sewer Engineer provided the following comment:

"Sewer – The proposed revision resolves the issue in relation to connection through an established property over which Council does not have an easement.

Water – The revised layout removes the opportunity to provide a link main between two cul-de-sacs as I had requested. Accordingly, the water main in Road 03 should revert to Council's normal standard of a single main on one footpath with a cul-de-sac loop arranged in accordance with standard drawing SD 301 "Water Reticulation Layout Cul-de-Sacs."

Drawing DAC040 (Issue D) shows new dead end mains, one on each side of Road 03 and shows no cul-de-sac loop. It also shows a reticulation main on both sides of road 01.

Normal design would have only one reticulation main on one side of a suburban street with water services crossing the street to provide services to the other side.

It is required that there be a main only on one side of the streets and services crossing the road to the other side as shown in SD 302 "Property Services Layout DN 50 or Smaller". SD 320 "Property Service Connections to Mains" is also relevant to this development.

Given that the through road of greater significance and that it already exists, the additional main on the eastern side of Casuarina Way may be acceptable in this instance.

Whilst the detail can be sorted out at Construction Certificate stage, the difference in the preliminary designs to that which we would normally approve should be noted to avoid any implication that the non-standard layout has been approved."

Effluent Disposal

Council's piped effluent disposal infrastructure is available within the area. Recommended conditions of consent shall require the applicant to provide a service in accordance with Council's standards.

Please note the following comments from Council's Senior Water & Sewer Engineer:

"The drawings however do show on DAC010, DAC011 and DAC012 an indicative sewer layout. A small problem presents itself on DAC010 in that the connection to the existing sewerage system to the south is within private property over which Council has no easement and the existing sewer stops just inside the southern boundary. This particular connection would require a sewer to be built across the lot to the northern boundary and the layout plan indicates that two new manholes would also be constructed within that property. This property (Lot 28 DP 1027531) has a house with landscaping on it. To use this connection, the proponent would have to provide owners consent and obtain an easement over the sewer in that property. Council does not use its powers of entry under the Local Government Act to facilitate access for a developer in such circumstances."

The sewer design was amended in resubmitted engineering plans titled 'Service co-ordination plan' prepared by AT & L dated 17 January 2012. The sewer connection for Road 2 to the north of the subdivision is now proposing to connect into an existing sewer on Lot 6 DP 1083567 which has an easement for sewer for connection.

(c) Suitability of the site for the development

The property is 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 application was notified and advertised from Wednesday 28 September 2011 to Thursday 13 October 2011.

During this time, twenty nine (29) submissions were received objecting to the proposal. Issues raised in the submissions are outlined in the table below, including an officer response to the issues.

Objection	Response
Concern over lack of streetscaping along Sterculia Court, to enhance street appeal and deliver some privacy for the already established community (Cotton Beach)	Although little opportunity exists for street plantings, given that Sterculia Court is already constructed and incorporates mainly public carparking, the applicant has amended the plans to include street plantings within the road reserve where possible. These plantings will require final approval from Council's Recreation Services Unit prior to the commencement of works.
Concern over the proposed development (houses, town houses or apartment blocks) and how many stories.	The proposed development is for low density residential development (houses). No dwellings are proposed in this application. All new dwellings will be subject to future applications. The subject site has a three storey height limit, and any future development application would need to comply with the provisions of Council's DCP A1 – Residential Development.

Objection	Response
The development needs to have the same look and feel as the rest of Casuarina.	Although it is acknowledged that the configuration of the proposed development is somewhat different to other areas of Casuarina, it is considered to be an efficient and logical lot layout. The regular shaped blocks will provide future residents with ample opportunity to build compliant dwellings, as opposed to irregular shaped blocks resulting in variations to Council's DCP A1.
The proposal doesn't incorporate enough green spaces, trees (especially along Casuarina Way). Only native and preferably locally native trees should be planted	In terms of open space, the proposal meets the minimum area for the local park proposed along Casuarina Way. The landscaping design has been amended to incorporate additional street trees, of which the species must be in accordance with Council's requirements.
No walkways that cut to the beach	Access to the beach is already available via Sterculia and Dryandras Courts – it is not considered necessary to provide additional beach access points through the development, which would likely impact negatively on the existing 7(f) zone.
The streets are very straight, non-creative and encourage speeding	The proposed subdivision layout incorporates traffic calming devices and pavement treatment. The applicant also notes that the on-street public car parking along Casuarina Way and the new Road 1 will also assist in deterring speeding.
Street layout and tightly clustered blocks (many only 500sqm) is in contrast to the overall design of the entire Casuarina development. Lots are too small.	The street layout (grid pattern) is considered to be an acceptable/standard lot layout for residential subdivisions. Other precincts within Casuarina generally have cul-de-sacs which can result in irregular shaped lots. Regular shaped blocks are considered to be more acceptable in terms of ensuring a future dwelling can be designed to comply with all of Council's residential controls.
Masterplan Waiver is an insult	As noted by the applicant, it appears that the submitter has misinterpreted the difference between a master plan between SEPP71 (which is the case in this instance) and the Casuarina Beach Master Plan which is a different document. The waiver is a statutory requirement for subdivision proposals greater than 25 lots in sensitive coastal areas.
Is car parking and open space compliant?	Public car parking provisions are compliant, with 5 additional car parks proposed. A revised layout has resulted in a compliant proposal in terms of open space requirements.

Objection	Response
The house blocks along the beachfront will have no direct access to the boardwalk.	Individual access to the boardwalk may present security issues. Access points to the boardwalk / foreshore area should be limited in order to prevent unnecessary damage to the 7(f) zone.
The numerous small blocks and lack of beach access will cause car parking issues and will funnel foot traffic to Sterculia Court and Dryandras Court.	The size of the allotments are compliant with Council's requirements. Previous approvals have set the beach access points. Additional access points are not considered necessary. Sterculia and Dryandras Courts were designed to funnel pedestrian and vehicular traffic to limited access points to the foreshore. Residents within the proposal are within walking distance to the foreshore and should not impact on the public car parking provisions.

Department of Planning

As noted above, 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.
2. Refuse the development application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the option to appeal the matter in the NSW Land and Environment Court, should they be dissatisfied with Council's resolution.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments, the Tweed Development Control Plan and policies. The proposal will not result in adverse cumulative impacts. It is therefore considered the site suitable for the development and warrants approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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13 [PR-CM] Composting Toilets

ORIGIN:

Building and Environmental Health

SUMMARY OF REPORT:

At its meeting of 24 January 2012, Council resolved to support the following Notice of Motion put forward by Councillor Milne:

"That Council brings forward a report on whether encouraging composting toilets would be appropriate for this Shire in the rural or urban environment, and if so, ways to encourage this and include in Council policies."

This report provides relevant advice on the practice of composting toilets and their regulatory requirements.

Based on the practical experience of Council officers who have regularly dealt with composting toilet issues in recent years, it is concluded that encouraging the use of such system would be difficult to sustain, and that personal choice should be the determining factor for the installation these types of installations, rather than any mandatory Council policy.

RECOMMENDATION:

That the report on Composting Toilets be received and noted.

REPORT:

Waterless composting toilets, also known as humus closets or biological toilets are waterless systems which rely on the principals of composting by micro-organisms to decompose human waste, paper and other materials into matter known as humus.

Systems are either continuous or batch type. Continuous systems contain a single chamber; whilst batch systems contain several bins with rotation occurring after each bin is filled. In both systems the required chamber or bins are installed below the floor and therefore may require a purpose built structure to house the unit.

As composting toilets are waterless it should be noted that that they do not treat wastewater from other sources such as hand basins, showers, laundries and kitchen sinks. The grey water from these fixtures therefore needs to be managed separately and requires an alternative type of system which obviously makes installation costs a key consideration if proposing these types of systems.

Currently the market has a number of waterless composting toilet systems available however the principals for each are basically the same. To explain the basic principal of these systems, excreta (both urine and faeces) is deposited directly down a chute through an opening to a sealed and vented chamber beneath the pedestal. As there is a direct connection to the chamber, i.e. no flushing system or water seal, it is necessary that a lid be in place to control fly breeding when the closet is not in use. The deposited material is usually detained on a graded base or screen which allows excess moisture to pass through and be collected below. Extra organic matter such as straw, wood shavings, paper or lawn clippings are added to create and improve the composting environment. Micro-organisms decompose the material, with around three quarters of it being converted to carbon dioxide and water vapour. Air drawn through the pile removes these gases and assists the micro-organisms which gradually break down the material into humus. As the base of the waste converts to compost or humus this material is removed through a separate hatch or doorway in the chamber and is typically buried on site. The minimum recommended depth of burial and soil cover is 100mm.

The time taken for the breakdown of these materials varies and is dependent on moisture, air and temperature. Too much moisture can result in odour production and therefore a mechanism may need to be installed to evaporate excess moisture. A ventilation pipe must also be installed and excess moisture may need to be drained to a treatment system or land application area. Some commercially available systems may also incorporate a urine diversion system which can be plumbed separately into the household drainage system or other approved disposal system

Waterless composting toilets fall into the category of an on-site sewage management system (OSSMS). In New South Wales there is legislation and guidelines that stipulate that an OSSMS must be designed, operated and maintained in a manner that will:

- Prevent public health risk;
- Prevent environmental damage (particularly to land, soil, groundwater and surface waters);
- Protects community amenity (e.g. nuisances such as bad odours); and
- Work well into the future.

All commercially available systems must be accredited by NSW Health and are subject to conditions of accreditation which apply to each installation and covers installation, commissioning, maintenance and on-going management.

Also contained in the legislation is a requirement for Councils to manage the cumulative impact of sewage pollution in their local government area, which includes approving the installation and operation of OSSMS's and the ongoing auditing of these systems.

In 1998 the New South Wales Government made some amendments to the Local Government Act making it an obligation for Councils to better supervise the operation and installation of OSSMS's and to ensure that property owners take greater responsibility for maintaining their system. These changes require that once a system has been installed on a property the owner of that property must apply to Council for an approval to operate the system. This requirement for an approval to operate also applies for existing systems where a property with an existing on-site sewage management system is sold to new owner/s or the approval to operate has expired. In these cases the owner must apply to Council for an approval to operate. This approval allows Council to maintain a register of systems throughout the shire together with details of the owners of those systems and the approval ensures that property owners are aware of their responsibility to efficiently operate and maintain their system in accordance with the conditions of approval.

A check of Councils records identifies that there are approximately 4900 OSSMS's systems currently registered and that a low percentage of these include waterless composting systems. As indicated above the Local Government Act gives Council the responsibility to monitor all systems to ensure that they meet standards. Any waterless composting toilet installed, irrespective of the system being located in an area having reticulated sewer available, would need to be registered and therefore would fall into Councils auditing regime. Composting systems require individual approval, require an approval to operate and require an annual fee to enable resourcing for Council undertake these functions.

Typically the maintenance of a waterless composting system is the responsibility of the owner or occupier and is not normally subject to a maintenance contract. **The owner or occupier must therefore be committed to the principles of composting.** Maintenance requirements vary among waterless composting toilets, and the maintenance requirements are usually specified in the operational manual required to be supplied with the system. The manual would normally cover all the aspects of efficient humus production and would include information such as:

- How to control of excessive moisture production in the waterless composting toilet vessel
- Procedures to ensure that the deposited material is spread evenly over the base of the waterless composting toilet,
- Cleaning procedures (e.g. minimal use of water and disinfectants on pedestal)
- Procedures for removal and disposal of compost
- Procedures to eliminate the production of odours
- Procedures to ensure that material does not block the base of the chute.

Service Requirements

Service requirements are mainly those recommended by the manufacturer and the replacement of defective parts such as fans or heating elements if they are fitted.

Compost Management

Composted humus should be removed by the occupier or a contractor for management only after the minimum composting period has elapsed. Composted humus should be removed only through the access door (where provided) or from the humus storage tray, and it may be applied only to land within the boundaries of the premises unless the written approval of the local council has been obtained for an alternative method.

The composted humus from the humus closet must not be applied to land directly in an area used for the production of root crops for human consumption. The compost should be buried under clean friable soil in a level area not subject to erosion or inundation, and at a minimum depth of 100mm below finished ground level.

After 3 months' maturation below ground level **or** maturation in a separate lidded compost bin providing aeration and without further addition, the composted humus may be used in the garden, but not for the production of crops that are consumed raw.

Advantages of Waterless Composting Toilets

- Conserves water
- Can handle a shock loading
- Can be installed in adverse site conditions
- Reduces solids carryover to the land application system
- Recycles nutrients

Disadvantages

- High capital costs
- Some energy consumption if fan and/or heater installed
- Handling of waste is required
- Does not function well in cold temperatures
- Grey water has to be managed separately
- Moderate to high maintenance required
- Aesthetically unappealing to some people
- May require a purpose-built structure to house unit
- Requires a persistent commitment to composting principles
- Additional Council approvals required
- Annual fee for management and auditing of the OSSMS required

Given the above, waterless composting toilets are a viable option in unsewered areas, particularly where reticulated water is not available or water supply is restricted. Furthermore these types of systems can be used for difficult sites including smaller allotments where difficulties may be encountered in trying to obtain the required suitable area needed for a land application and disposal of liquid effluent.

While composting systems are permissible in both sewerred and unsewerred areas, the owner or occupier must be committed to the ongoing maintenance of the system to ensure its satisfactory operation and reduce the possibility of odours and the generation of complaints particularly in built up areas. Owners should also maintain service records including the date of the last time humus material was removed from the composting chamber. Problems that may arise in sewerred areas would be small allotment sizes for the installation and or disposal of humus and the possibility of odours affecting neighbouring properties due to the limited site areas and setbacks. In an area where reticulated sewer is available the additional time required to ensure the satisfactory operation, particularly given today's busy lifestyles, means that personal choice will usually be for a system requiring the minimum amount of work. In addition to the time needed maintain these systems there are associated costs for the upkeep of such systems including the recommended annual servicing of commercially available systems and therefore unless site conditions require the installation of a waterless composting toilet it is considered that encouraging the use of such system would be difficult to sustain and that personal choice should be the determining factor for the installation these types of installations, rather than introducing and mandatory Council policy.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

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14 [PR-CM] Calls for Expressions of Interest to Operate Markets - Kingscliff, Pottsville, Knox Park Murwillumbah and Tweed Heads Recreation Ground

ORIGIN:

Building & Environmental Health Unit

SUMMARY OF REPORT:

The current approvals to conduct the markets at Kingscliff, Tweed Heads Recreation Ground, Knox Park Murwillumbah and Pottsville expire on 30 June 2012.

Council has previously called for expressions of interest from the community to determine the most suitable operator. Given the impending expiry date it is appropriate that expressions of interest now be sought, should Council wish for the market operation to continue.

A separate report will also be put to the Tweed Coast Reserve Trust on this matter.

RECOMMENDATION:

That Council, subject to endorsement by the Tweed Coast Reserve Trust, calls for expressions of interest from any person or group who wishes to be considered as a candidate to operate the Kingscliff, Tweed Heads Recreation Ground, Knox Park Murwillumbah and Pottsville markets from 1 July 2012 for a period of three years.

REPORT:

A report will be also be submitted to the Tweed Coast Reserve Trust regarding this matter.

The current approvals to conduct the markets at Kingscliff, Tweed Heads Recreation Ground, Knox Park Murwillumbah and Pottsville expire on 30 June 2012.

In 2009 when the existing approvals were due to expire, Council called for expressions of interest from the community to determine the most suitable operator. Should Council wish for the market operation to continue it is appropriate that expressions of interest now be called.

Traditionally approvals have been granted for a 3 year period.

The following options in relation to renewal of market approvals have been identified:

Issue No Further Approval for any Markets

Officers Comment

The markets are an attraction to visitors and residents and provide income sources to the operators and numerous stall holders involved.

Council to Operate and Administer the Markets

Officers Comment

It is most likely that additional staffing resources would be necessary to achieve internal management of markets. It is unclear if income would totally fund this staffing. This is not necessarily a function which Council is seeking to perform and it can be performed adequately by private or community based service organisations.

Call for Expressions of Interest to Operate the Markets

Officers Comment

By opening up market management to competition (through calling expressions of interest), improvements in operation may be achieved as well as increased income to Council through competitive submissions. It is also possible that 'worthy' community organisations could successfully operate the markets, leading to income for those organisations. Three of the markets are currently operated by the Lions Club of Kingscliff, Pottsville Beach Neighbourhood Centre and the Police and Community Youth Clubs NSW.

Approve the Existing Operators with a New Approval

Officers Comment

The existing market managers of the Kingscliff, Pottsville, Knox Park Murwillumbah and Tweed Heads Recreation Ground Markets may seek to have their existing approvals to operate the Markets extended. However, it is appropriate that Council seek, through public expressions of interest, the most appropriate person or group to manage the Markets, rather than simply continuing to renew approvals with the existing managers. It may well be that following this process the existing managers are the successful applicants.

This type of competitive process may result in improvements in terms of payments to Council for use of the respective areas for markets, and also ensuring that the best possible management practices are adopted.

General

The existing managers pay to Council between 15% to 25% of total income from stall fees. In calling for expressions of interest a successful applicant may be willing to pay to Council a higher percentage or make an additional regular donation to a charitable group such as the local surf club. A charitable group may actually seek to manage the markets, receiving the resulting income.

The criteria on which expressions of interest are likely to be assessed are:

- Suitable experience in market operations or management of like community activities
- Demonstrated business operation skills
- Willingness to comply with Council policies (particularly regarding restrictions over the sale of food)
- Financial return to Council
- Possible benefits to community based organisations
- Submissions which provide details of proposed improvements to Market operation

Conclusion

It is appropriate that Council call for expressions of interest to operate the markets prior to determining the successful operators, rather than simply renewing with the existing managers. This will permit the most advantageous submission and resulting improvements to be identified. The outcome of this process will be reported to Council for determination.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

15 [PR-CM] Release of Restriction on Use - Seaside City Kingscliff

ORIGIN:

Design

FILE NO: DA08/0755 Pt8

SUMMARY OF REPORT:

The developer of Seaside City has requested the release of a Restriction on Use of Land relating to a requirement for noise attenuation measures to be incorporated into all dwelling house designs to be constructed on the burdened parcels.

An acoustic report was submitted to, and approved by Council officers who are satisfied that the Restriction is no longer required and recommends that the Restriction on Use be removed from the burdened parcels.

Tweed Shire Council is empowered to vary release or modify the subject Restriction and it is recommended that Council approve its release and resolve to execute all necessary documentation under the Common Seal of Council to enable the Restriction to be removed from the affected parcels.

RECOMMENDATION:

That:

- 1. Council approves the release of Restriction on Use seventhly created in DP 1162588 burdening Lots 301-326, 328-337, 339 and 412 in DP 1162588 and Lots 138-143, 145-151, 153-160 and 162-169 in DP1145386; and**
- 2. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

The developer of Seaside City has requested the release of a Restriction on Use of Land relating to a requirement for noise attenuation measures to be incorporated into all dwelling house designs to be constructed on the burdened parcels.

An additional acoustic report was submitted to, and approved by Council officers who are satisfied that the Restriction is no longer required and recommends that the Restriction on Use be removed from the burdened parcels.

An acoustic assessment was prepared for the development in August 2007 which indicated that road traffic noise levels would have an unacceptable impact on dwellings located along Casuarina Way. As a consequence a restriction to user was registered on the title requiring noise attenuation measures to be incorporated into all dwelling to be constructed on the burdened parcels.

Additional acoustic monitoring was subsequently undertaken during the period 13 July to 22 July 2011 and an independent acoustic assessment submitted to Council titled 'Seaside City Development, Kingscliff Acoustic Traffic Noise Assessment' prepared by Renzo Tonin and Assoc and dated 7 December 2011.

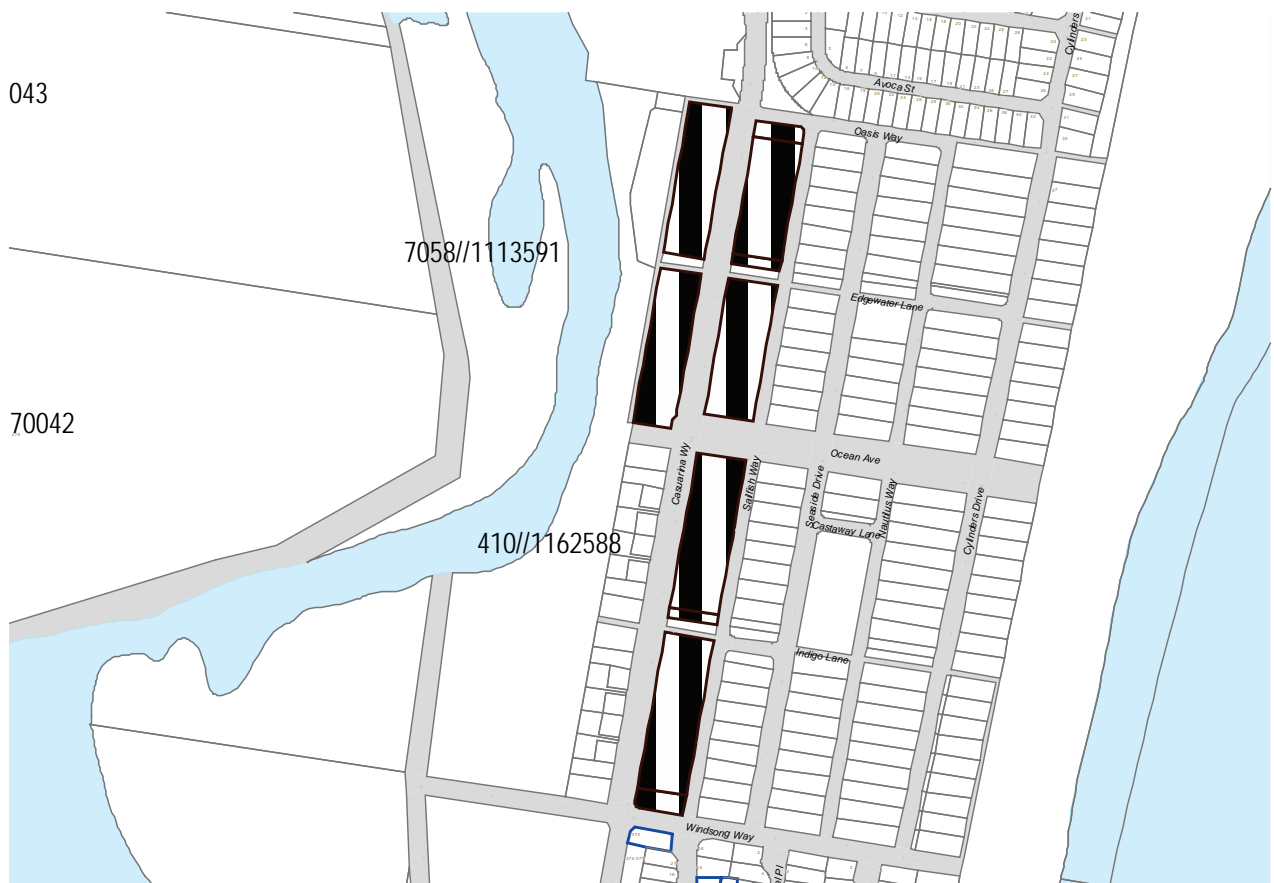
The new site monitoring results indicated that:

1. Noise levels at the worst affected building facades of the Seaside City development along Casuarina Way, Kingscliff comply with the nominated external traffic noise criteria as determined in accordance with the ECRTN (Environmental Criteria for Road Traffic Noise).
2. With respect to internal noise, the Assessment indicates that construction forms provided in Appendix B ('Standard Construction' – eg. clad timber frame, brick veneer, double brick) will achieve the minimum recommended acoustic ratings for building elements to meet the internal noise criteria as determined in accordance with the ECRTN and AS2107:2000.

The Acoustic assessment recommendations were discussed with the author, Rebecca Corbett of Renzo Tonin and Assoc wherein she advised that on site monitoring and reporting indicate that 'standard forms' of construction will achieve complying internal noise levels.

It now appears that the actual noise levels recorded on site are less than those projected in the original August 2007 assessment.

The parcels burdened by the Restriction are located on either side of Casuarina Way within the Seaside City development, and are hatched below:



Tweed Shire Council is empowered to vary release or modify the subject Restriction and it is recommended that Council approve its release and resolve to execute all necessary documentation under the Common Seal of Council to enable the Restriction to be removed from the affected parcels.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council was empowered to vary, release and modify the Restriction on Use seventhly created in DP 1162588 and DP 1145386.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any **"non confidential"** attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Acoustic Traffic Noise Assessment dated 7 December 2011 (ECM 47315282)

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16 [PR-CM] Development Application DA11/0443 for a General Store at Lot 7 DP 790073; No. 440 Kyogle Road, Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA11/0443 Pt1

SUMMARY OF REPORT:

The subject application proposes a general store.

The application has been reported to Council following a call up request from Councillor Youngblutt.

The proposal consists of a 3m by 5m shed with maximum height of 3.1m and access via single tilter door. The shed will include a simple internal fitout comprising display tables.

The proposed shed and associated car parking are to be located within the southernmost corner of the development site on an existing cleared portion adjacent to the existing site driveway. The shed is to be setback 3m from the Kyogle Road frontage.

The subject site adjoins Kyogle Road, Murwillumbah, and is within a 100km/hour speed zone.

It is considered that the proposal will create a minimal impact upon the immediate locality, and is therefore recommended for approval, subject to various conditions.

RECOMMENDATION:

That Development Application DA11/0443 for a general store at Lot 7 DP 790073; No. 440 Kyogle Road, Murwillumbah 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 1 of 2 and 2 of 2 prepared by Planit Consulting and dated August 2011, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0115]

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

[GEN0135]

4. Any wastewater shall be collected and disposed to the satisfaction of the General Manger or his delegate. Wastewater shall not be permitted to enter or discharge to any watercourse or stormwater.
5. A permanent water supply shall be provided with convenient access to hand washing facilities to the satisfaction of the General Manager or his delegate. Hand washing facilities shall be provided with antibacterial hand wash and single use clean hand towels at all times.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. The developer shall provide (One) 1 parking spaces including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to Tweed Shire Council and approved by the General Manager or his delegate prior to the issue of a construction certificate.

[PCC0065]

7. **Section 94 Contributions**

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction 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:**

25.2 Trips @ \$1317 per Trips **\$33,188**

(\$1317 base rate + \$0 indexation)

S94 Plan No. 4

Sector9_4

**(b) Extensions to Council Administration Offices
& Technical Support Facilities**

0.2167 ET @ \$1772.82 per ET \$384.17

(\$1759.9 base rate + \$12.92 indexation)

S94 Plan No. 18

[PCC0215/PSC0175]

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 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]

10. 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]

11. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

(a) Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work:

(i) Bitumen sealing of the existing accesses from the road carriageway to the property boundary as per Tweed Shire Councils road works standard S.D.017.

(b) Demonstrate that delivery vehicles are able to enter and exit in a forward direction.

(c) A basic right (BAR) turn treatment is required to service the 100kmh speed limit as per Figure 7.5 of Austroads - Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections. The right hand turn treatment is required to have a shoulder and is to be sealed.

- (d) A basic left (BAL) turn treatment is required to service the 100kmh speed limit as per Figure 8.2 of Austroads - Guide to Road Design – Part 4A: Unsignalised and Signalised Intersections. The left hand turn treatment is required to have a shoulder and is to be sealed.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

12. An application shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage, on site sewerage management system or drainage works including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works, prior to the issue of a construction certificate.

[PCC1195]

PRIOR TO COMMENCEMENT OF WORK

13. 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]

14. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

15. 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]

16. 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]

17. 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]

18. 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.

[PCW0985]

DURING CONSTRUCTION

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

[DUR0005]

20. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

21. 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]

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

[DUR0375]

23. 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]

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

[DUR0815]

25. 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]

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

[DUR0995]

27. 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]

28. 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]
29. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.
[DUR1605]
30. 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]
31. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.
[DUR1845]
32. 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 Council's Development Design and Construction Specifications prior to any use or occupation of the buildings.
[DUR1875]
33. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Council's Engineering and Operations Division to arrange a suitable inspection.
[DUR1925]
34. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.
[DUR2205]
35. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.
[DUR2625]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

36. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.
[POC0005]

37. 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]

38. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

39. The proprietor of the food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations by completing the "Notify a Food Business" form under the NAFSIS Heading on the following website www.foodnotify.nsw.gov.au or alternatively by contacting the NSW Food Authority on 1300650124.

[POC0625]

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

[POC0745]

41. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils Development Design and Construction Specifications.

[POC0755]

42. Prior to the issue of an Occupation Certificate, a certificate of practical completion shall be obtained from Council's General Manager or his delegate for all works required under Section 68 of the Local Government Act.

[POCNS01]

43. 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]

44. Hours of operation of the business are restricted to the following hours:

- * 8.00am to 11.00am and 2.30pm to 5.30pm - Mondays to Saturdays**
- * 8.00am to 5.30pm Public Holidays**
- * No operations are to be carried out on Sundays**

[USE0185]

45. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and any other requirements of Councils Environmental health Officer included in this approval to the satisfaction of the General Manager or his delegate.

[USE0835]

46. The premises shall be maintained in a clean and tidy manner.

[USE0965]

47. The premise shall be utilised for the sale of whole fruit and vegetables only to the satisfaction of the General Manager or his delegate. Food processing, or handling of potentially hazardous food, is not permitted.
48. The storage of food is not permitted unless the structure is made vermin proof to the satisfaction of the General Manager or his delegate.

[USENS01]

REPORT:

Applicant: Dr I Kettle and Ms M Stephens
Owner: Mr Ian H Kettle & Ms Michele E Stephens
Location: Lot 7 DP 790073; No. 440 Kyogle Road, Murwillumbah
Zoning: 2(c) Urban Expansion
Cost: \$18,000

BACKGROUND:

The subject application has been lodged following compliance action. In August 2011 Council's Compliance Officer advised on of the owners of the site to cease selling produce (that was grown on the site) from the back of a truck as the selling of produce constituted a "roadside stall" which needed development approval (if the produce is grown on site).

Accordingly the applicant has lodged the subject application for the construction of a general store (not a roadside stall as advised during the compliance matter as the produce is not grown on site) and associated car parking for the sale of locally grown produce.

The proposal consists of a 3m by 5m shed with maximum height of 3.1m and access via single tilter door. The shed will include a simple internal fitout comprising display tables.

The proposed shed and associated car parking are to be located within the southernmost corner of the development site on an existing cleared portion adjacent to the existing site driveway. The shed is to be setback 3m from the Kyogle Road frontage.

The proposed general store is to have limited operating hours and will be operated by a single person. The store will be serviced by 'family staffing' and generally by the occupant of the site.

The proposed hours of operation are split over the day for a short period in the morning and a short period in the afternoon, proposed hours are as follows:

Non Holiday Period

Mon – Sat - 8.00am – 11.00am & 2.30 – 5.30pm

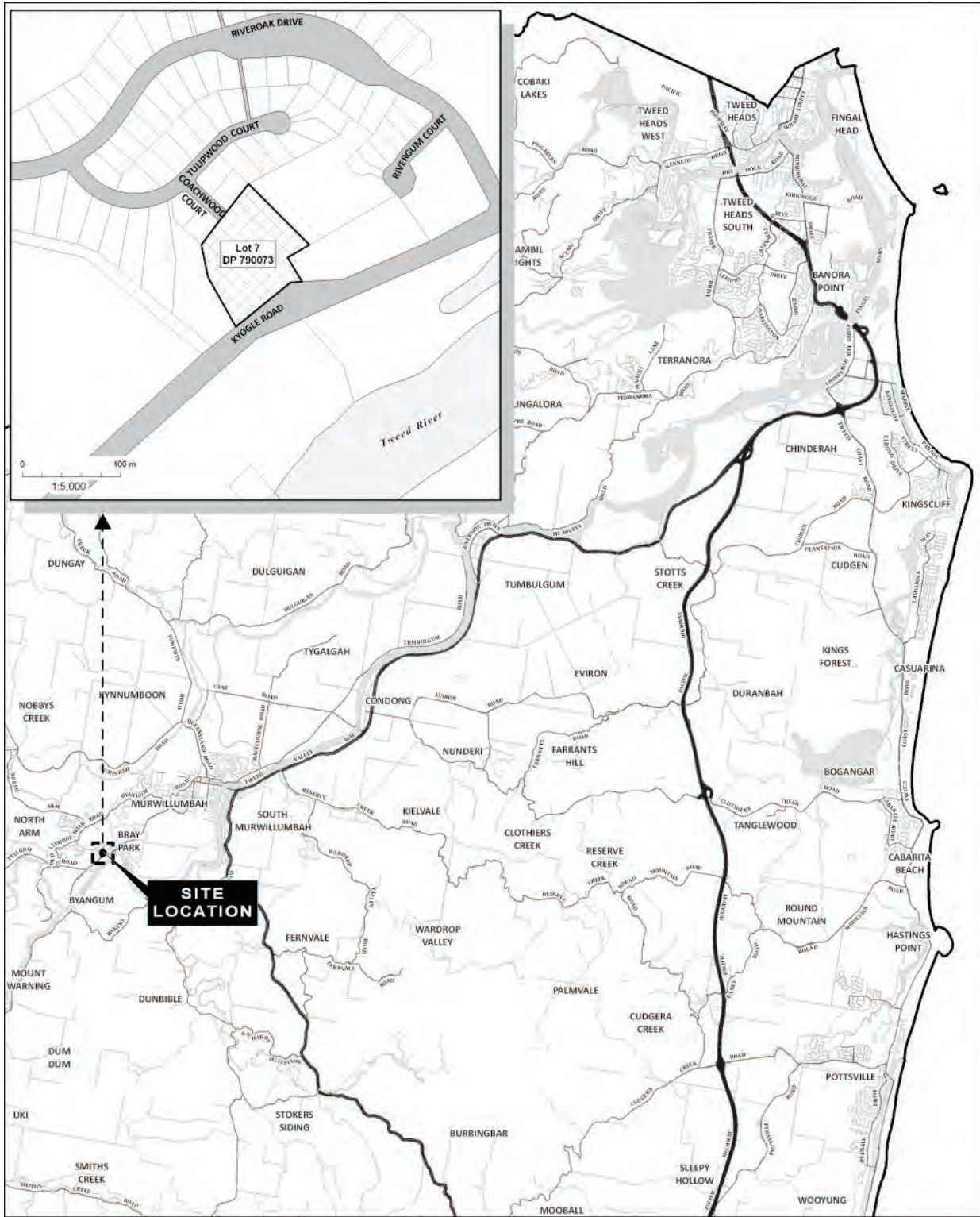
Sun - Closed

Holiday Periods

Mon – Sun - 8.00am – 5.30pm

One pole sign is proposed as part of the application. The sign will have an advertising area of 2m² with 1m by 1m panels on each side. The sign will have a maximum height of 2.5m above ground.

SITE DIAGRAM:



Locality Plan

Lot 7 DP 790073
No. 440 Kyogle Road, Murwillumbah

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Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geoidetic Datum of Australia 1994
 Grid: Map Grid of Australia, Zone 55

Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484

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 E | planning@tweed.nsw.gov.au

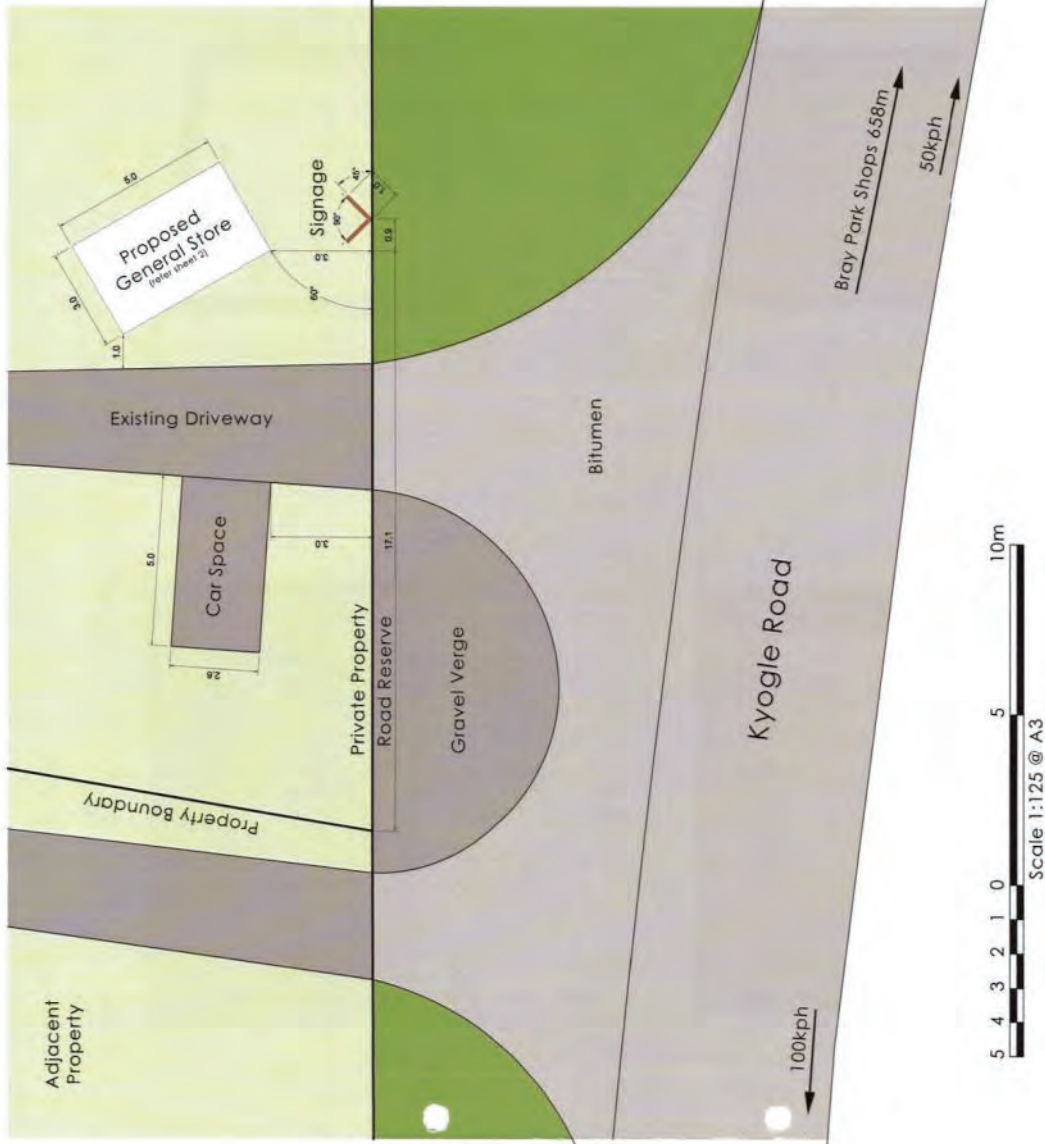
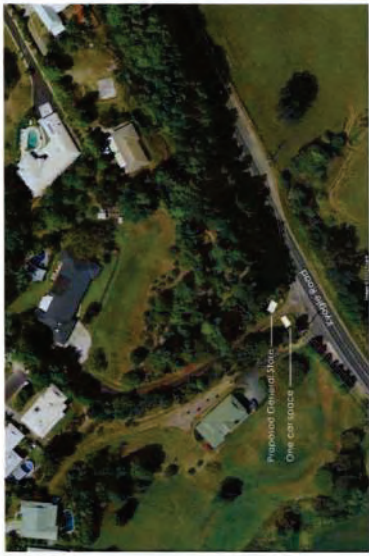


Map File: Z:\SRFP\STAT\RD\TPE\PLANS\BA\DP\790073\LocalityPlan007_440.rvt

Author: Brian Kelly - Planning Services Dept

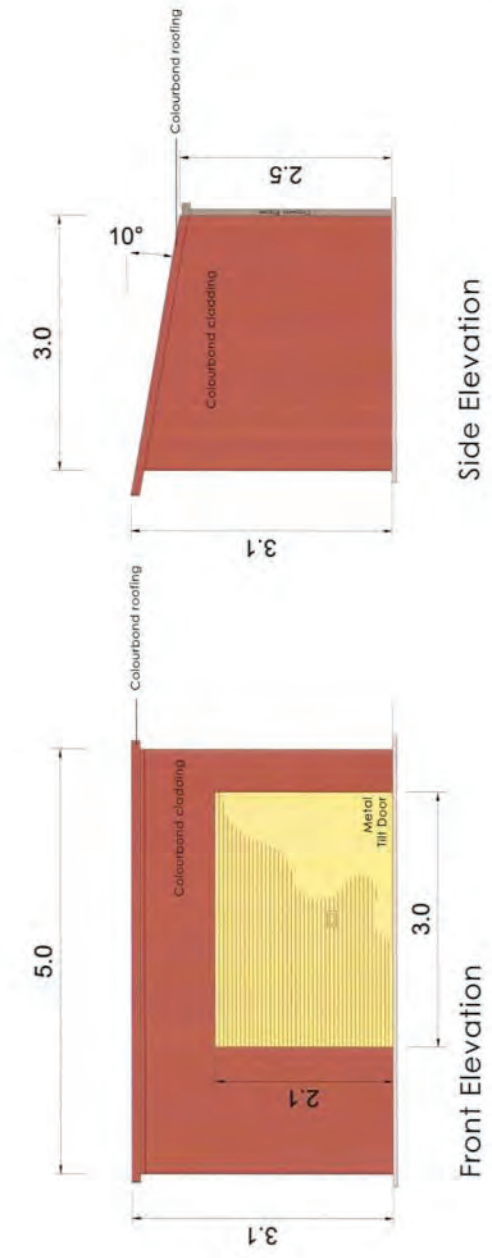
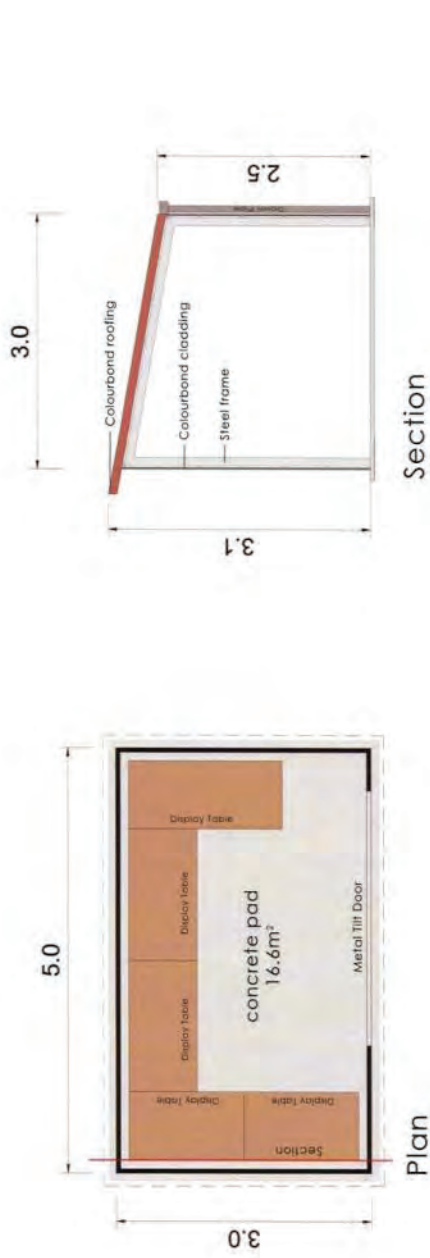
Date: 04/03/2012 10:51:34 AM

DEVELOPMENT PLANS:



Scale: 1:125 Date: AUGUST 2011

440 KYOGLE ROAD - SITE PLAN
MURWILLUMBAH NSW



440 KYOGLE ROAD - Indicative General Store
 MURWILLUMBAH NSW

Scale: 1:50 Date: AUGUST 2011

2 of 2

PLANT CONSULTING
 10/11-12/13 Coal Street
 Murwillumbah NSW 2457
 PO Box 256 Murwillumbah NSW 2457
 www.plantconsulting.com.au

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 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 to be consistent with the above, as it is not considered likely to result in a reduction of residential amenity for nearby residential properties.

Clause 5 - Ecologically Sustainable Development

The TLEP 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*.

Broadly, the subject proposal is considered consistent with the above criteria, as the addition of a small general store to the existing residential allotment is not likely to have significant ramifications for ecologically sustainable development.

Clause 8 - Consent Consideration

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

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

In this instance, the subject site is zoned 2 (c) Urban Expansion, the primary objective of which is to *identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its optimum utilisation consistent with environmental constraints and the need to minimise residential landtake.*

The proposed general store is considered consistent with the primary objective of the zone. The proposed development is for a general store to be located on a residential piece of land. The land will continue to have a dwelling on it and as such increases the utilisation of the allotment.

Clause 11 - Zone Objectives

The subject site is located within the 2 (c) Urban Expansion zone. Within the 2(c) zoned land a 'General Store' as defined in the Tweed LEP is allowed only with consent. The primary objective of that zone and consistency of the proposal with that objective has been outlined above.

The secondary objective encourages non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents. The proposal provides for a commercial development which will create employment.

It is submitted that the proposal, being a form of residential and commercial development complies with the relevant zone objectives.

Clause 15 - Essential Services

The proposed development has services available to the site. The general store would be required to provide a permanent water supply which has been conditioned.

Clause 16 - Height of Building

The proposed development has a height of 3.1m which is below the 3 storey height limit. It therefore complies with this clause.

Clause 17 - Social Impact Assessment

The internal proposed development does not generate a significant social or economic impact. As such, a socio-economic impact statement is not necessary in this case.

Clause 22 - Designated Roads

The subject site has direct frontage to Kyogle Road which is mapped as a designated road. The proposed development is seen as the type of development has been conditioned to provide adequate stopping and turning bays as the proposed road has a speed limit of 100km/h.

Clause 34 - Flooding

The site is classified as flood prone land by Council's Design Flood mapping and therefore this clause applies. The proposed development seeks consent to construct a small simple shed and car parking space. The structures proposed are not a type of development that would create any greater flood risk to the site or its surrounds. Therefore the proposal is deemed compliant with all aspects of this clause.

Clause 35 - Acid Sulfate Soils

The subject site contains Class 5 Acid Sulfate Soils. However, no works involve excavation or disturbance of soils. As such, this Clause is satisfied.

Clause 39 - Remediation of Land

The site has been used for residential purposes since its subdivision. No uses have been undertaken on the site that would introduce potential contamination issues. The proposed development is deemed fully compliant with this clause.

Clause 39A - Bushfire Protection

The proposal is for a small general store and is not a use or structure which is vulnerable to bushfire attack nor is it one listed as a special fire protection purpose under S100B of the Rural Fire Act 1997. A Bushfire Risk Assessment is not required to support the proposal.

Clause 47 - Advertising Signs

An advertising sign is proposed. The sign will have an advertising area of 2m² with 1m by 1m panels on each side. The sign will have a maximum height of 2.5m above ground. The proposal is considered to comply with the requirements of Clause 47 of TLEP 2000.

Clause 54 - Tree Preservation Order

The site is mapped as subject to Tree Protection Order 1990. The proposal does not require the removal of any vegetation. The proposal is considered compliant with Clause 54.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

It is considered the proposed development is consistent with the provisions relating to development contained within the North Coast REP.

SEPP No. 64 – Advertising and Signage

Clause 8 of the SEPP requires that signage satisfy the criteria within Schedule 1 of the SEPP. It is considered that the size of the sign and the location of the sign meet the criteria outlined within Schedule 1 of the SEPP. As such the proposal is considered to comply with the SEPP.

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

Council has exhibited the Draft Tweed Local Environmental Plan 2010. Under the draft plan the site is zoned R1 General Residential. The proposed development is considered to best be described as 'neighbourhood shop' in accord with the draft Tweed Local Environmental Plan 2010. The use of 'neighbourhood shop' is allowable subject to consent in the R1 General Residential zone. It is considered the draft instrument raises no issue as to the proposal permissibility.

(a) (iii) Development Control Plan (DCP)Tweed Development Control PlanA2-Site Access and Parking Code

Under Council's DCP Section A2, the following parking facilities are required

Proposal	Parking Rate	Unit	Required Spaces	Supplied Spaces
General Store	Staff – 0.5/100m ² GFA	16.6m ²	0.083	1
	Customer – 3.5 / 100m ² of retail GFA		0.581	
	Total		1	1

The proposal is to provide one car parking space on site, which complies with Council's DCP Section A2.

Site access is proposed to be off the existing driveway. Kyogle Road is a Designated Road and has a 100km/hour speed limit on the property boundary. Council's Traffic Engineer has provided the following:

"A Basic Right Turn treatment, designed for a 100km/h speed limited road, is required on Kyogle Road for south/west bound vehicles consisting of a widened shoulder to allow through vehicles, having slowed, to pass to the left of the turning vehicles.

The shoulder of the road adjacent north/ east of the driveway to the development is to be widened, to Council's standards, to 3m for a 20m length.

The applicant will need to lodge a s138 application."

It is considered that these conditions are appropriate to ensure the safety of the road users and will enable safe ingress and egress to the site.

A3-Development of Flood Liable Land

Part of the subject site is affected by the Q100 flood and PMF levels. The affected part of the flooding is isolated to the corner of the property where it is proposed to erect the structure. The type of structure is such that it would not create any greater flood risk to the site or surrounds.

A4-Advertising Signs Code

An advertising sign is proposed. The sign will have an advertising area of 2m² with 1m by 1m panels on each side. The sign will have a maximum height of 2.5m above ground. The proposal is considered to comply with the requirements of this section of the DCP.

A11-Public Notification of Development Proposals

The proposed development was notified to surrounding neighbours for a period of 14 days from 23 September 2011 to 10 October 2011. There were no submissions as a result of this application.

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

Clause 92(a) Government Coastal Policy

The subject allotment is not within the Government Coastal Policy area. As such it is not applicable.

Clause 92(b) Applications for demolition

Not applicable. There is no demolition proposed.

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

The proposal is not affected by this Act.

Tweed Shire Coastline Management Plan 2005

The proposal is not affected by this policy.

Tweed Coast Estuaries Management Plan 2004

The proposal is not affected by this policy.

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

The proposal is not affected by this policy.

(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

Agricultural sheds and single dwelling houses make up the developed landscape and a general store is considered to be small in nature and will have the appearance of an agricultural shed and as such will not look out of character with the area.

Access, Transport and Traffic

Carter Rytenskiid Group completed a traffic report at the existing driveway on the 25 August 2011. The traffic report entails that the existing road side stall is generating up to 5 vehicle trips during the afternoon peak period. The traffic count indicated only one right turn movement in the entire survey period. The traffic report indicates that no additional turning lane treatments are warranted at the access intersection. The statement of environmental effects indicates that access is proposed to be a left turn in, left turn out only.

Since the traffic report was written the speed zone in front of the general store has increased in traffic speed from a 50kmh zone to 100kmh. The 50kmh zone is now located north-east of the proposed general store. It was determined that protected turning into the general store is required in a 100kmh zone.

Council's Traffic Engineer has provided the following comments:

"A Basic Right Turn treatment, designed for a 100km/h speed limited road, is required on Kyogle Road for south/west bound vehicles consisting of a widened shoulder to allow through vehicles, having slowed, to pass to the left of the turning vehicles.

The shoulder of the road adjacent north/ east of the driveway to the development is to be widened, to Council's standards, to 3m for a 20m length.

The applicant will need to lodge a s138 application."

It is considered that these conditions are appropriate to ensure the safety of the road users and will enable safe ingress and egress to the site.

Other Matters for Assessment

The proposed development is subject to Tweed Shire Council Section 94 Contributions. In particular, Plan No. 4 - Tweed Road Contribution Plan and Plan No. 18 - Council Administration Offices & Technical Support Facilities.

There are no water and sewer infrastructure charges applicable. The Development increase a total of 15m² Gross Floor Area and is charged at the rate for 'General Store' at 2.8(GLA) which creates a total of 42 Trips required. The proposal is given a 40% discount for Employment Generating Development and as such a total of 25.2 trips have been charged.

Plan No. 18 has been charged at the rate for a small commercial unit which equates to 0.2167 ET.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is located on a residential piece of land which is surrounded by agricultural sheds and single dwelling houses. It is a semi agricultural/residential type development which makes up the landscape of the area. A small general store is considered to integrate with these uses. The proposed general store and associated signage is small in size and will scale with the surrounding area.

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

The proposed development was notified to surrounding neighbours for a period of 14 days from 23 September 2011 to 10 October 2011. There were no submissions as a result of this application.

(e) Public interest

Due to the minor nature of the development it is considered that there will be no impact upon the public as a result of this development. No further assessment is required.

OPTIONS:

1. Grant development consent, subject to conditions.
2. Refuse the development application with reasons.

Option 1 has been recommended by the Council officers.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicants have a right of appeal in the NSW Land and Environment Court if they are dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development incorporates a minor general store with no variations to the planning policies. Having assessed the merits of the application the proposal is considered suitable for conditional approval as recommended.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

17 **[PR-CM] Development Application DA10/0671 to Relocate an Existing Dwelling and Construct a Child Care Centre at Lot 2 DP 1122541, No. 26 Coronation Avenue, Pottsville**

ORIGIN:

Development Assessment

FILE NO: DA10/0671 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for the erection of a child care centre on the subject site. As part of the application a total of 44 students and 4 staff are proposed to utilise the centre.

Additional information was required for a full assessment and was sent on 8 February 2011, which has not been responded to. The information related to contamination and noise issues.

The application has been requested by Councillor Kevin Skinner to have the application determined by a full Council. It is recommended that the application be refused for the reasons outlined in this report.

RECOMMENDATION:

That Development Application DA10/0671 to relocate an existing dwelling and construct a child care centre at Lot 2 DP 1122541, No. 26 Coronation Avenue, Pottsville be refused for the following reasons:

- 1. The proposed Child Care Centre is unacceptable in the location due to noise impacts.**

- 2. The proposal is contrary to State Environmental Planning Policy No. 55 (SEPP 55) as an assessment of contaminated lands has not been undertaken by the applicant.**

REPORT:

Applicant: Arkup Pty Ltd
Owner: Arkup Pty Ltd
Location: Lot 2 DP 1122541, No. 26 Coronation Avenue Pottsville
Zoning: 2(b) Medium Density Residential
Cost: \$327,000

BACKGROUND:

Council is in receipt of a development application that seeks to remove the existing dwelling and carport located on site and construct a childcare centre. The proposed facility is for a maximum of 44 children, 4 staff members and 13 car parking spaces that would operate Monday to Friday from 7am to 6pm except public holidays.

A request for additional information was made on 12 November 2010 which was responded to on 7 December. Additional information was required for a full assessment and was sent on 8 February 2011, which has not been responded to. The requested information included the following:

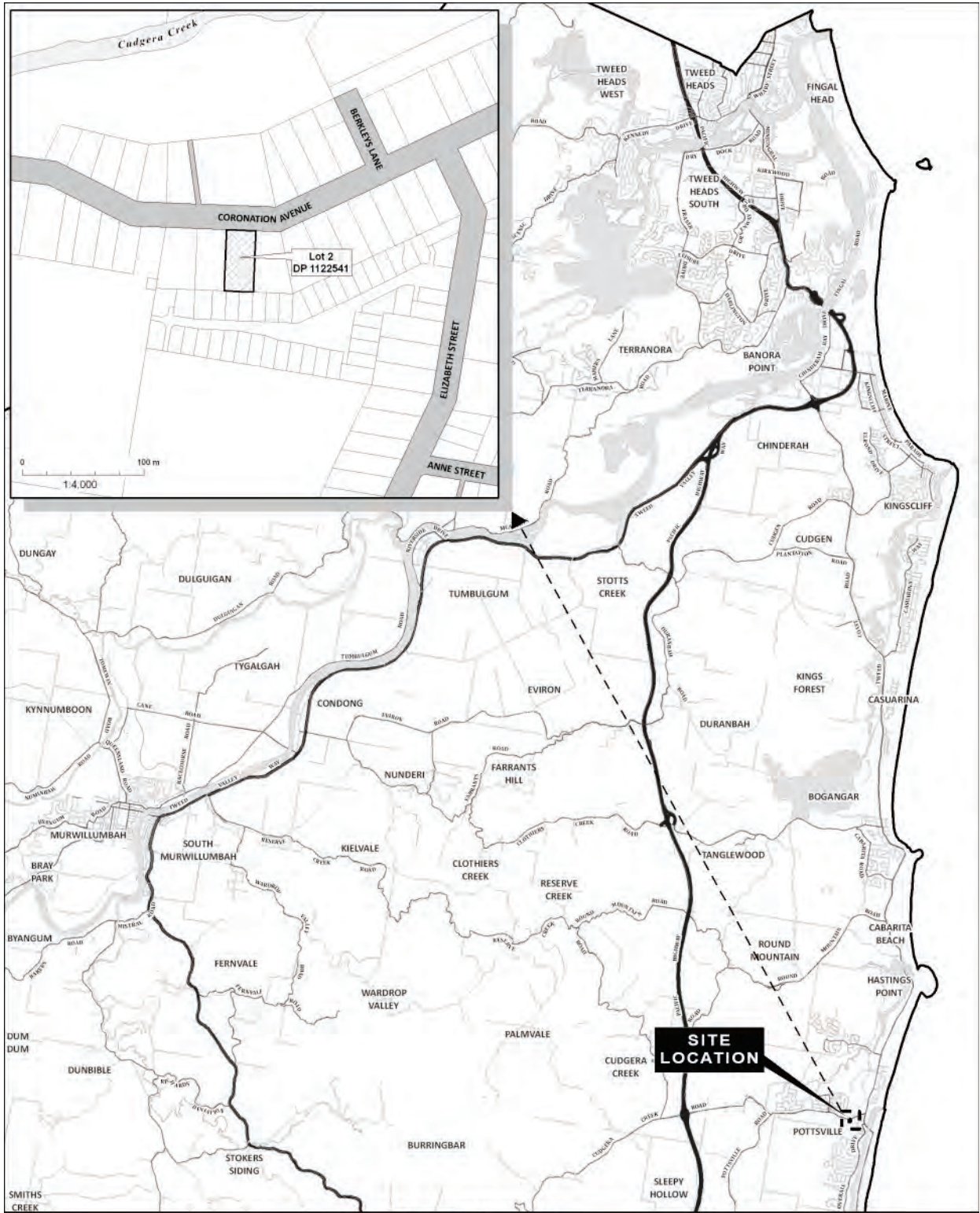
- Preparation of a land contamination assessment from the historical use of lead based paints on the site; and
- The preparation of a noise impact assessment relating to the operational noise including traffic and proposed noise mitigation measures.

The application was publicly notified from the 18 October 2010 to 1 November 2010. Eleven public submissions and one petition were received. Issues raised in the submissions included:

- incompatible land-use,
- traffic volume and impact upon Coronation Avenue,
- vehicle and pedestrian safety,
- loss of amenity,
- impact upon the development potential of neighbouring land, and
- noise impact.

The issues raised in public submission are akin to the same issues raised in the preliminary examination of the proposal and later reflected in the requests for information. The potential impact arising from the issues raised warranted further investigation. In failing to provide the requested information and in satisfying Council that the development as proposed is suitable for the proposed site, no option exists but for the application to fail at determination. Accordingly, the development proposal is recommended for refusal.

SITE DIAGRAM:



Locality Plan

Lot 2 DP 1122541
No. 26 Coronation Avenue, Pottsville

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Map Projection: Universal Transverse Mercator
Horizontal Datum: Geocentric Datum of Australia 2004
Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre
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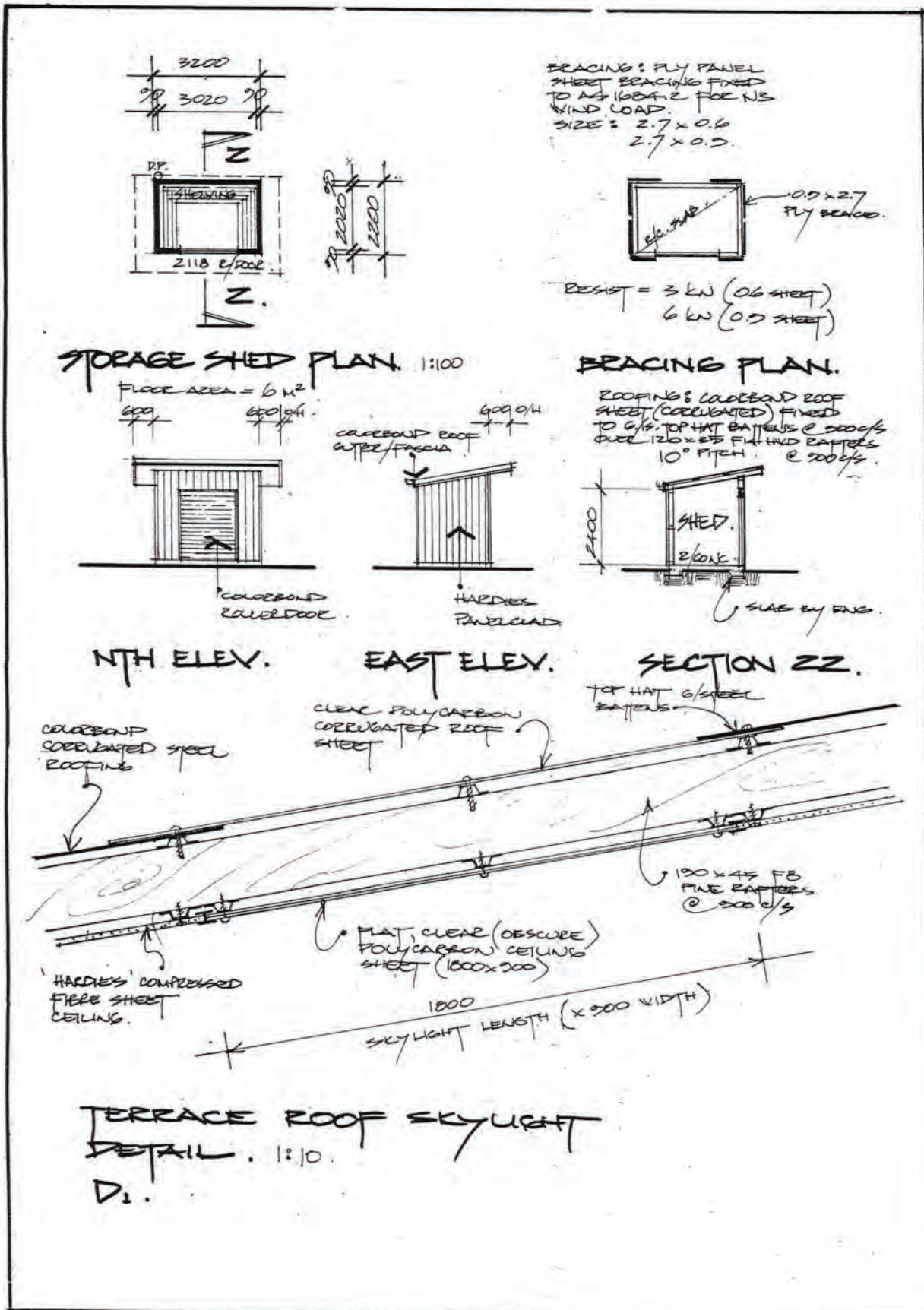
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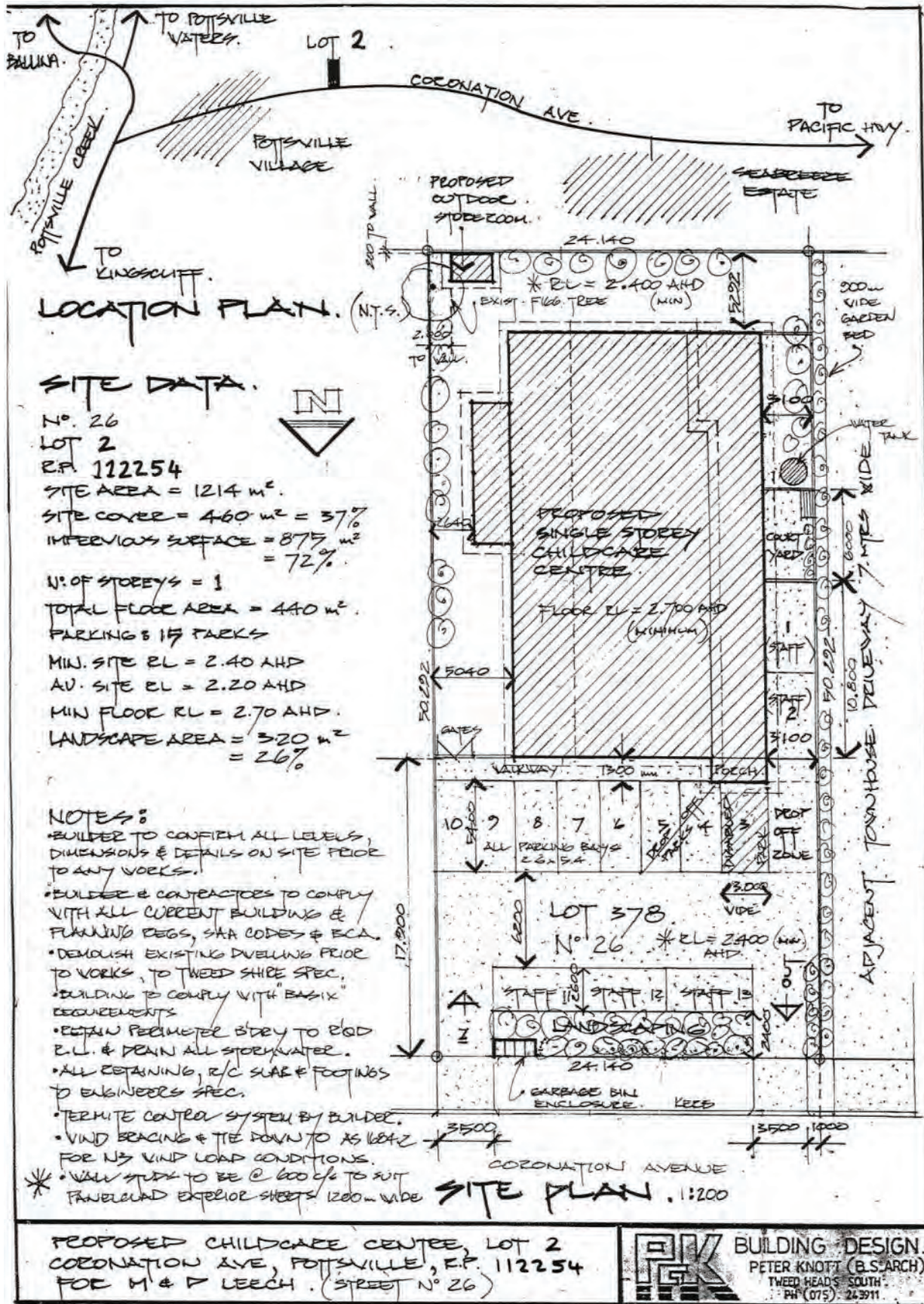
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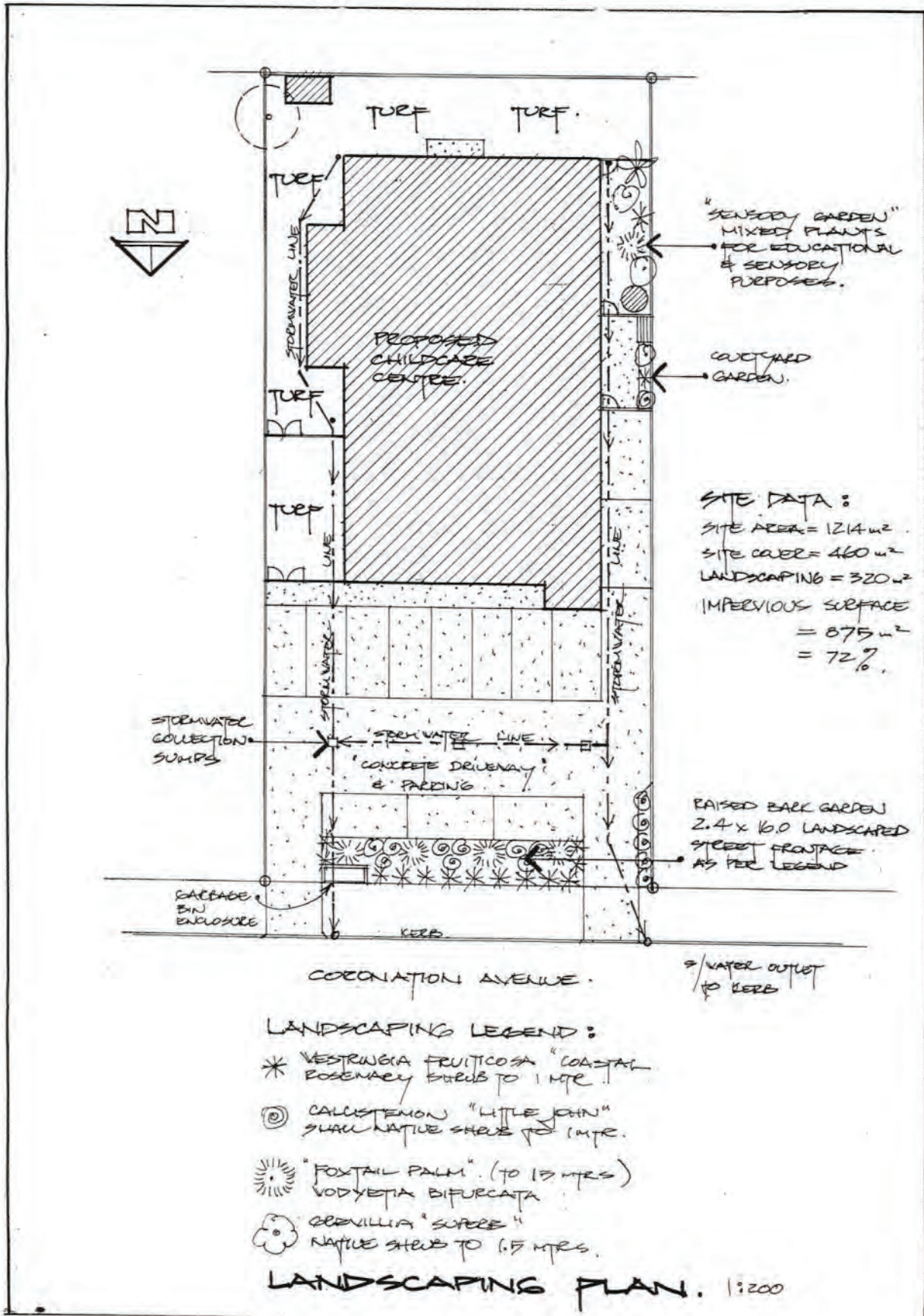
Author: @h4j4k4 - Planning Services Unit

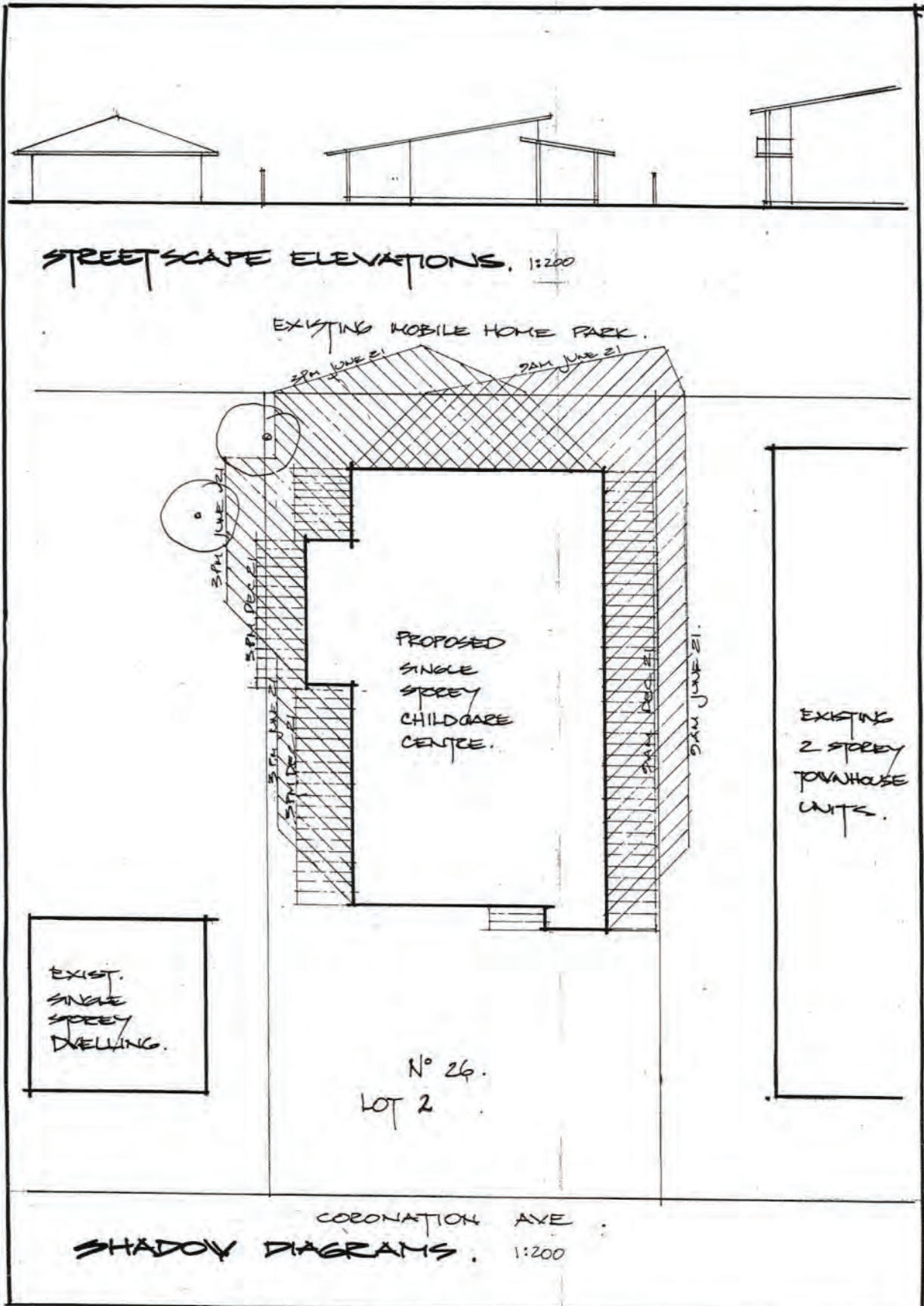
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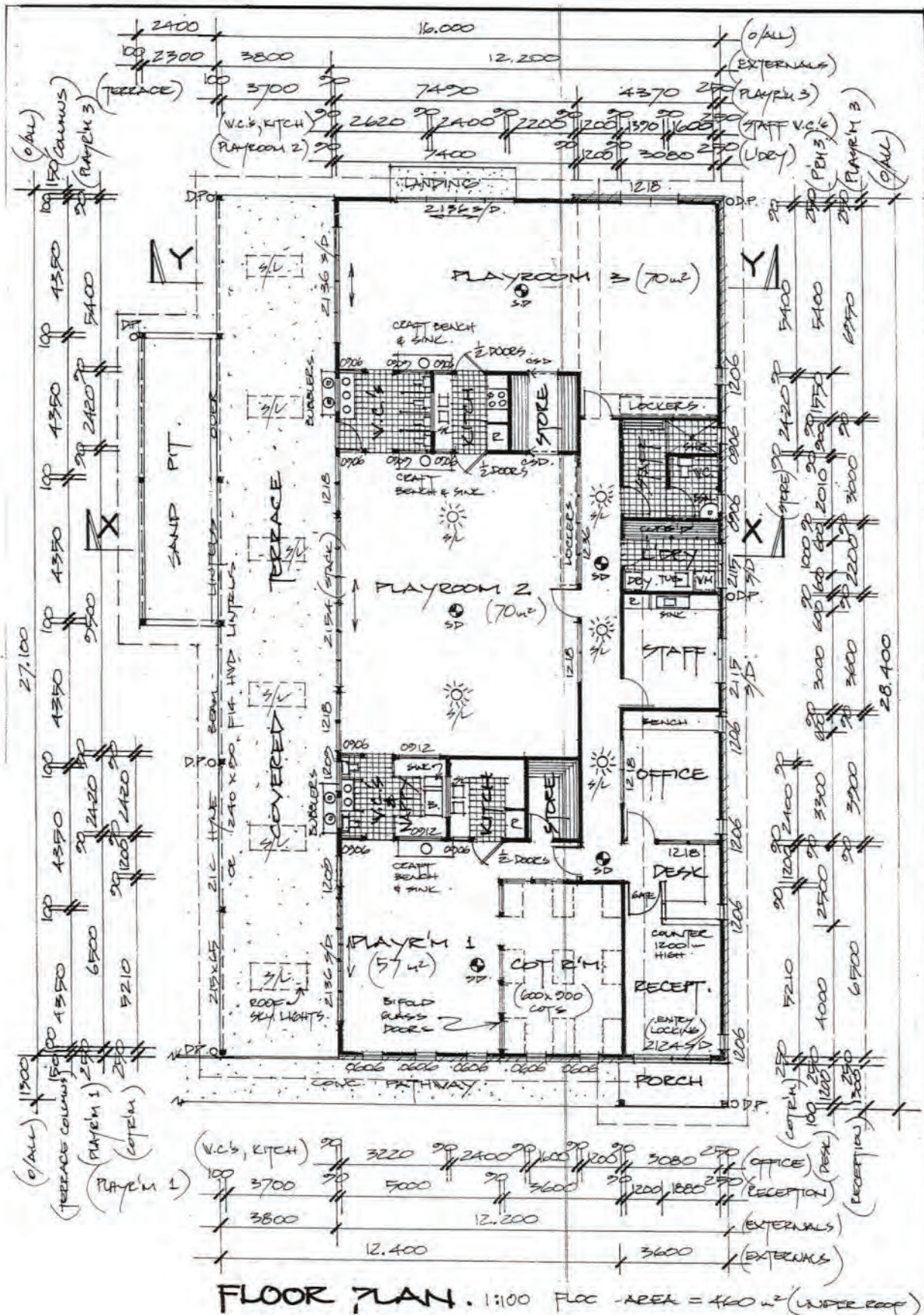
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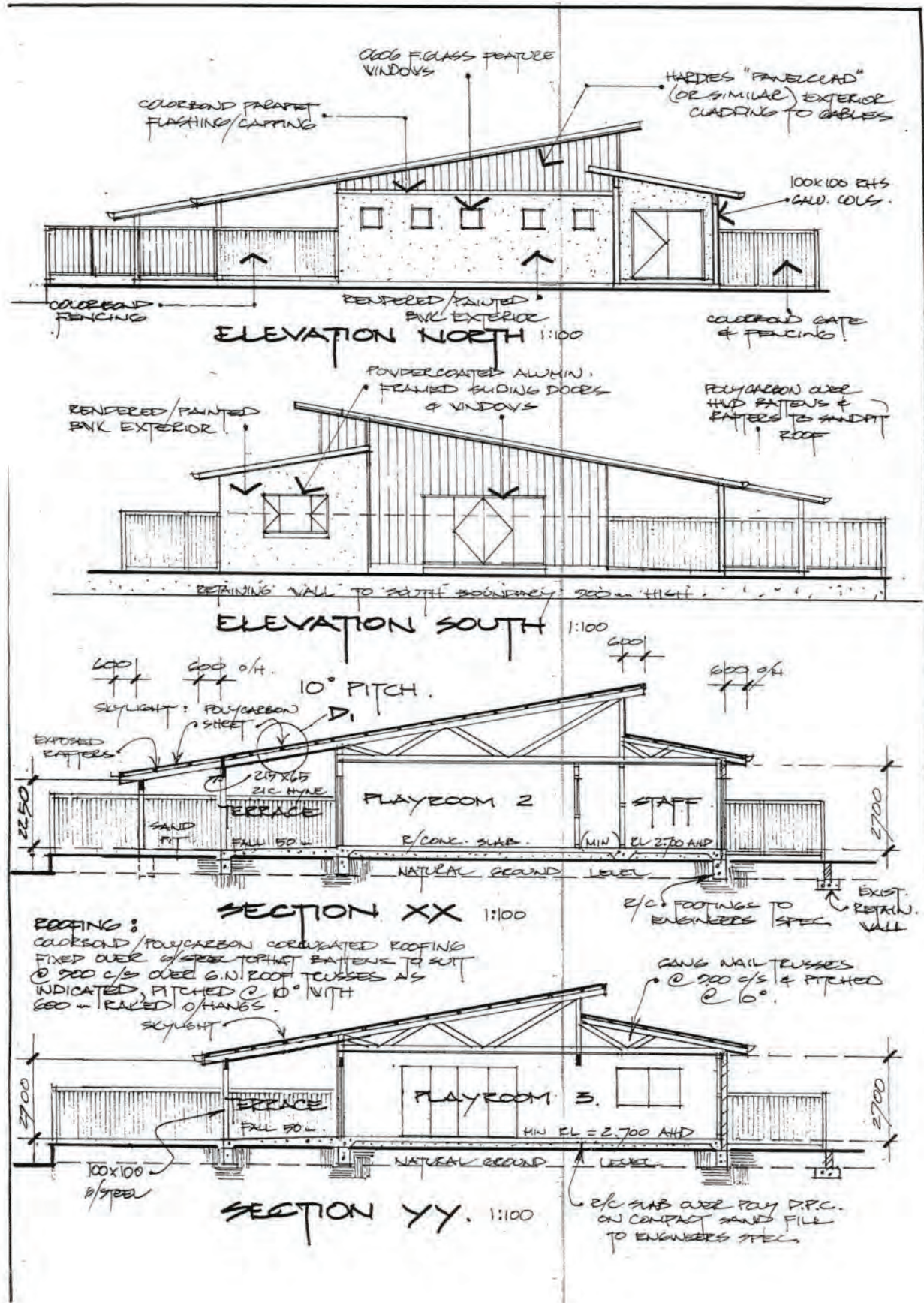


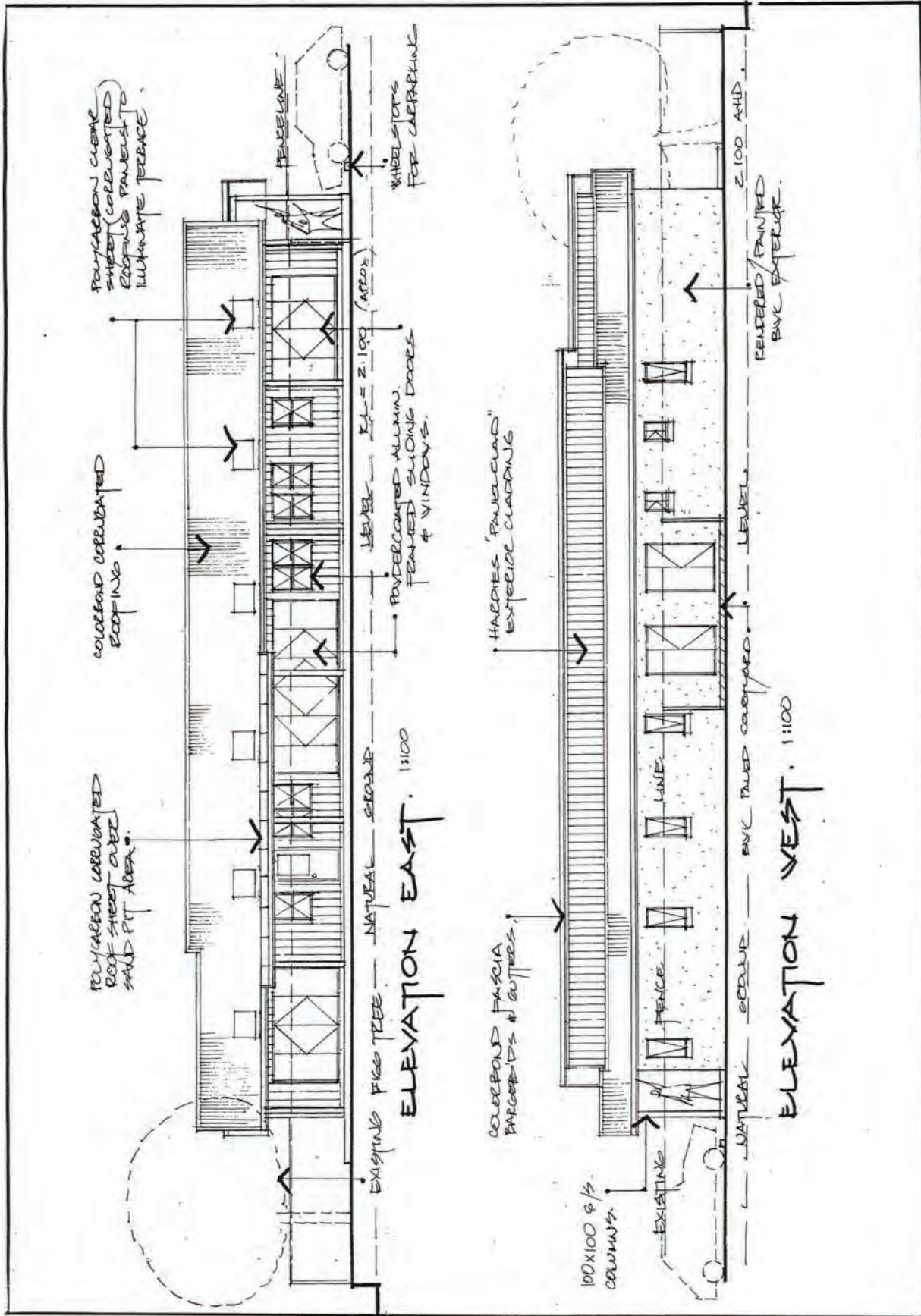












CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

Clause 4 - Aims of the Plan

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 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.

It is considered that the subject development application is not suitable considering the noise impacts will have a negative impact on residential amenity qualities, particularly given its location within the Pottsville area.

Clause 5 - Ecologically Sustainable Development

The TLEP 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*.

Broadly, the subject proposal is considered consistent with the above criteria, as the development is not likely to have significant ramifications for ecologically sustainable development.

Clause 8 - Consent Considerations

Clause 8(1)(c) Cumulative Impact: The proposed development if approved would be considered to create an adverse cumulative impact in the Shire. The proposal is of a scale and design which is not in keeping with existing development in the locality being a predominantly residential location. Therefore, the proposed development if approved would establish an adverse cumulative impact in the Shire.

Clause 11 - Zone Objectives

The subject site is located within the 2 (a) Low Density Residential zone. Within the 2(a) zoned land the use as a Child Care Centre as defined within the Tweed LEP is allowed only with consent. The primary objective of that zone is *to provide for and maintain a low density residential environment with a predominantly detached housing character and amenity*.

The secondary objective is *to allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objective of the zone*.

It is submitted that the proposal, being a form of residential and commercial development complies with the relevant zone objectives.

Clause 15 - Essential Services

The subject site is currently serviced by way of existing stormwater management, electricity, sewer and water connections.

Clause 16 - Height of Building

The subject site possesses a statutory height limit of two (2) storeys. The proposal incorporates a single storey child care centre. Therefore the proposed height is in accordance with the provisions of Clause 16 of the Tweed LEP.

Clause 17 - Social Impact Assessment

A social impact assessment was not submitted with the application. However a checklist of the Social and Economic Impacts have been provided which concluded that the child care centre would have a positive impact.

Clause 34 - Flooding

The site is mapped as being affected by PMF and has a small section of the site affected by the Q100. The design flood level at 2.6m AHD. The applicant intends to fill the entire site to minimise flood liability. The proposal is non-habitable and therefore no minimum floor level is required but the application proposes to achieve a minimum floor level of RL 2.825. As such the proposal complies with the clause.

Clause 35 - Acid Sulfate Soils

The site is mapped as being affected by Class 3 Acid Sulfate Soils. The proposed development does not include any works beyond 1 metre below ground surface. Therefore Clause 35 is considered satisfied.

Other Specific Clauses

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

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 32B: Coastal Lands

Clause 32B applies to land within the region to which the NSW Coastal Policy 1997 applies and requires:

- (2) *In determining an application for consent to carry out development on such land, the council must take into account:*
 - (a) *the NSW Coastal Policy 1997,*
 - (b) *the Coastline Management Manual, and*
 - (c) *the North Coast: Design Guidelines.*
- (3) *The council must not consent to the carrying out of development which would impede public access to the foreshore.*
- (4) *The council must not consent to the carrying out of development:*
 - (a) *on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or*

- (b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

The proposed development is considered to be generally consistent with the provisions of the NSW Coastal Policy 1997, the Coastline Management Manual, and the North Coast: Design Guidelines. The proposed subdivision is not likely to impede access to the foreshore or result in any overshadowing impacts on beaches or adjacent open space.

SEPP No 55 - Remediation of Lands

Under the provisions of SEPP 55, Council cannot approve a development without considering contaminated lands. Contaminated land consideration cannot be undertaken without the provision of the information requested and therefore the application is recommended for refusal.

SEPP No 71 - Coastal Protection

The subject land does not have frontage to the coastal foreshore reserve and therefore will not restrict public access to the foreshore. The development is consistent with the zone objectives of TLEP 2000, however a number of issues have been raised in regards to the requirements of relevant Council DCP. Broadly, it is therefore considered that the proposal satisfies the matters for consideration under SEPP 71.

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

The Draft Tweed Local Environmental Plan 2010 zones the land R3 - Medium Density Residential. Within the R3 - Medium Density zone a Child Care Centre is permitted with consent. As such the proposal is considered to be consistent with the Draft LEP.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The applicant will provide 13 car parking spaces (5 for staff and 8 for customers) which is adequate for up to 48 children. The proposal is intended to cater for 44 children, therefore the number of car spaces is compliant with TSC DCP A2 and is considered adequate.

No formal provision has been made for delivery / service vehicle parking (1 SRV space required per A2), with the S.E.E. stating that such a vehicle would “*only ever be in attendance for short timeframes*” and would use the manoeuvring (driveway) area in front of the building. This approach is considered acceptable as there is adequate driveway width for motorists to go around a short term ‘double-parked’ vehicle. Precedents of accepting this arrangement have been approved for similar developments in the past (*Eng. Note: eg D93/0314 per DA10/0666*).

The manoeuvring area is however very tight and will need to be verified by SRV turning path movements superimposed on the Site Plan, as part of the construction certificate submission.

A3-Development of Flood Liable Land

The site is considered flood liable and is subject to inundation to the Design Flood Level of RL 2.6m AHD (Q100 year event).

Site filling will be undertaken to raise the ground level above the Design Flood Level, and the proposed floor level will be RL 2.825m AHD.

Ian Dinham has provided the following comments:

"The application proposes the demolition of the existing dwelling and construction of a child care facility on land partially affected by the 1 in 100 year ARI design flood.

Flooding

The design flood level for the site is RL 2.6m AHD and it is proposed to fill to this level.

The proposal is non-habitable and therefore no minimum floor level is required but the application proposes to achieve a minimum floor level of RL 2.825 as discussed at the DAP meeting."

It is therefore considered that the proposed development complies with this section of the Development Control Plan.

A7-Child Care Centres

The proposal is generally consistent with DCP A7, though concerns were raised by nearby residents (through submissions) in terms of amenity impacts from the proposed increase in children. Refer to discussion below in this regard.

B21-Pottsville Locality Based Development Code

This Code is part of a strategic framework for guiding the future development of the Pottsville locality. The Code provides more detailed provisions to expand upon the Tweed Local Environmental Plan (TLEP) and Tweed DCP for development within the Pottsville locality that will:

- Contribute to the growth and character of the Pottsville village centre and surrounding areas,
- Protect and enhance the public domain, and
- Provide for future retail and employment centres as the population increases to meet the needs of the Pottsville locality area.

A number of issues have been raised in relation to a number of items that are dealt with in the Pottsville Locality Based Development Code including contributing to the character of the area. The potential impact arising from the issues raised warranted further investigation. In failing to provide the requested information and in satisfying Council that the development as proposed is suitable for the proposed site, no option exists but for the application to fail at determination. Accordingly, the development proposal is recommended for refusal.

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

Clause 92(a) Government Coastal Policy

The subject application does not restrict access or change the coastal foreshore.

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

Context and Setting

The proposed development site cannot be determined as suitable information has not been provided to undertake a full assessment. A number of submissions were received in relation to the context and setting of the development which have been addressed below.

Access, Transport and Traffic

The site currently gains access via a wide vehicle entry (layback) at the eastern frontage, which is shared with the adjoining property. Driveways to both properties are sparsely gravelled.

Proposed site access will be via separate ingress and egress driveways at the eastern and western ends (respectively) of the site frontage.

The applicant provided further information (to the S.E.E.) that included a traffic generation assessment by TTM Group, which concluded that an extra 123 trips per day would be generated by this proposed development. This is deemed to have only a minor impact on, and can be easily accommodated by, the existing road network.

This is considered to be a reasonable assessment and is supported by Council's Planning and Infrastructure Unit.

The applicant will provide 13 car parking spaces (5 for staff and 8 for customers) which is adequate for up to 48 children. The proposal is intended to cater for 44 children, therefore the number of car spaces is compliant with TSC DCP A2 and is considered adequate.

(c) Suitability of the site for the development

Surrounding Landuses/Development

A site inspection undertaken revealed the site to be adjacent to residential land uses. The proposed activity is anticipated to have potential noise impacts upon adjacent land uses and a noise impact assessment was requested to be prepared by a suitably qualified acoustic consultant. An acoustic report was not received and as such refusal of the proposal is recommended.

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

The proposed development was notified for a period of 14 days from Monday 18 October 2010 to Monday 1 November 2010. From the notification period there were eleven (11) submissions against the proposal and one (1) petition with 149 expressions of support received within the specified time frame that strongly opposed the development. The main concerns raised in the submissions against the proposal are as follows:

- **Site Selection:** The presence of the child care centre being located in a residential area which would have an adverse affect on the safety of residents and children in the surrounding area, as well as causing parking problems to residents.
- **Noise:** Noise from children at play is highly variable. There is also minimal existing background noise in the area at the moment. Residents in the area

would experience the full impact of any noise from activities at the proposed development at 26 Coronation Avenue.

- **Traffic:** Coronation Avenue is the main link-road to the Pacific Highway. There is already a high volume of traffic along that road. A 44 place Child Care Centre will create an increase in on road traffic which will then create more on road traffic noise.
- **Parking:** There is not enough parking in Coronation Avenue now for the many people who want to use the business area. Our resident population continues to increase in Pottsville.
- **Existing Fig Tree:** According to the proposed plan the existing fig tree is to stay. It should be removed.
- **Heat/Glare from Colourbond Roofing:** Concerned about the impact from the amount of heat the proposed roof would generate in the surrounding area.
- **Lighting issues:** Residents of Elizabeth Grove believe the lighting may cause problems with light into bedrooms.

The proposal is considered acceptable from a traffic and car parking perspective as per the engineering comments. However, the applicant has provided insufficient information to address outstanding impacts such as noise amenity and contaminated lands.

Under the provisions of SEPP 55, Council cannot approve a development without considering contaminated lands. Contaminated land consideration cannot be undertaken without the provision of the information requested and therefore the application is recommended for refusal.

The proposal is also anticipated to have significant noise impacts on surrounding land uses. The application is also recommended for refusal without the provision of a Noise Impact Assessment.

(e) Public interest

The proposal is not anticipated to contravene the public interest, though this has not been confirmed as amenity impacts in relation to noise and contaminated lands in relation to the historical use of lead based paints have not been assessed in their entirety.

OPTIONS:

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

The Council officers have recommended Option 1.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should Council resolve to refuse the application the applicant may lodge an appeal with the NSW Land & Environment Court.

POLICY IMPLICATIONS:

The proposed development has been entirely assessed on its merits and for that reason the development does not generate a policy implication for Council.

CONCLUSION:

The applicant has not provided Council with written advice as to how they wish to proceed with the application. An email was forwarded to the applicant on 29 July 2011 further seeking the outstanding information with no response. Refusal of the subject application does not limit the ability of the applicants to apply for a child care centre on the site in the future. The refusal simply seeks to deal with matters which remain unresolved.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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18 [PR-CM] Development Application DA10/0411 for a Boundary Adjustment at Lot 11 DP 1054638 & Lot 12 DP 1054638; No. 51 Palmers Road, Terragon

ORIGIN:

Development Assessment

FILE NO: DA10/0411 Pt1

SUMMARY OF REPORT:

The proposed development is to undertake a boundary adjustment between two allotments to create two realigned lots incorporating an existing dwelling and sheds into one lot and leaving a larger lot vacant.

A SEPP 1 objection accompanies the application. The objection is in respect of the planning standard identified within Clause 20 (2)(a) of the Tweed Local Environmental Plan 2000, specifically seeking variance to the 40 hectare minimum lot size development standard for the 1(a) Rural zone. The SEPP 1 objection relates to proposed Lot 51 which has a total area of 16.28ha, wholly within the 1(a) Rural zone.

The application was referred to the NSW Department of Planning requesting the Director-General's Concurrence. Concurrence was granted to vary the 40 hectare minimum lot size development standard because the subject lot is already undersize and no additional dwelling entitlements will be created by the application.

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.

After consideration of applicable environmental planning instruments, the Tweed Development Control Plan and various policies, the proposal is recommended for deferred commencement approval.

RECOMMENDATION:

That Development Application DA10/0411 for a boundary adjustment at Lot 11 DP 1054638 & Lot 12 DP 1054638; No. 51 Palmers Road, Terragon be approved subject to the following conditions:

"DEFERRED COMMENCEMENT"

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

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

SCHEDULE "A"

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

- A. Council shall be supplied with evidence of registration of the Plan of Subdivision associated with Development Consent DA09/0034 with the Land and Property Management Authority (formerly the Lands Titles Office).

SCHEDULE B

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Titled "Plan of Proposed Subdivision – Boundary Alteration Between Lot 11 & 12 DP 1054638 Palmers Road, Terragon", Revision C prepared by Brown and Hann and dated 10.02.10, except where varied by the conditions of this consent.
[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. The applicant is advised that boundary adjustment associated with DA10/0411 will have the effect of extinguishing the existing dwelling entitlement on existing Lot 12/proposed Lot 51 and the existing dwelling shall have to rely on existing use rights within proposed Lot 51.
[GENNS01]
4. No clearing of protected or threatened vegetation shall be undertaken on the site.
[GENNS02]

DURING CONSTRUCTION

5. 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]

USE

6. **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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

7. **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]

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

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]

9. **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]

10. **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 deemed by Council to be a safety risk 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]

11. Prior to the issue of a Subdivision Certificate, an approved access servicing proposed Lot 50 shall be bitumen sealed from the existing bitumen edge of Palmers Road to the property boundary, in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's "Driveway Access To Property – Part 1 – Design Specification".

[PSCNS01]

12. Prior to the issue of Subdivision Certificate the applicant shall lodge an application to operate the existing OSMS facility on proposed Lot 51 under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with approval.

[PSCNS02]

13. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated supply is unavailable. Any domestic water supply roof collection system should be fitted with a first flush device. The minimum storage tank capacity shall reflect the dry seasonal periods experienced in the locality and shall be in addition to any fire fighting capacity requirements stipulated by the NSW Rural Fire Services. The minimum storage capacity required shall be 15,000L per bedroom with a minimum 20,000L to be provided. Details of the intended method of water storage are to be submitted to Council's Development Assessment Unit for approval, prior to the issue of Subdivision Certificate.

[PSCNS03]

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

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 51, to a distance of 50 metres or to the property boundary 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'.
2. Water, electricity and gas are to comply with the following requirements of Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
 - A hardened ground surface for truck access is to be supplied up to and within 4m of the water source.
 - A 65mm metal Storz outlet with a gate or ball valve shall be provided.
 - In recognition that no reticulated water supply exists, a 20 000 litre water supply shall be provided for fire fighting purposes.
3. Property access roads shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'.
4. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

REPORT:

Applicant: Brown and Haan T/AS Landsurv Pty Ltd
Owner: Hewittville Pty Ltd
Location: Lot 11 DP 1054638 & Lot 12 DP 1054638; No. 51 Palmers Road, Terragon
Zoning: 1(a) Rural
Cost: N/A

BACKGROUND:

The subdivision history of the site is complex and summarised below:

DA02/0949 was granted consent in 2002. This consent approved a minor boundary adjustment between Lots 1 and 2 DP 260422 to create Lots 11 and 12 DP 1054638. This plan has been registered and reflects the existing lot layout.

DA09/0034 was granted consent by Council on 25 June 2009. This consent approved the transfer of approximately 5.529ha from Lot 11 DP1054638 into Lot 3 DP 260422. Two new lots were created, being Lot 31 (total area of 59.53ha) and Lot 32 (total area of 7.82ha). To date, the plan of subdivision has not been registered with the Lands Titles Office. It is noted that Council has issued a subdivision certificate.

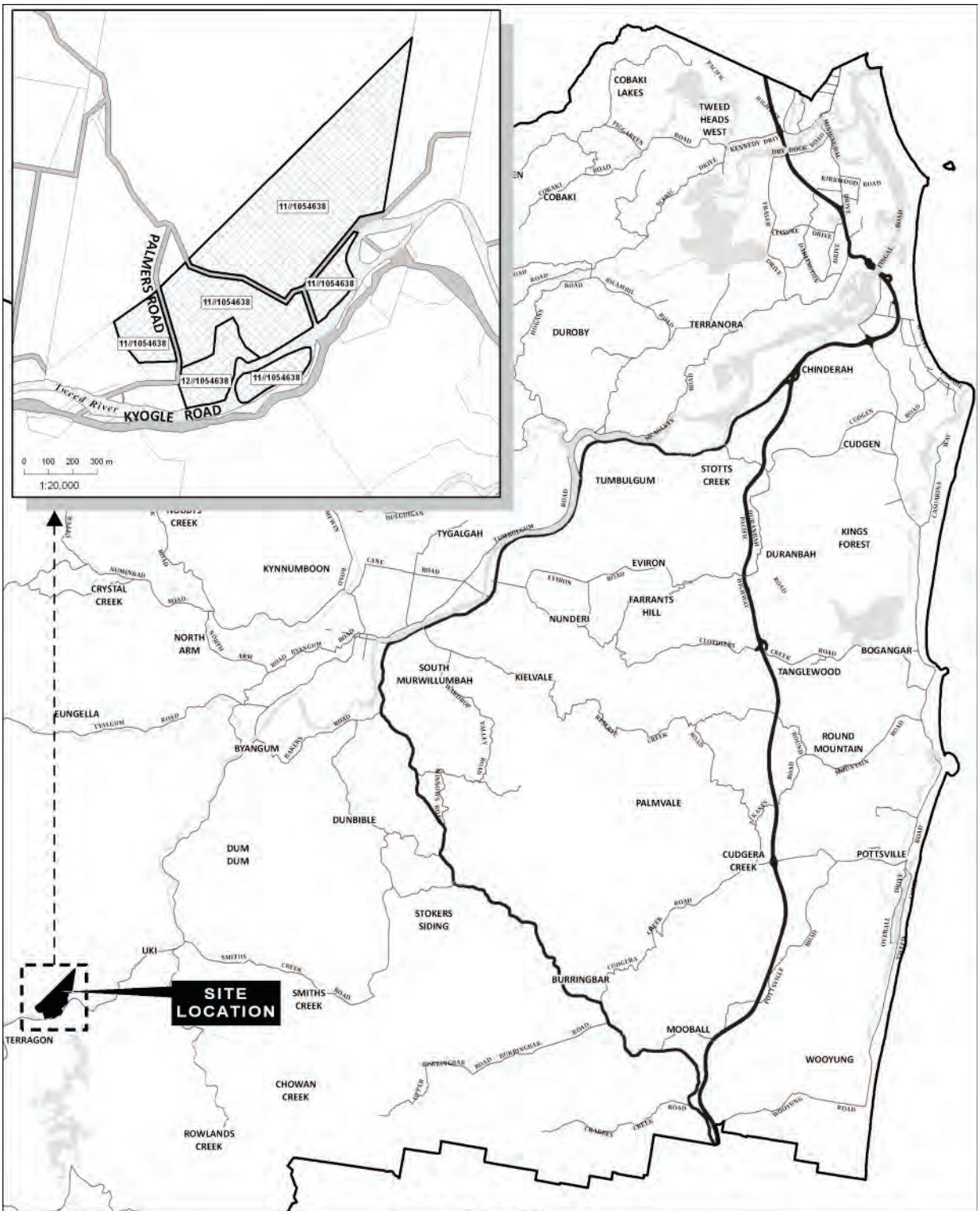
The subject application (DA10/0411) has been lodged over Lots 11 and 12 in DP 1054638. This application seeks to incorporate an existing dwelling house (DA07/1744) into Lot 12 by increasing the size of Lot 12 by 10.77ha to 16.28ha. This Lot is proposed to become Lot 51. Existing Lot 11 (proposed Lot 50) will have an area of 48.76ha (assuming the earlier DA09/0034 is registered).

The subdivision of Lot 11 to create proposed Lot 50 relies on the boundary adjustment approved under DA09/0034. Council has been repeatedly assured by the applicant that the registration of the lots created by DA09/0034 is imminent and as such it is recommended that conditional consent now be granted to the application, by way of deferred commencement consent.

Existing Lot 12 currently possesses a dwelling entitlement by virtue of being created by a Council approved subdivision (minor boundary adjustment) in 2002 (DA02/0949). The purpose of this application is to incorporate an existing dwelling house from Lot 11 into Lot 12 (proposed Lot 51) , which will then have to rely on continuing use rights as the dwelling entitlement will be extinguished by the realigned boundary.

Lot 11 currently enjoys and will maintain a dwelling entitlement by remaining over the minimum lot size. It is anticipated that a future application for a dwelling on this Lot would be lodged.

SITE DIAGRAM:



Locality Plan

Lot 11 DP 1054638 & Lot 12 DP 1054638
No. 51 Palmers Road, Terragon

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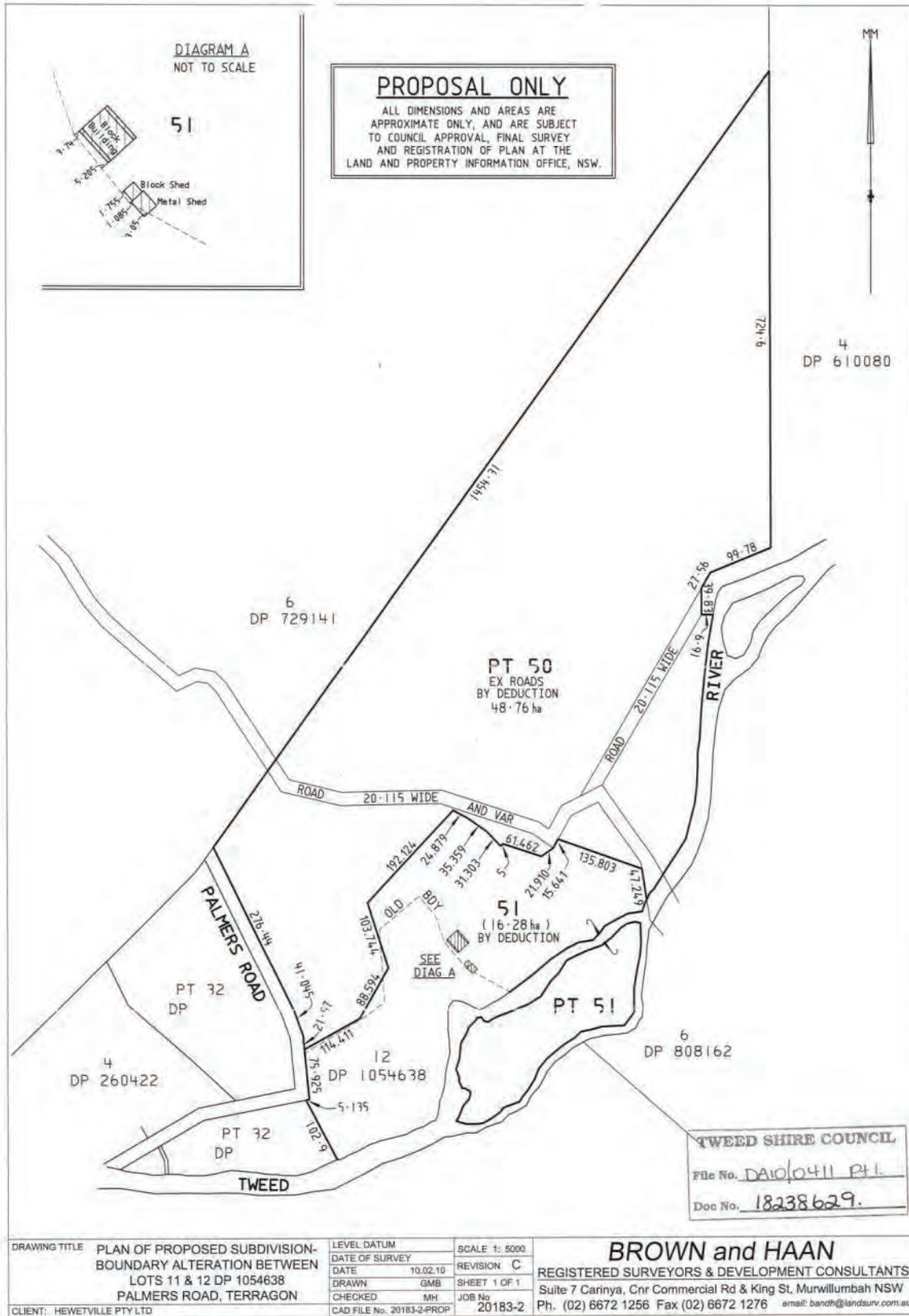
Cadastral: 29 February, 2012.
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Boundaries shown should be considered approximate only.



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DEVELOPMENT 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 considered to be consistent with the aims of the TLEP 2000.

Clause 5 - Ecologically Sustainable Development

The subject development application is considered consistent with the four principles of ESD, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms* as it maintains the status quo and increases the size of an undersized allotment whilst maintaining compliance with the standard for the larger existing Lot.

Clause 8 – Consent Considerations

The consent authority may grant consent to development only if:

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

The subject proposal is consistent with the primary objective of the zone, with subdivision being permissible within the 1(a) Rural zone. The proposal is considered to be consistent with the aims and objectives of the TLEP 2000 as it maintains rural use of the site. The subject proposal is not considered to result in any unacceptable cumulative impact on the community, locality, catchment or Tweed Shire as a whole due to its minor nature. Approval of this application (though minor) is not considered to set a precedent for further like applications as each would be assessed on its merits and likely require its own SEPP 1 objection.

The proposal is considered to be consistent with Clause 8.

Clause 11 – Zone Objectives

Under the Tweed LEP 2000, the subject land is zoned 1(a) Rural, within which subdivision/boundary adjustment is permissible with development consent.

The objectives of the 1(a) Rural zone are to:

Primary Objective

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

Secondary Objective

- 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 boundary adjustment is permissible with the primary objective in that it maintains rural use of the site and does not unnecessarily fragment the site.

Clause 15 - Essential Services

Council's reticulated potable water supply and reticulated sewer are not available in the area. Tank water for domestic use and a static provision for fire fighting will be made available.

On site effluent treatment is proposed. Council's Environmental Health Officer has reviewed the proposed arrangement (and existing OSSM system) and raised no objections, subject to conditions.

Clause 16 - Height of Building

A three storey height limit applies in the locality however no building works are proposed as part of this application and Clause 16 is not relevant.

Clause 17 - Social Impact Assessment

The proposed development is not anticipated to generate significant social impacts, being rural/residential in nature and of a small scale.

Clause 19 – Subdivision

This clause outlines that a person must not subdivide land without consent. Consent is therefore sought for the subject application.

Clause 20 – Subdivision in zones 1(a), 1(b), 7(a), 7(d) and 7(l)

This clause aims to prevent the potential for fragmentation of ownership of rural land that would adversely affect the continuance or aggregation of sustainable agricultural units or generate pressure to allow isolated residential development and provide public amenities and services in an uncoordinated and unsustainable manner. It also aims to protect the ecological and scenic values of the land and protect the quality of water supply.

Clause 20 specifies that consent may only be granted to subdivision in the 1(a) zone if the allotment to be created is at least 40ha.

In this instance, part of the land (Lot 12, proposed Lot 51) within the 1(a) zone has an existing area of 5.51ha which is not proposed to be further fragmented and will actually be increased in size by 10.77ha to 16.28ha. A SEPP 1 Objection was submitted and concurrence sought (and received) from the Department of Planning in this regard (discussed in detail below).

Lot 11 (proposed Lot 50) will remain above the 40ha standard at 48.76ha, remaining consistent with the objectives of Clause 20.

Further, the proposal not considered to adversely affect the continuance of agricultural use of the subject sites or surrounding properties or generate unfavourable pressure for development. The proposal is not considered to detract from the ecological or scenic values of the land and is considered to accord with Clause 20.

Clause 31 – Development Adjoining Waterbodies

The site adjoins the Tweed River. No works are required to facilitate the boundary adjustment and it is not considered that the subject proposal will have any impacts on the water quality of the Tweed River. This clause enables the consent authority to require the rehabilitation of land adjoining the waterbed, however due to the minor nature of this proposal, such action has not been deemed necessary (no intensification of use is proposed and no additional lots are created) – an approach which has been confirmed by Council's Natural Resources Unit.

Clause 34 – Flooding

The subject site adjoins the Tweed River and is identified as 'could be' flood prone. Council's Development Assessment Engineer has raised no concerns in this regard due to the nature of the development.

Clause 35 - Acid Sulfate Soils

The site is not affected by Acid Sulfate Soils.

Clause 39 – Remediation of contaminated land

Existing Lot 12 contains a cattle dip site and the history of the site includes commercial nursery operations which classifies the site as 'potentially contaminated', thus making Clause 39 relevant. Clause 39 calls up the provisions of SEPP 55. Council's Environmental Health Officer has reviewed the proposed development with respect to contaminated land and the SEPP provisions and returned no objections. It is subsequently considered that Clause 39 is satisfied.

Clause 39A – Bushfire Protection

The subject site is partially bushfire prone and the application was referred to the Rural Fire Service as Integrated Development. After consultation, the RFS issued a bushfire safety authority with conditions.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

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

The proposed development will not impact adversely upon adjoining rural properties nor cause a loss of prime crop or pastureland, though it is noted that a portion of the site located along the Tweed River is identified as 'regionally significant farmland'. The proposed development does not further fragment or alienate this land and the proposed development does not contravene Clause 12.

Clause 15: Rivers, streams and wetlands

The subject site is bounded by the Tweed River, however no works are required to facilitate the proposed boundary adjustment. No further consideration in this regard is required and the boundary adjustment is not considered to have any impacts on the River in terms of water quality, water flows or habitat loss.

The proposal is consistent with Clause 15.

Clause 29A: Natural areas and water catchment

No vegetation clearing is proposed, nor is the proposed development located in any of the prescribed zones (protection, scenic protection or escarpment preservation). The proposed boundary adjustment has no implications in terms of the water catchment of the Tweed River.

The proposal is consistent with Clause 29.

Clause 81: Development adjacent to the ocean or a waterway

The boundary adjustment will not affect foreshore access nor negate the provisions of any foreshore management plan, being located within an established rural area on the outskirts of Uki village. No buildings are proposed to be erected and no impacts on amenity of the area are foreseeable as a result of this development.

The proposal is consistent with the applicable provisions of SEPP (North Coast Regional Environmental Plan) 1988.

SEPP No. 1 - Development Standards

SEPP 1 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.

A SEPP 1 Objection was submitted to Clause 20 of the Tweed Local Environmental Plan, as land within the 1(a) Rural zone falls short of the minimum lot size as follows:

- Proposed Lot 12 will have an area of 16.28ha, 23.2ha short of the minimum lot size).

The applicant has supplied the following justification for the SEPP 1 Objection (italicised):

“The aims of the zone are essentially to minimise fragmentation of rural lands, which could lead to demands for extension of services and reduction in production potential.”

The proposal is not inconsistent with the aims and objectives. Existing Lot 11 accommodates a nursery, cricket oval and dwelling all on the eastern side of Palmers Road, while existing Lot 12 is unutilised. Hence no resultant detriment will occur.

The development standard to be varied is unreasonable in this circumstance where the larger lot of 64.11ha is to be reduced by 15.35ha to still comply with the standard at 48.76ha while the non-complying lot expands to 16.28ha from 5.51ha. As well as our clients wishes to rectify the present predicament of a structure encroaching the boundary the adjustment proposed is for the purposes of including the cricket oval, dwelling and nursery into proposed Lot 51 to enable the future sale of proposed Lot 50 and is rational annexure to subdivide.

The present utilisation of proposed Lot 50 while not in the category of agricultural or natural resource productivity is still preserved to enable such in the future, the use is also ecologically compatible. Small proposed Lot 51 cannot be identified as having development potential at this time but with the added 10.77ha could have possibilities such as horticulture or eco-tourism.

Lot 11 has an approved dwelling and the general land use will not change to adversely affect the rural character and amenity.

The proposal does not conflict with the pattern of holdings in the general locality. In fact it is similar to its underlying parcel pattern, being simply a technically minor boundary adjustment, though not categorised as such in Schedule 1 'Meanings of Terms' in Tweed LEP 2000".

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston articulated the SEPP 1 test as follows:

1. *The applicant must satisfy the consent authority that "the objection is well founded" and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*
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 Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979; and*
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.*

Preston CJ then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *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;*
5. *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.*

Though not stated by the applicant, the subject SEPP 1 Objection seems to rest upon point one above, in that the objectives of the 1(a) zone are achieved notwithstanding the undersized allotment.

The objection is considered to be well founded, as proposed Lot 12 is already well below the required 40ha minimum lot size and land use commensurate with the zone objectives will continue to occur.

In addition to being satisfied that the SEPP 1 Objection is well founded, the consent authority must also 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.

The aims of the policy 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".

Sections 5(a) (i) and (ii) are as follows:

- (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.*

With respect to Sections 5(a) (i) and (ii) the proposed boundary adjustment is not considered to hinder the proper management, development and conservation of any resources, in particular the subject rural land and rural/residential development surrounding the subject site. Negligible impact upon resources and the social and economic welfare of the community is anticipated to result from approval of the application.

Further, non compliance with the development standard is not considered to raise any matters of significance for State or regional environmental planning. As no additional dwelling potential will be created by the proposed subdivision, no public benefit would be gained by maintaining the standard in this instance.

The proposed boundary adjustment is considered to be consistent with the aims of SEPP 1.

Based on the above, support of the subject SEPP 1 Objection is considered appropriate in this instance.

SEPP No. 55 - Remediation of Land

The provisions of this SEPP relate to the promotion of remediation of contaminated land where required to reduce the risk of harm to human health or the environment.

Council's Environmental Health Officer has reviewed the application with regard to contamination, noting that the site contains a dip site and was also once used for commercial nursery operations and must therefore be considered potentially contaminated. Notwithstanding, there are no development works proposed, nor does the application propose a change of use. As such, no further consideration of the matter is required at this stage.

SEPP (Rural Lands) 2008

This SEPP aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes and reduce land use conflicts through utilising Rural Planning Principles and Rural Subdivision Principles. It also aims to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land.

Clause 10(3) specifies the following matters to be considered in determining development applications for rural subdivisions or rural dwellings:

- (a) *the existing uses and approved uses of land in the vicinity of the development;*
- (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) *if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,*
- (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).*

In this instance, the proposed subdivision is considered to be consistent with the surrounding agricultural land use, which comprises predominantly pasture land. The proposal is not considered to impact upon any such uses, nor will it prejudice the ability for the subject site to continue to be used for rural/agricultural purposes commensurate with the zone objectives. The proposal is consistent with Clause 10(3)(a).

The preferred land uses in the 1(a) Rural zone are considered to be agriculture and forestry (both allowed without consent in the zone). The subject proposal is not considered to have a significant impact on either such land use given the application essentially maintains the status quo and does not propose any intensification or change of use on rural lands. The proposal is consistent with Clause 10(3)(b).

Given the proposal is for a boundary adjustment only, it is not considered to be incompatible with the land uses mentioned in (a) or (b) above. The proposal is not considered to reduce the agricultural viability of the subject site or surrounding properties. The proposal is consistent with Clause 10(3)(c).

Adjoining sites exhibit the same zoning as the subject site and the proposed development is considered to be compatible with adjoining land uses. Clause 10(3)(d) is considered satisfied.

Negligible conflict or incompatibility between surrounding land uses (which mirror the current land uses of the subject sites) is foreseeable. Clause 10(3)(e) is considered satisfied.

The proposed boundary adjustment has no further ramifications for SEPP (Rural Lands) 2008 and is considered to be consistent with the Policy in its entirety.

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

The subject sites is zoned RU2 – Rural Landscape under the draft Tweed Local Environmental Plan 2010, with a corresponding minimum lot size of 40ha. The proposed boundary adjustment, inclusive of the SEPP 1 Objection would remain permissible under the draft LEP 2010.

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

Tweed Development Control Plan

A3-Development of Flood Liable Land

The subject site is identified as ‘could be’ flood prone. However, no new habitable development is proposed by this application. No further consideration with regard to flooding impacts is required.

A5-Subdivision Manual

The proposed boundary adjustment generally complies with the requirements of Section A5 of the DCP. With regard to the relevant provisions regulating lot size, the status quo is maintained, with one allotment exceeding the 40ha minimum lot size and one allotment remaining undersized, though an increase of approximately 10ha is incorporated.

With regard to physical constraints on the site, it is noted that parts of the site area identified as ‘possibly’ flood prone (river flats), though each allotment is predominantly out of the flood plain with all dwelling sites/structures clearly outside such area. Council’s Development Assessment Engineer has raised no concerns in this regard.

The site is bushfire prone and a Bushfire Hazard Assessment was submitted (prepared by Bushfire Safe Australia) and reviewed by the New South Wales Rural Fire Service under the integrated development provisions of the Act. The Rural Fire Service issued a bushfire safety authority under Section 100B of the Rural Fires Act and the recommended conditions have been applied.

A statement from an ecologist was requested to ensure that IPA requirements did not result in significant vegetation removal as riparian vegetation is located within the site along the Tweed River. Such a statement was supplied (though prepared by BCA Check Bushfire Consultants) which nevertheless confirms that all riparian vegetation is located approximately 70m from the existing dwelling (which requires a 50m IPA). The statement also confirms that no vegetation removal within the IPA area is required, with only trimming/removal of touching and/or dead vegetation required. The appropriate IPA conditions have been applied.

With regard to rural watercourses and drainage, being a rural environment, stormwater discharge will remain as is, with Council's Development Assessment engineer noting no need at this stage to make any amendments to the existing method of stormwater management at the site.

The existing road network is adequate for servicing the new subdivision according to Council's Development Assessment Engineer.

Negligible impacts on the existing rural movement network are envisaged as a result of approval of this application.

In addition to the above, DCP A5 contains provisions relating to sites adjoining waterbodies, riparian areas and riparian vegetation, with which the application is consistent. The DCP also enables Council to require rehabilitation of a 50m riparian buffer along the Tweed River and the dedication of this buffer to Council. Advice from Council's Natural Resources Unit was sought in this regard as the proposal is a boundary *adjustment* only, and does not intensify land use or create any additional allotments. Such actions were considered to not be required in this instance for the above reasons and the minor nature of the proposal.

Subject to conditions, the proposed boundary adjustment is considered to generally accord with DCP A5.

A11-Public Notification of Development Proposals

Public exhibition was not required by DCP A11. No submissions were received.

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

Clause 92(a) Government Coastal Policy

The site is not covered by the Government Coastal Policy.

Clause 92(b) Applications for demolition

No demolition is proposed in the application.

Clause 93 Fire Safety Considerations

No consideration of fire safety within the bounds of Clause 93 is required.

Clause 94 Buildings to be upgraded

There are no buildings to be upgraded.

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

The land is not covered by any coastal zone management plan.

Tweed Shire Coastline Management Plan 2005

The land is not covered by this plan.

Tweed Coast Estuaries Management Plan 2004

The land is not covered by this plan.

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

The land is not covered by this plan.

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

Context and Setting

Negligible impact is envisaged upon the locality as a result of approval of this application. No additional lots or dwelling entitlements are created. The land use will remain rural.

Access

Negligible impact envisaged on the local road network as a result of approval of this application. No extra demand is created.

Council's Development Assessment Engineer has noted that:

"Palmer's Road provides a 2 way, bitumen sealed road connecting to Kyogle Road.

Access to the existing dwelling (currently on Lot 11) is serviced via a driveway through Lot 12 (although Council's GIS indicates that a ROC is not established over this access. The proposed boundary adjustment will rid the need for such a ROC to be created.

The existing access (which will service proposed Lot 51) is adequately sealed, with no upgrade required.

The Applicant has advised that a gated, all weather access is provided to service proposed Lot 50. As the state of this access is unknown and not shown on recent aerial photography, it shall be imposed that an access (approved by Council) is provided for proposed Lot 50 and is bitumen sealed from the edge of the existing bitumen seal of Palmer's Road to the property boundary."

No further access considerations are required.

Stormwater

Stormwater management will remain as per the existing situation. The proposed boundary adjustment raises no need to make any amendments to stormwater management.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The boundary adjustment maintains consistency with surrounding landuses (predominantly cattle grazing/open pastureland).

Flora and Fauna

There are no threatened or protected flora or fauna species recorded on the site. No vegetation removal is required to facilitate the boundary adjustment.

Negligible impacts on flora or fauna are envisaged as a result of this application.

On Site Sewage Management

The application has been assessed by Council's On Site Sewage Management Officer who has supplied the following comments:

"It is considered proposed Lot 50 has sufficient area and suitable locations for on-site sewage management of domestic wastewater when assessed in accordance with AS1547/2000.

It is considered proposed Lot 51 has sufficient area and suitable locations for on-site sewage management of domestic wastewater when assessed in accordance with AS1547/2000. The existing OSMS servicing the existing dwelling and amenities building should be inspected and approval to operate issued prior to the issue of a subdivision certificate".

The following condition has been recommended and applied:

Prior to the issue of Subdivision Certificate the applicant shall lodge an application to operate the existing OSMS facility on proposed Lot 51 under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with approval.

Contaminated Land

Council's Environmental health Officer has supplied the following comments with regard to contaminated land, noting that both lots would be considered potentially contaminated:

- *"Aerial photographs indicate that both lots have been subject to commercial nursery and farming operations – refer to submission.*
- *Stevenson's cattle dip site also exists within the boundary of Lot 11, although it is about 320m from the existing dwelling.*
- *The submission states that a concrete block building (formerly an office building associated with former ostrich farm) was formerly converted to a dwelling – refer DA03/1744.*
- *An above ground fuel storage tank exists on site about 100m from the dwelling.*

The proposed boundary adjustment will have the effect that the existing dwelling and structures will effectively change to be within the boundaries of proposed Lot 51. It appears that proposed Lot 50 will not contain a habitable dwelling. The boundary change will increase the setback of the existing structures to the boundary and therefore reduce the likelihood of amenity disputes and potential impacts in the case of a failed on site system (one existing shed currently encroaches the boundary line).

It is noted that there are no development works required or proposed and there is no proposed change of use. Therefore, whilst the land parcels may be considered potentially contaminated, there is no trigger for further consideration of contaminated land".

Contaminated land matters would be further addressed were consent sought in the future for a dwelling house on proposed Lot 50.

Bushfire

The NSW Rural Fire Service were referred a copy of the application as 'integrated development'. A Bushfire Safety Authority under Section 100B of the Rural Fires Act was issued, with the following conditions:

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 51, to a distance of 50 metres or to the property boundary 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'.
2. Water, electricity and gas are to comply with the following requirements of Section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
 - A hardened ground surface for truck access is to be supplied up to and within 4m of the water source.
 - A 65mm metal Storz outlet with a gate or ball valve shall be provided.
 - In recognition that no reticulated water supply exists, a 20 000 litre water supply shall be provided for fire fighting purposes.
3. Property access roads shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'.
4. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Such conditions have been applied. It is noted that condition relating to the inner protection area (IPA) has been reviewed in terms of any required vegetation clearing. The vegetation within the nominated IPA consists mainly of managed grassland and annual weeds and nil clearing of vegetation (with the exception of minor trimming/pruning of overhanging and touching branches etc) would be required to facilitate the IPA.

Regionally Significant Non Contiguous Farmland

A portion of the site adjoining the Tweed River is identified as regionally significant non contiguous farmland. Industry and Investment NSW (Primary Industries Division) have advised previously that specific advice will not be provided for individual DA's on regionally significant farmland, unless the application is for intensive agriculture. Instead, I&I NSW provide recommended land use planning guidelines.

Relevant guidelines have been reviewed with the conclusion drawn that no adverse impact upon the significant farmland will occur as a result of the application.

Concurrence

Concurrence was required from the Director General, Department of Planning as one of the lots to be created is less than 90% of the required standard. Concurrence was issued by the Department on 23 September 2010, for the following reasons (excerpt from letter dated 23 September 2010):

- As Lot 12 presently has an entitlement to seek approval for a dwelling and a dwelling exists on Lot 11, no additional dwelling entitlements will be created by the proposed subdivision.
- Considering the status quo will be maintained, the proposal raises no issues of State or regional significance.

Dwelling Entitlement

As noted above, no additional dwelling potential is created by the subject application. It is noted however that existing Lot 11 was created as part of a Council approved subdivision in 1992, thus the property enjoyed a dwelling entitlement. While a dwelling has since been approved and constructed on this lot, the proposed subdivision will result in the dwelling entitlement being extinguished and the dwelling house having to rely on existing use rights for any future development. The applicant has been made aware of this issue and an appropriate advisory condition has been included.

Deferred Commencement

A deferred commencement condition has been applied to the effect that Council must be provided with evidence of registration of the boundary adjustment approved by DA09/0034. Until such evidence is received to satisfy Schedule A of the consent, the consent cannot be activated and Schedule B conditions will not become operable.

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

No public submissions were received.

The Rural Fire Service submitted conditions with regard to the integrated referral which have been applied.

(e) Public interest

The proposed boundary adjustment is minor and maintains the rural land use of both sites. No adverse impacts are envisaged as a result of approval of the application, nor the potential future construction of a dwelling on proposed Lot 50 (subject to future consent).

The proposed SEPP 1 Objection is considered reasonable in this instance based on the subject lot being already undersize and increased by the proposed boundary adjustment, as well as no additional dwelling potential being created. The proposed development generally complies with all relevant matters for Council's consideration, being considered suitable for the subject site and without significant environmental impacts.

The proposed development is therefore considered to be in the public interest.

OPTIONS:

1. Approve the application in accordance with the recommended conditions for approval.
2. Refuse the application for specified reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If dissatisfied with the decision, the applicant has the ability to appeal.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed boundary adjustment is minor and detailed assessment has been undertaken of all relevant issues, with the conclusion drawn that negligible environmental impacts are envisaged as a result of approval of this application.

The boundary adjustment is considered to be suitable for the subject site and will not reduce agricultural use of the site or the subject locality.

Approval in accordance with the recommended conditions is therefore recommended.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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19 [PR-CM] Results of the Department of Planning Local Development Performance Monitoring Report 2010/11

ORIGIN:

Director Planning and Regulation

SUMMARY OF REPORT:

The purpose of this report is to provide Council with a summary of the results from the recently published Department of Planning and Infrastructure report, "Local Development Performance Monitoring 2010/11", which was released through a media announcement of the Minister for Planning and Infrastructure, the Hon, Brad Hazzard MP on 18 February 2012.

The Department of Planning and Infrastructure commenced this form of reporting for all NSW Councils for the 2005/06 financial year, with subsequent reports over the last 5 years. The reports provide a range of comparative benchmark statistics, including the total number, estimated construction value, determination times of various approvals processes, including development applications, Section 96 modifications, complying development certificates and construction certificates. Other statistics include the number of Section 82 reviews (DAs that have been refused and reconsidered by Council), the breakdown of Council and delegated officer determinations, and appeals in the Land and Environment Court.

The release of the LDMP traditionally creates a focus on the "Gross Mean" determination result for DAs, for which at face value, Tweed Council has been identified as on the State's worst performing councils, with the second worst determination time of 133 days.

Council's Gross Mean result is an uncharacteristic spike in an otherwise, consistent trend of improved performance in recent years: 2008/09 (110 days), 2009/10 (98 days), and for the first half of 2011/12 (under 100 days).

As the Department's report acknowledges, the 2010/11 spike is directly attributable to Council's efforts to clean out a small number of long-standing, problematic DAs (between 3 to 10 years old), which had previously reached a stalemate, predominantly as a result of various legal and administrative obstacles. When those applications (23 out of 843 determined) are taken out of the overall equation, Council's adjusted Gross Mean Days performance is closer to the recent norm of around 100 days.

On a more positive note, Council's 2010/11 Net Mean and Net Median DA determination results compare more favourably to the State-wide and comparable sized councils (Group 5), and are a more realistic measure of Council's performance, as distinct from the Gross Mean Determination benchmark, which includes delays incurred by applicants and government agencies in responding to Council's requests for additional information and input to the DA process.

Regardless of the 2010/11 LDMP results, Council is still very committed to a program of continuous review of the efficiency of its development and building approvals systems. Following a de-brief and closer examination of the 2010/11 results, Council's Planning and Regulation Management Team are currently considering a series of strategies for improved performance to be implemented prior to the commencement of the 2012/13 LDMP period, including a more detailed statistical reporting system to better track both the overall, and individual officer progress and performance on DAs; the capacity for issuing only one, consolidated Request for Information (RFI) per DA; and the alert and elevation of more problematic DAs to a senior management forum to better problem-solve and seek a more timely determination of these DAs. The emerging new NSW Planning Act is also likely to influence any new operational procedures implemented by Council.

RECOMMENDATION:

That the Results of the Department of Planning and Infrastructure's Local Development Performance Monitoring Report 2010/11 be received and noted.

REPORT:

The purpose of this report is to provide Council with a summary of the results from the recently published Department of Planning and Infrastructure (DP&I) report, "Local Development Performance Monitoring 2010/11", which was released through a media announcement of the Minister for Planning and Infrastructure, the Hon, Brad Hazzard MP on 18 February 2012.

Copies of the LDMP report are provided as an attachment to this report. The report can also be viewed on-line through the DP&I's web site www.planning.nsw.gov.au.

The DP&I commenced this form of reporting for all NSW Councils for the 2005/06 financial year, with subsequent reports over the last 5 years. The reports provide a range of comparative benchmark statistics, including the total number, estimated construction value, determination times of various approvals processes, including development applications, Section 96 modifications, complying development certificates and construction certificates. Other statistics include the number of Section 82 reviews (DAs that have been refused and reconsidered by Council), the breakdown of Council and delegated officer determinations, and appeals in the Land and Environment Court.

In terms of interpreting the report, there are a number of key definitions which underpin the collection of application processing times:

Gross determination time – full length of the development assessment process, from lodgement to determination.

Net Time – the gross time minus referral and/or stop-the-clock time.

Mean determination time – the mean or average of a set of data values, which is the sum of all of the data values divided by the number of data values (ie. for DAs, the total number of days taken, divided by the number of DAs determined)

Median determination time – the median of a set of date values is the middle value of the data set when it has been ordered.

Referral time – the time taken by State agencies to either grant concurrence consent (some DAs require council and agency consent), or to provide advice to council on a development proposal. It should be noted that a number of Councils, such as the Tweed Shire, currently do not have the technical capacity in its IT systems to record the referral time statistics, but arrangements are currently being organised to rectify this recording mechanism.

Stop the clock – the time taken by applicants to respond to requests by councils or agencies for further information on a DA.

DLG Group Averages

Many data tables in the DOP report refer to NSW Division of Local Government (DLG) groups. All 152 councils are grouped into one of 11 council types or groups based on population, size, location and development. Grouping councils according to similar socio-economic characteristics allows comparison between councils' results and the performance of like councils.

The DLG groupings are based on the Australian Classification of Local Governments (ACLG) classification of local government areas as adapted by the NSW DLG for NSW Local Government Councils Comparative Information publication.

The source data tables show the DLG code for each council and the average result for each of the 11 DLG groups. These tables allow anyone to see how a council's data compares to the average for the relevant DLG group.

The grouping for 2010-11 was based on population figures released from the Australian Bureau of Statistics as at 30 June 2010.

Tweed Shire Council is classified in DLG Group 5, which also consists of the major regional councils of Coffs Harbour, Lake Macquarie, Port Macquarie-Hastings, Shoalhaven and Wollongong.

Summary of Results for Tweed Council

In terms of determination times for DAs and Section 96 Applications, Council's results, as compared to the State and Group 5 (comparably sized) Councils were:

Development Applications

	MEAN GROSS	MEAN NET	MEDIAN GROSS	MEDIAN NET
Tweed Shire Council	133	54	45	36
All NSW Councils	68	45	44	31
DLG Statistical Division 5	74	39	43	28

Section 96 Applications

Tweed Shire Council's Gross Mean Determination for Section 96 Applications was 151 days, as compared to the NSW (52) and Group 5 Councils (52) day result. Similar to the Development Applications, Council cleaned out a number of longstanding Section 96 applications in this period, which distorted the 2010/11 result, from Council's more recent norm of approximately 100 days.

Analysis of Results

The release of the LDMP traditionally creates a focus on the "Gross Mean" determination result for DAs, for which at face value, Tweed Council has been identified as on the State's worst performing councils, with the second worst determination time of 133 days.

This Gross Mean result is an uncharacteristic spike in an otherwise, consistent trend of improved performance in recent years: 2008/09 (110 days), 2009/10 (98 days), and for the first half of 2011/12 (under 100 days).

As the Department's report acknowledges, the 2010/11 spike is directly attributable to Council's efforts to clean out a small number of longstanding, problematic DAs (between 3 to 10 years old), which had previously reached a stalemate, predominantly as a result of various legal and administrative obstacles. When those applications (23 out of 843 determined) are taken out of the overall equation, Council's adjusted Gross Mean Days performance is closer to the recent norm of around 100 days.

A good example of how applications can reach a stalemate is the currently undetermined DA for a subdivision to facilitate a new police station on the property at the corner of Cudgen and Tweed Coast Roads, Cudgen. The DA required Council to gain the concurrence of the NSW Minister for Planning. The Minister refused to grant concurrence, and given that it is a Crown DA, Council is unable to refuse the DA. The only way of finalising the DA is for the applicant to withdraw the DA. Council officers have requested this to be done on a number of occasions, but the applicant is not prepared to do so. Therefore, whilst the number of "clock" days measuring Council's assessment is 21, the Gross Determination measure is now over 600 days, and will continue to blow out whilst the applicant continues to keep the DA alive.

On a more positive note, Council's 2010/11 Net Mean and Net Median DA determination results compare more favourably to the State-wide and comparable sized councils (Group 5), and are a more realistic measure of Council's performance, as distinct from the Gross Mean Determination benchmark, which includes delays incurred by applicants and government agencies in responding to Council's requests for additional information and input to the DA process.

Emerging Planning System Influences

This breakdown of the results reflects the general culture of Council's approach to development assessment in recent years, whereby a greater emphasis has been placed on negotiating and working with DA applicants to achieve an acceptable outcome for both parties, and thereby minimise the costly approach of outright refusals, and subsequent LEC action. Council's professional staff also provide a considerable amount of unpaid technical advice, both pre-DA and during applications, as part of their commitment to good customer service.

In the 2010/11 period Council staff were preparing their processes for a more stringent set of legislative levers applied to DA determination times through draft regulations advanced by the former NSW State Government. These regulations specified more restrictive timeframes for requiring additional information and determining DAs. However, these legislative changes never eventuated, and NSW Councils now await the results of the current State Government's Planning Review, which will hopefully produce a less complex, new Planning Act as the basis for more efficient strategic and development assessment processes.

Recent Trend of Declining Local Development and Construction Activity

Consistent with the broader national and state trend of a downturn in the residential property market, the following table shows a corresponding decline in applications received and determined by Tweed Shire Council:

MONITORING PERIOD	DAs RECEIVED	DAs DETERMINED
2006/07	1,420	1,399
2007/08	1,623	1,340
2008/09	777	1041
2009/10	878	815
2010/11	719	843

Other Contributing Factors to Council's Overall Performance

Despite the downturn in local application activity, another important factor to consider in TSC's overall performance is the high proportion of Part 3A redevelopment assessment processes in 2010/11, such as Cobaki, Kings Forest, Lot 490 Kingscliff and Lot 156 Creek Street Hastings Point, that Council staff and the elected Councillors were required to contribute to, which significantly impacts on Council's general assessment capacity and resources.

The 2010/11 results also contained a number of JRPP development applications, including the highly complex, initial residential subdivision DAs for the Cobaki redevelopment site. Despite the fact that these DAs were lodged by Council just before the Christmas/New Year 2010/1 period, and involved an extended period of community consultation and involvement by the JRPP, the final determination for approval was achieved in May 2011.

More Detailed Breakdown of LDMP Report Statistics

The following statistics have been drawn from the LDMP report as they apply to the Tweed LGA, and with a State-wide and Group 5 average comparison, where available.

Table 2-13: Volume and Value of TSC DAs and S96

Number of DAs determined	Total estimated value of DAs determined	Total estimated value of DAs approved	Number of S96 determined
843 (NB. There appears to be a discrepancy with the DP&I's total of 816 – to be further investigated with the Department)	\$179.8M	\$165.3M	192

Table 2-15: Volume and Value of TSC Complying Development Certificates

Number determined	Total estimated value	% determined by Council	% determined by private certifiers
161	\$10.1M	43	57

Tables 3-31 and 3-32: Mean Gross and Mean Net DA determination times (days) for all councils by value

	<\$100k	\$100-\$500k	<\$1M	\$1M-\$5M	\$5M-\$20M	>\$20M
Tweed Mean Gross	145	92	126	356	584	178
Tweed Mean Net	54	49	52	115	215	56
NSW Mean Gross	58	72	65	162	229	253
NSW Mean Net						
DLG Division 5 Mean Gross	67	72	71	206	265	398
DLG Division 5 Mean Net	36	39	38	74	94	102

Table 3-33: Mean gross DA determination (days) by type

	Residential alterations and additions	Single new dwelling	Commercial Retail Office
Tweed	119	81	135
DLG Division 5	55	61	87

Table 7-5: Construction and occupation certificates issues for all councils

	Construction Certificates	Occupation Certificates
Tweed	705	820
DLG Division 5	1,154	590

Other Miscellaneous Facts

- In terms of Table 6-6 Legal Appeals Tweed Council had a relatively limited amount of Land and Environment Court appeal activity, with 3 Class 1 appeals (1 upheld) and no Class 4 matters.
- Tweed Council's mean determination time for Complying Development Certificate was 7 days, compared to the Group 5 (9 days) and NSW (14 days) results, as shown in Table 3.38.

Comparison of Tweed's Performance in the Context of Other North Coast Councils

- Tweed Council's total determination of 843 DAs and total value of DAs of \$179.8M are the highest of councils in the North Coast Region: Ballina (632 and \$111.1M), Byron (537 and \$93.2M), Kyogle (124 and \$10.2M.), Lismore (494 and \$55.4M), and Richmond Valley (320 and \$57.3M.);
- Tweed Council's total determination of construction certificates and occupation certificates are also the highest of other councils in the North Coast Region, as shown in the table below:

COUNCIL	CONSTRUCTION CERTIFICATES DETERMINED	OCCUPATION CERTIFICATES DETERMINED
Ballina	537	324
Byron	317	433
Kyogle	59	48
Lismore	399	336
Richmond Valley	286	273
Tweed	705	820

Council's Actions to Improve its Development Assessment Performance

Over the last several years, the Planning and Regulation and Technology and Corporate Services Divisions have been working together on a program of improvements to the efficiency of the full range of development and building approvals processes, with an initial emphasis on development applications (DAs). These actions are in response to the recommendations of an audit conducted by consultant Gary Poole in 2007/08, as well as Tweed Council's performance in DA processing, when measured against the annual performance monitoring reporting of the NSW Department of Planning for all NSW councils.

The internal Development Assessment Review Working Group (DARWG) has been coordinating an extensive program of process improvements, with an initial priority given to the "front-end" elements of DA lodgements, in recognition of the fact that many of the delays experienced have been attributed to deficient DAs being accepted, and then creating the need to make a number of requests to the applicant to submit additional information. The Group has been responsible for implementing a series of major enhancements to the web site information for potential DA applicants, including new mapping and checklists which provide a clearer guide to the full range of information required to lodge DAs in both hard copy and electronic formats. Council introduced the new requirement for the submission of a CD (documents in electronic format) with all DAs on 1 July, 2009.

E Planning has been a key strategy for enhancing the efficiency of Council's building and development approvals systems, as it strives to be a leader throughout the region. The introduction of the DA Tracker and Property Enquiry services on Council's web site has proven to be extremely popular and successful means for the local consulting industry and the wider community to gain comprehensive, on-line information relating to property development potential and access to the documents and progress of DAs lodged with Council.

The ultimate goal of Council's e planning is to achieve end-to-end electronic lodgement processes, and further enhanced e planning information tools by 2013/14. However, it is important to recognise that this can only be achieved through a major cultural change to both internal Councils practices, as well as the external participants in e planning processes. Council has therefore adopted a gradual, staged approach to this change in practices, inclusive of local industry and the general public.

In the shorter term, the DARWG is focusing its shorter term efforts to a major upgrade of its Proclaim property and information management system, which will provide the platform and capacity for the introduction of comprehensive electronic lodgement systems. As an interim measure, DARWG is also initiating ways of reducing the reliance on the quantity of hard copy documents for DA lodgements, through the following:

External Actions

- Offering local consulting firms a free pre-lodgement check of electronic DA documents via email.
- Ceased requiring hard copies of DA documentation for referral to external agencies.
- The installation of larger monitors in Council's 3 libraries to provide members of the public with an enhanced opportunity to view DA documentation and other e planning information on Council's web site.

Internal

- Introduction of larger screens and document editing programs for all assessment staff – promoting a culture of greater reliance on electronic assessment of DAs, rather than hard copies.

Another key priority has been Council's participation in the NSW State Government's EHC Pilot Program project. The project had its origins in 2008 through the Federal Government's Housing Affordability Fund. It is jointly managed by the NSW Department of Planning and Infrastructure and Shires Association of NSW, and 11 NSW Councils, including Tweed Shire Council, and a number of private certifiers were originally chosen from selection process to develop and pilot a shared, state-wide, web based platform for complying development applications under the NSW General Housing Code SEPP.

The NSW Minister for Planning launched the pilot project in mid October 2011.

Tweed Council staff are working closely with its local consulting industry to facilitate the lodgement of complying development certificates through the new EHC web site.

The EHC Program has provided Council with substantial funding and the up-skilling of its staff and the local consulting industry, as a necessary transition and learning experience for our ultimate goal of providing end-to-end electronic building and development assessment processes.

Concluding Appraisal of Tweed Council's Performance

As highlighted in the 2010/11 LDMP report, Tweed Council recorded an uncharacteristic spike of 133 Gross Mean Determination days in an otherwise, consistently solid trend of performance in recent years: 2008/09 (110 days), 2009/10 (98 days), and for the first half of 2011/12 (100 days), which mainly attributable to the clean-out of a small number of long-standing, problematic DAs.

On a more positive note, Council's 2010/11 Net Mean and Net Median DA determination results compare more favourably to the State-wide and comparable sized councils (Group 5), and are a more realistic measure of Council's performance, as distinct from the Gross Mean Determination benchmark, which includes delays incurred by applicants and government agencies in responding to Council's requests for additional information and input to the DA process.

It should also be noted that Tweed Council was also required to allocate significant assessment staff resources to a series of Part 3A Major Projects' applications such as Cobaki and Kings Forest, involving some of the largest developments in the State.

Regardless of the 2010/11 LDMP results, Council is still very committed to a program of continuous review of the efficiency of its development and building approvals systems. Following a de-brief and closer examination of the 2010/11 results, Council's Planning and Regulation Management Team are currently considering a series of strategies for improved performance to be implemented prior to the commencement of the 2012/13 LDMP period, including a more detailed statistical reporting system to better track both the overall, and individual officer progress and performance on DAs; the capacity for issuing only one, consolidated Request for Information (RFI) per DA; and the alert and elevation of more problematic DAs to a senior management forum to better problem-solve and seek a more timely determination of these DAs. The emerging new NSW Planning Act is also likely to influence any new operational procedures implemented by Council.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Copy of Department of Planning and Infrastructure report, "Local Development Performance Monitoring 2010/11", released on 18 February 2012 (ECM 46564241)
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REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

20 [CNR-CM] Tweed Shire Council Review of the Waste and Environment Levy

SUBMITTED BY: Waste Management

FILE NUMBER: Not Applicable



Supporting Community Life

SUMMARY OF REPORT:

Council is situated in the Rural Regulated Area, meaning it remits \$31.10 for every tonne landfilled to the NSW Government under the waste and environment levy (waste levy). Since Council was captured in the waste levy regulated area in 2009, \$2,228,707 has been forwarded to the NSW Government. Approximately 30% of the waste levy is returned to councils through Waste and Sustainability Payments and environmental trust grants. The remaining is held in NSW Government consolidated revenue.

On 17 January 2012, the Minister for the Environment Robyn Parker announced an independent review of the waste levy. The review is canvassing stakeholder views on how the waste levy operates as well as determining its effectiveness in increasing recycling and reducing the waste that goes to landfill. Submissions were invited across four key areas:

- the impact of the waste levy on the recycling industry
- the impact of the waste levy on households
- funding arrangements to facilitate greater investment in infrastructure with local councils and industry
- the impact of the waste levy on illegal dumping, including the proper disposal of asbestos.

Council Officers attended a consultation session in Ballina on 20 February 2012 and provided some verbal feedback on the legitimacy and operational constraints of the waste levy. Written submissions are invited up to 13 April 2012.

RECOMMENDATION:

That Council:

- 1. Provides a written submission to the NSW Government Office of Environment and Heritage on the waste and environment levy as per the report.**
- 2. Participates in a regional response through a written submission from the North East Waste Forum to be based on Council's own submission.**

REPORT:

The Waste and Environment Waste levy Regulated Area was extended in 2009 from Blue Mountains to the Queensland Border, capturing Tweed Shire Council in the Rural Regulated Area. As a result Council was required to remit \$10 per tonne of waste disposed to landfill to the NSW Government (Office of Environment and Heritage). The waste levy increases by \$10 per tonne each year until it reaches approximately \$80 per tonne in 2015/2016 adjusted for CPI. The current waste levy rate is \$31.10 per tonne.

On 17 January 2012, the Minister for the Environment Robyn Parker announced an independent review of the waste levy. The review is canvassing stakeholder views on how the waste levy operates as well as determining its effectiveness in increasing recycling and reducing the waste that goes to landfill. Submissions were invited across four key areas:

- the impact of the waste levy on the recycling industry
- the impact of the waste levy on households
- funding arrangements to facilitate greater investment in infrastructure with local councils and industry
- the impact of the waste levy on illegal dumping, including the proper disposal of asbestos.

Council Officers attended a consultation session in Ballina on 20 February 2012 and provided some verbal feedback on the legitimacy and operational constraints of the waste levy. Written submissions are invited up to 13 April 2012.

To date Council has remitted \$2,228,707 to the NSW Government, and by the end of the 2012 financial year expects this to rise to approximately \$2,889,992. Approximately 30% of the waste levy is returned to councils through Waste and Sustainability Payments (WaSIP) and environmental trust grants. The remaining is held in NSW Government consolidated revenue. Council has received approximately \$984,753 in WaSIP payments. Refer Table 1 below.

Table 1: Summary of activity since introduction of the waste levy

Year	Tonnes landfill	to	Waste paid (\$)	levy	WaSIP received (\$)	Recycling rate (%)
2009/2010	57,535		575,353		159,515	39
2010/2011	48,363		992,069		321,223	42
2011/2012 (to 31 Dec 2011)	21,263 (to 31 Dec 2011)	31	661,285 (to 31 Dec 2011)	31	504,015 (full 2012 financial year)	48 (to 31 Dec 2011)

It is noted that since Council has had to respond to the waste levy with increasing landfill gate prices in 2009, some of the commercial and construction waste is being transported into South East Queensland for disposal. The Queensland Government recently implemented its own waste levy as of December 2011.

Council Officers attribute the increasing recycling rate identified in Table 1 mostly to the introduction of the multi bin system for households late in 2009.

SUBMISSION

Below is the officer's intended submission:

DRAFT: Submission on the Waste and Environment Levy

Tweed Shire Council makes the following submission on the legitimacy and operational constraints on the waste and environment levy (waste levy). It is hoped that these comments are received in good faith and that significant and immediate changes are made to the waste levy. By its own definition, the NSW Government states that the waste levy is the key driver for waste diversion in NSW. It is fact that the levy is not diverting waste from landfill; it is dispersing Tweed's waste across into South East Queensland and driving residents to illegally dump waste and asbestos in our reserves and parklands.

Funding arrangements to facilitate greater investment in infrastructure with local councils and industry (100% hypothecation of the waste levy revenue to Council's)

Since the extension on the Rural Regulated area in 2009, Tweed Shire Council expects by end of 2012 financial year to have remitted in excess of \$2.8M to the NSW Government. In return Council has received approximately \$984K in direct WaSIP payments. Council, in no way, finds any reasoning that returning around 30% of waste levy revenue to Council is facilitating investment in waste minimisation and environmental infrastructure. In fact the WaSIP return to Tweed Shire Council is used to fund temporary or short term projects that have not had funding identified.

A 100% return to Tweed Shire Council would enable proper and responsible investigation, planning, and implementation of infrastructure and technology that would drive real waste diversion and value adding. Council's Community Strategic Plan identifies investigation of alternative waste technologies and collections by 2015. However Council has not had the ability to set aside funds for this investment since being captured by the waste levy. In both 2010 and 2011 financial years Council has not been able to fund waste provisions for alternative waste technologies. Instead Council has used marginal increases in the garbage service and administration charges to remit the household levy contribution to the NSW Government. The introduction of the waste levy has in fact reversed Council's investment in the waste diversion space. Council charges the waste levy at cost to the householder. Based on waste audit data each household places approximately 0.6tonnes of garbage requiring disposal each year. This equated to approximately \$20 for each serviced household in 2011/2012.

A 100% return to Councils regionally would drive markets and investment in regional infrastructure. Tweed Shire Council participates in two regional waste management processes, the North East Waste Forum, and the Regional Waste Managers Group reporting to NOROC. Both of these processes have commitments to regional strategies, contracts, collaboration, and infrastructure. A significant funding pool that could be delivered through complete hypothecation of the waste levy revenue has the capacity to deliver on the work of these regional groups would greatly assist the Northern Rivers Council's in striving towards the NSW Government waste diversion targets.

Taxing the same activity twice

The Federal Clean Energy Legislation Package subjects Council's who operates large landfills to a tax on emissions. The Legislation as it stands imposes a further price mechanism onto landfilling, meaning Tweed Shire Council would be burdened with two taxes for the same activity. Effectively the compound result of these two pricing mechanisms could artificially inflate the price of landfilling each tonne of waste by \$66.30 based on 2012 financial year costings.

NSW Government Waste and Environment Levy at \$42.50 (estimated 2011/2012 levy) for each tonne landfilled, and the Federal Government at \$23.80 for each tonne (being 1 tonne of municipal solid waste = 1.19 tonnes of CO₂-e as per NGERs method 1 @ \$20.00 starting fixed price).

An increasing carbon price and increasing Waste and Environment Levy will place undue pressure on Council residents via an increasing rate charge to cover waste disposal costs.

Operational exemptions

Tweed Shire Council's environmental protection licence requires Council to place a minimum of 150cm of clean cover (as VENM) onto the waste filling face each day. Council must pay the waste levy on this clean cover material that is brought into the site. Charging the waste levy at the gate is having the effect of driving this material away. The result is that soon Council will have to pay to win and cart material to site, and then charge itself the waste levy to meet requirements for covering of waste. The NSW Government advises that one of the purposes of the waste levy is to drive environmentally sound practices. Covering of waste is an operational matter to minimise litter and odour emissions, while decreasing leachate generation by diverting surface water. Covering of waste is an environmentally sound practice. There is no valid reason as to why clean cover material that is an operational requirement from one arm of the NSW Government is then levied by another.

The waste levy is also artificially driving up the costs of public works, specifically roadworks. Earthen materials that are excavated from roadworks sites in excess for what is needed to shape the roadway are carted to Council's landfill facilities for use as daily cover. Under the current structure the levy is attributable to this material, meaning it is an additional cost on an already heavily burdened Council resource for roadworks. By releasing VENM from the scope of the waste levy, Council roadworks costs will reduce and the landfill facilities will be provided with a steady stream of daily cover to meet the licence requirements.

Asbestos waste materials have only one disposal fate; landfill. It is entirely inappropriate for the NSW Government to promote environmentally sound practices, and then make responsible disposal of asbestos waste materials more expensive. There is no clearer argument than to remove the waste levy from asbestos waste materials.

Perverse impacts of the waste levy; illegal dumping

Tweed Shire Council has seen dramatic increase in the number and volume of waste materials, including asbestos, being illegally dumped throughout the Shire. Council has commenced data capture to quantify the number and cost of illegal dumping incidents.

Preferred position and recommendations

That if the waste levy stands in its current form that 100% of the revenue is returned to Council's and tied to waste minimisation activities and infrastructure only.

That the review takes into account the economic ramifications of the Clean Energy Legislation on landfill owners/operators

That clean cover material is exempt from the waste levy

That asbestos waste materials are exempt from the waste levy

That illegal dumping waste that is captured and reported through a Council database system is exempt from the waste levy.

OPTIONS:

1. Submit a standalone response to the Waste and Environment Levy review.
2. Submit a standalone response to the Waste and Environment Levy Review and participate in a regional submission.
3. Do not participate in the Waste and Environment Levy review.

CONCLUSION:

While outside of the terms of reference, the attached draft submission is based around a 100% hypothecation of the waste levy back to Councils, a cap on the increase in the waste levy, as well as operational matters pertaining to clean fill and asbestos. It is recommended that Council submits a standalone submission and participates in a regional submission with North East Waste Forum Member Councils. The content of the latter will be based on Council's own standalone submission.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

Increases in the Waste and Environment Levy payments to NSW Government have been costed into the long term financial plan.

c. Legal:

No-Legal advice has not been received

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
- 2.3.4 Provision of high quality, best practice, solid waste disposal with energy recovery, and improving resource recovery practices and infrastructure which meets health and environmental requirements and projected demand
- 2.3.4.1 Provide waste and recycling collection mechanisms to improve resource recovery
- 2.3.4.1.5 Manage operational and closed waste disposal facilities and recycling assets

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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21 [CNR-CM] EC2012-031 Provision of Greenwaste Processing Services

SUBMITTED BY: Waste Management

FILE NUMBER: EC2012-031



Supporting Community Life

SUMMARY OF REPORT:

Council is advised that a late report may be tabled at the Council meeting scheduled for 20 March 2012 recommending the awarding of a tender for the (interim) Processing of Greenwaste at Stotts Creek Resource Recovery Centre. The tender closed on 7 March 2012.

It is desirable for Council to award this contract at the March meeting so that greenwaste processing can continue at Stotts Creek Resource Recovery Centre following the termination of the previous contract.

RECOMMENDATION:

That this report advising of a possible late report for Greenwaste Processing Services be received and noted.

REPORT:

Council is advised that a late report may be tabled at the Council meeting scheduled for 20 March 2012 recommending the awarding of a tender for the (interim) Processing of Greenwaste at Stotts Creek Resource Recovery Centre. Council will note a previous Council business paper (21 February 2012) detailing the termination of Contract EC2008-151. In order for greenwaste processing to continue, a tender was advertised for a suitably experienced contractor to provide processing and marketing services for a period of up to six (6) months. Tender EC2012-031 closed on 7 March 2012. This contract of up to six (6) months will allowed Council Officers to test the market in addition to providing a continuity of service. A long term tender of up to seven years is being developed during this interim contract term.

OPTIONS:

Not Applicable

CONCLUSION:

It is desirable for Council to award this contract at the March meeting so that greenwaste processing can recommence at Stotts Creek Resource Recovery Centre at the earliest possible time.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

Managed through the Waste Management budget

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:

2 Supporting Community Life

2.3 Provide well serviced neighbourhoods

2.3.4 Provision of high quality, best practice, solid waste disposal with energy recovery, and improving resource recovery practices and infrastructure which meets health and environmental requirements and projected demand

2.3.4.1 Provide waste and recycling collection mechanisms to improve resource recovery

2.3.4.1.5 Manage operational and closed waste disposal facilities and recycling assets

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

22 [CNR-CM] EC2012-026 Manufacture, Supply and Delivery of DN 450mm Diameter Pressure Pipe and Fittings

SUBMITTED BY: Contracts

FILE NUMBER: Not Applicable



Supporting Community Life

SUMMARY OF REPORT:

Tenders closing on 29 February 2012 have been called for the Manufacture, Supply and Delivery of DN 450mm diameter Pressure Pipe and Ductile Iron (DI) fittings. The materials are to be used in the upgrade of the Kennedy Drive West Tweed Heads trunk main from Boyds Bay Bridge to the Tweed Heads bypass interchange on Kennedy Drive.

The tender called for a total length of 1364 metres 450mm diameter pressure pipe and a range of Ductile Iron fittings.

RECOMMENDATION:

That:

- 1. The tender for EC2012-026 Manufacture Supply and Delivery of DN 450mm Diameter Pressure Pipe and Fittings from Tyco Water be accepted for the supply of 1364 metres of 450mm Diameter Pressure Pipe with a supply value of \$206,986.00 exclusive of GST and Vinidex for the supply of Ductile Iron fittings with a supply value of \$27,739.72 exclusive of GST.**

- 2 ATTACHMENT A is CONFIDENTIAL in accordance with Section 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

REPORT:

Tenders closing on 29 February 2012 have been called for the Manufacture, Supply and Delivery of DN 450mm diameter Pressure Pipe and Ductile Iron (DI) fittings. The materials are to be used in the upgrade of the Kennedy Drive West Tweed Heads trunk main from Boyds Bay Bridge to the Tweed Heads bypass interchange on Kennedy Drive.

The tender called for a total length of 1364 metres 450mm diameter pressure pipe and a range of Ductile Iron fittings.

The tender for the various items was spilt into separable portions as follows:

Schedule	Description
A	1364m 450mm Dia Pressure Pipe
B	826m 450mm Dia Pressure Pipe
C	538m 450mm Dia Pressure Pipe
D	DICL Fittings

Tenders Received

A total of five responses were received for tender EC 2012-026 Manufacture, Supply and Delivery of DN 450mm Diameter Pressure Pipe and Fittings. Submissions received are as follows:

- Tyco Water
- Crevet Pipelines
- Vinidex
- Promains
- Samios Plumbing Supplies (Late Tender)

Tender Evaluation

The Tender Evaluation was conducted by Council's Tender Panel, consisting of Council's Acting Capitol Works Engineer, Senior Water and Waste Water Design Engineer and Engineering Admin Supervisor. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest

Based on the evaluation contained in the Confidential Attachment, it is recommended that Tenderer Tyco Water be accepted to supply 1364 metres of 450mm Pressure Pipe as listed in Schedule A and Vinidex be accepted for Ductile Iron Fittings listed in Schedule D.

OPTIONS:

Not Applicable

CONCLUSION:

That Council endorses the recommendations as submitted.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3

b. Budget/Long Term Financial Plan:

Funding available within 2011/2012 budget

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:

- 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)
- 2.3.2.7.6 Kennedy Drive East Bypass to Boyd's Bay Bridge – Trunk Main upgrade

UNDER SEPARATE COVER/FURTHER INFORMATION:

- 1. **Confidential Attachment** - Tender Report (47320460)
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23 [CNR-CM] Integrated Water Cycle Management (IWCM) Strategy - Status Report

SUBMITTED BY: Water

FILE NUMBER: Not Applicable



Supporting Community Life



Caring for the Environment

SUMMARY OF REPORT:

Integrated Water Cycle Management (IWCM) is the integrated management of the water supply, sewerage and stormwater services within a whole of catchment strategic framework and provides a long term focus on their integrated delivery.

In December 2006 Council adopted the IWCM Strategy which defined the catchment, water resource and urban issues faced by Council and outlined a broad strategy for the future. Strategic Actions have been updated annually since that time and in February 2011 Council adopted an updated list of 21 IWCM Strategy Actions to ensure that the objectives and updated priorities of the IWCM continue to be met.

This report to Council provides a summary of the status of those 21 IWCM Strategy Actions, and determines priorities for the next 12 months. After that time, the major six yearly review of the IWCM Strategy (to be completed in mid 2013) will supersede existing actions and provide strategic direction and new actions for Council's approach to water issues into the future. (Council resolved to proceed with the six yearly review at its meeting in January 2012).

RECOMMENDATION:

That Council:

- 1. Notes the progress of the 21 action items for implementation of the Integrated Water Cycle Management Strategy.**
- 2. Officers bring forward a report detailing the progress of the implementation of the Integrated Water Cycle Management Strategy actions in approximately 12 months as part of the six yearly Integrated Water Cycle Management review.**

REPORT:

Background

Integrated Water Cycle Management (IWCM) is the integrated management of the water supply, sewerage and stormwater services within a whole of catchment strategic framework and provides a long term focus on their integrated delivery.

In December 2006 Council adopted the IWCM Strategy which defined the catchment, water resource and urban issues faced by Council and outlined a broad strategy for the future. Strategic Actions have been updated annually since that time and in February 2011 Council adopted an updated list of 21 IWCM Strategy Actions to ensure that the objectives and updated priorities of the IWCM continue to be met.

This report to Council provides a summary of the status of those 21 IWCM Strategy Actions, and determines priorities for the next 12 months. After that time, the major six yearly review of the IWCM Strategy (to be completed in mid 2013) will provide strategic direction for Council's approach to water issues into the future. (Council resolved to proceed with the six yearly review at its meeting in January 2012).

Progress on Implementation

Overarching Strategies and Plans

Action 1: Develop Quality Management Plan

The DWE Best-Practice of Water Supply and Sewerage Guidelines (Aug 2007) encourage local water utilities such as TSC to prepare and implement a Quality Management Plan (QMP). The aim of the QMP is to improve and provide consistent performance of TSC's water supply and wastewater services, resulting in improved customer and stakeholder satisfaction.

The DWE Guidelines set out the key principles to be considered in the QMP namely: customer focus; leadership; involvement of people; process approach; system approach to management; continuous improvement; factual approach to decision making; and mutually beneficial supplier relationships.

While TSC has not developed an overarching QMP at this stage, it has prepared and implemented a number of plans and strategies that address many of the elements that would be included in the QMP. Council's Community Strategic Plan, adopted in late 2010, represents leadership in many areas of Council's planning and operations. The Water Unit's Water Supply and Wastewater Activity Management Plans and Business Continuity Plan also address many of the QMP elements.

In particular, the Water and Wastewater Activity Management Plans are documented strategies based on corporate knowledge aimed at enabling continuing delivery of services and to ensure that stakeholder satisfaction is maintained.

The plans are the subject of ongoing monitoring, review and updating to incorporate changes to policies and procedures to improve the quality of asset management planning and accuracy of the financial projections. This process uses improved knowledge of customer expectations and enhanced asset management systems and data to optimise decision-making, review outputs, develop strategies and extend the planning horizon. Quality assurance audits of asset information are undertaken to ensure the integrity and cost effectiveness of data collected.

Peer reviews and internal audits are undertaken to assess the effectiveness with which the plans meet corporate objectives. Also, periodic internal audits are undertaken to assess the adequacy of water activity processes, systems and data, and external audits undertaken to measure performance against 'best practice'.

The Activity Plans are currently being updated as Strategic Business Plans that link to the community Strategic Plans. An action is to develop an overarching Quality Management Plan linking to existing subordinate plans and processes pending available resources.

The status of Quality Management for particular Water Unit activities is shown in the following table.

Water Unit Activity	Status of Quality Management
Water and Wastewater Activity Management Plans	<ul style="list-style-type: none"> Prepared in 2007 and to be updated by July 2012 as Strategic Business Plans
Asset Management	<ul style="list-style-type: none"> Monitoring of service levels via customer work request system Obtained from planned and reactive maintenance Proactive CCTV condition evaluation program for sewers
Maintenance Management	<ul style="list-style-type: none"> Strategy and implementation via MEX (computerised maintenance management system)
Operations Management	<ul style="list-style-type: none"> Manuals document procedures and information
Pipeline Renewals	<ul style="list-style-type: none"> Planning based on risk using 'AssetPlan' 10, 20 & 30 year renewal annuities developed
Non Pipeline Renewals	<ul style="list-style-type: none"> Planning based on risk using ASSETIC is proposed 10, 20 & 30 year renewal annuities developed
Valuations	<ul style="list-style-type: none"> Methodology documented and full revalue in July 2012
Levels of Service	<ul style="list-style-type: none"> Statements documented and currently under review Reflects community desires through public consultation (service level review)
Risk Management	<ul style="list-style-type: none"> Risk analysis and controls documented and annually reviewed in accordance with Council's Risk Management Processes Documented draft Business Continuity plans for priority risks of major flood, extended drought, treated water contamination, raw water contamination and tsunami
Knowledge Management System (KMS)	<ul style="list-style-type: none"> Documented Water Unit knowledge system, including library, plan register and operations and maintenance manuals
Policies Development	<ul style="list-style-type: none"> Draft documented policies currently being reviewed and finalised
Performance Reporting	<ul style="list-style-type: none"> Corporate, NWI & Government compliance reporting undertaken and comprehensive data management systems to be developed

Action 2: Develop Environmental Management Plan

The development and implementation of an Environmental Management Plan is encouraged under the NSW Office of Water best practice guidelines for managing water supply and sewerage.

TSC is following a new direction for environmental management due to state government integrated planning and reporting requirements (i.e. Community Strategic Plan). There is a raft of management plans and strategies relating to environmental management of the catchments, including estuary management plans, a vegetation management strategy, a local action plan for greenhouse gas reduction, State of the Environment reporting and Standard Operating Procedures for works carried out by Council field staff. Any significant works will have Project Management Plans (PMP) and large projects also have specific Environmental Management Plans (EMP).

An overarching Environmental Management Plan is likely to be developed in future, pending resource allocation, to establish the overall context of these other plans and strategies. There has been no further progress on this action in 2011.

Action 3: Implement Asset Management Plans

Updated Water Supply and Wastewater Asset Management Plans were completed in 2011. The Asset Management Plans dovetail with Council's Community Strategic Plan which was adopted by Council in December 2010.

The Water Unit's Water Supply and Wastewater Asset Management Plans, originally prepared in 2006, provide detailed support in these areas to the Corporate Asset Management Plan. These are to be updated in 2011/2012 as Strategic Business Plans in accordance with NSW Office of Water requirements.

The *Assetic* program is being implemented across TSC for valuation and financial asset management. Water Unit assets are in the process of being added to the *Assetic* program. The pipeline renewal program has been updated using the *AssetPlan* decision support system, with data currently being converted to be able to work in *Assetic* for renewal modelling. Asset Management Officer resignation and delays in replacement has impeded progress. It is envisaged that this process will be completed by the end of 2012.

Additionally, maintenance management, customer request, GIS, telemetry and SCADA, water quality and other data systems are being progressively developed to provide the matrix of inputs for asset management requirements. A risk-based maintenance strategy, risk-based pipeline renewal manual and an asset management manual have been developed for the Water Unit. Their implementation is being progressed through the development of various systems. A condition survey of 21 km of high risk sewers was completed in 2011 to determine renewal requirements.

Implementation of MEX (Maintenance Experts), the maintenance management system used by the Water Unit is progressing well. The MEX program has been updated and is now being used for programmed maintenance and repair history for mechanical, electrical and some operational assets.

Finally, a risk-based approach under Council's Enterprise Risk Management Strategy is being progressively incorporated in the Water Unit's numerous asset management systems and processes.

Action 4: Implement WSUD and ESD Principles

Ongoing work across a number of Council's units is continuing under this action, however there remain a number of issues limiting Council's ability to implement appropriate WSUD and ESD actions.

Council's Natural Resource Management Unit is currently reviewing the Urban Stormwater Quality Management Plan (USQMP) which aims to provide water quality objectives for urban stormwater systems that are achievable and meet the ecological requirements of the target waterways.

Council's Planning and Infrastructure Unit is updating D7 "*Development Design Specification: Stormwater Quality*" to ensure actions achieve the Water Quality Objectives set in the USQMP. Future work will include review of the D5 "*Stormwater Drainage Design Specification*" to ensure consistency between design and quality objectives.

Both units have identified that limited resources are available to manage existing stormwater treatment assets, rectify sub-standard systems, or implement new works. Expertise in the area of water sensitive urban design, particularly in the implementation of WSUD facilities in new subdivision development, is also needed to achieve stormwater quality targets and minimise future maintenance burdens on Council. Other potential avenues for funding to address stormwater quality and quantity issues could include a stormwater levy in future rate rises, or application of s64 developer charges on new developments.

Management of the waste captured in Gross Pollutant Traps (GPTs) continues to be an issue. A trial facility to accept the waste at Stotts Island Landfill could not meet environmental guidelines, and there is currently no legitimate location in Tweed Shire to dispose of captured sediments / pollutants taken from treatment devices. This remains a major constraint to implementing a maintenance system for public and private treatment devices. Replacement of this facility is extremely urgent as none of the treatment devices currently installed can be effective without access to a lawful disposal facility.

It is expected that the six yearly review will highlight further issues and provide additional direction.

Action 5: Liaise with Proponents of Developments to promote WSUD and ESD

Actions such as the review of the D7 and D5 specifications provide opportunities to implement WSUD in new developments.

TSC planning, engineering and Water Unit staff continue to work collaboratively in assessing new developments on a case by case basis with a view to promoting sustainable water cycle management options. Notwithstanding TSC has limited power to enforce WSUD and ESD principles in new developments approved under Part 3A of the EP&A Act.

Action 6: Implement Water Education and Training

Since September 2011, with the commencement of Council's Water Education Officer, a range of water education programs have been developed, including:

- Tweed's Top 20 water saving program is supported by educational materials posted on Council's website, including case studies and feedback from participants. The program offers businesses opportunities for media and promotional stories as well as promotional materials such as fliers, fact sheets, stickers and posters.
- An information session for plumbers, real estate agents and members of the community is to be held on 20 March 2012. This event will broaden the program's reach by including other target audiences and stakeholders and further promote Council's other water saving programs.

- Council is promoting the Residential Water Saving Rebate and raising awareness about water savings potential through a range of media outlets including: web site, newsletters, articles, factsheets, posters and weekend information stalls at shopping malls, community centres and events.
- The Rainwater Tanks in Urban Areas Policy has been promoted through a range of educational modes including: a full web-based information site with links and downloads to relevant government authorities and Council infolinks, fliers and FAQ fact sheets.
- The Banner Poles Project is underway whereby a series of 10 steel banner poles will be constructed and installed by Council in various locations across the shire. The poles offer Council the opportunity to showcase many projects including water savings, water tours, community programs and sustainability programs.
- The 'Water Matters' newsletter is in development and is expected to be inserted into water bills at the end of May. The newsletter offers community water education, promotion of Council water projects and opportunity for feedback.
- Water Events and community celebrations addressed in recent water education include: River Festival 12 November and Unity Day 22 October 2011. Upcoming World Water Day 22 March 2012 will see water saving kits being made available at local libraries. Each library will have 6 kits on loan with kits containing shower timers, information fliers and water flow jugs and cups which measure water flow from taps and showers.
- Future water events and promotions will happen at the Seniors Expo on 17 May, in World Water Week 26 August 2012 and National Water Week 22-27 October.

Urban Water

Action 7: Execute Demand Management Implementation Plan

Council adopted a 3-year Implementation Plan for the Demand Management Strategy (DMS) in May 2011. Progress as per the Implementation Plan and the performance of the DMS implementation against the adopted overall Key Performance Indicators and the Performance Indicators for individual programs was considered in a separate report by Council in February 2012.

Key DMS activities that have been undertaken this year include:

- Stage 1 of the residential rebate/retrofit program, providing a rebate for water efficient showerheads, aerators and spouts/mixers was launched on 1 July 2011. As reported to Council previously, 199 households have participated in the rebate offer and a total of \$10,830 has been provided by Council to date. A total of 96 showerheads, 206 aerators and 60 spouts/mixers have been installed, with the average rebate being about \$55. The resulting water saving is about 1.8 ML/annum.
- Council adopted a revised policy for "Rainwater Tanks in Urban Areas" in September 2011. The revised policy has been widely promoted in the Tweed Link and through regular media releases. The new policy is consistent with Council's DMS, encouraging customers intending to install tanks to install the largest volume they can, given space and cost limitations. A minimum tank size of 5,000L and a minimum roof catchment area of 160m² are recommended for single dwellings.

- The Tweed's Top 20 program for the shire's top non-residential water users was launched in December 2011. Council is assisting participating businesses to identify water saving opportunities and is offering each business financial assistance of up to \$5,000 to fund a water saving project. Council is also providing additional support by carrying out free water audits, running information sessions for staff and residents and developing promotional/educational materials.
- The Tweed's Own 20 targeting the top 20 Council-owned properties using the most water have been identified and work will shortly commence to carry out water audits and ascertain any water saving opportunities for these properties. The Tweed Coast Holiday Parks, managed by Council, will also be considered. Training of Council's staff, aimed at raising awareness of efficient water use is also included in this program.
- Water notices for all residential and non-residential (business, commercial etc.) customers are being revised. These will be significantly modified to provide more information to customers, increase customers' awareness of their water use and encourage them to take water saving actions.
- The new water notices for residential customers will integrate with a new promotional campaign (Target 180) to encourage households to use water efficiently and achieve a certain litre target per person per day. Initially, this will align with the DMS target of 180 L/person/day for residential use.
- Council staff continue to promote water conservation and efficiency by participating in community events during the year. Events attended in 2011 included the Tweed River Festival, Unity Festival, Coastal Conference, Seniors Expo, as well as displays in shopping centres at Tweed City and Murwillumbah.

Action 8: Adopt Drought Management Implementation Plan

In November 2009 Council adopted the Drought Management Strategy, setting out the water restrictions that would be implemented in the event of a drought, the triggers for each level of drought water restrictions and the targeted water savings at each level. Drought water restrictions for levels 2,4 and 6 were presented in the adopted Strategy. The Strategy recommended that a review of the drought water restrictions, restriction triggers and targeted savings be undertaken in 2012.

The review was carried out in late 2011 and significant modifications to the drought water restrictions were proposed, while recommending no changes to the restriction triggers or targeted savings. Revised draft drought water restrictions for levels 2,4, 6 and 7 were reported to Council in November 2011. The revised restrictions had been expanded to include more activities and were described in greater detail to provide more information to the public, should drought water restrictions be implemented.

The draft drought water restrictions were subsequently placed on public exhibition from 5 December 2011 until 31 January 2012. Taking into account the submissions received during the exhibition period, a Drought Water Restrictions Policy is being developed. The draft Policy will be presented to Council in a separate report in April 2012.

It is desirable that Council adopts a set of revised drought water restrictions in advance of the winter dry period in 2012, that is, by June 2012.

A water quality study of Clarrie Hall Dam to investigate the nature and occurrence of and the most effective way in which to address stratification in the dam was completed in September 2011. The Tweed Catchment Water Quality Report examined the monitoring program and raw water data in order to address the issues of cyanobacterial blooms and high concentrations of soluble manganese. The report recommended that the best means of control is through mixing the water column to inhibit the growth of algae and to prevent thermal stratification which provides conditions that resolubilise Manganese sediments. The report also recommends additional aeration. The recommendations also include changes to the monitoring program to enable a future decision on the best type of aeration.

The 'Drought' Business Continuity Plan prepared in December 2010 documents emergency response actions. These are triggered when Clarrie Hall Dam reaches the 25% level and a review of the performance and adequacy of water restrictions (Level 7) and emergency supply arrangements indicates they will not suffice for continuing drought conditions.

Alternative drought emergency water supply will be considered based on the outcome of the water supply augmentation project as it progresses.

Action 9: Develop Risk Based Water Quality Management Plan

The action set by Council in January 2009 has been substantially completed through the development of Council's Drinking Water Quality Policy (2010) which formalises TSC's commitment to the Australian Drinking Water Guidelines (ADWG).

An assessment of TSC's compliance with the ADWG has been completed, and the high priority and critical elements identified by the gap analysis have been addressed. Council's consultant is now working on integration of all identified hazards, risk assessments, monitoring programs and issues from the gap analysis into a single management plan - which will finalise this action.

Once the project is completed, the result will be fully compliant with the ADWG. Compliance with the Guidelines is a prerequisite for future funding opportunities administered by the NSW Office of Water (NOW) under the NSW Country Towns Water Supply and Sewerage Program. It is also a requirement of the NOW Best-Practice Guidelines.

Action 10: Develop and Implement Water Loss Management Program (Leakage Reduction)

Historically, TSC had already installed a number (approx. 28) pressure reduction valves throughout the water supply system. These valves were installed to address high pressure problems at the time but can also be used to manage usage.

Further funding through the joint Water Directorate/LGSA water loss management program is uncertain at this stage. The inaugural program, which funded some leak concluded work and the installation of permanent flow metering by Council, was disbanded in mid 2011. There is some possibility that a new funding program may commence in late 2012.

A 3-year schedule of flow tests (known as drop tests) for Council's water reservoirs has been implemented, building on previous leak detection surveys conducted by the Water Unit. In 2011, tests were carried out on reservoirs at Tyalgum, Uki, Hillcrest Ave (Tweed Heads West) and Fingal Head. Further investigations are to be carried out at Uki and Fingal Head, based on the results of these initial tests. So far the results of these tests have enabled the identification of possible leaks and an estimate of the resulting water saving will be made once investigations and repair works are completed.

To assist with locating suspected water leaks, the Water Unit has purchased an electronic listening stick. This device will enable Council's water operators to carry out preliminary investigations in-house. More comprehensive investigations requiring the use of sophisticated equipment and expertise will be outsourced as the need arises.

A more detailed water loss management plan will be developed as the scope of works becomes clearer from the results of drop tests and preliminary leak detection work. The plan will draw together all relevant information including flow metering and pressure reduction requirements.

Action 11: Determine Preferred Option for the Augmentation of the Water Supply

The action set by Council in January 2009 has been completed. A Water Supply Augmentation Options study was undertaken to determine the best way to augment the water supply to meet the Shire's needs until the end of the planning period in 2036.

The Fine Screen Augmentation Options Report was considered by Council in October 2010, and a preferred option was selected. In October 2011 Council rescinded its decision but did not determine an alternative option to augment the water supply. No further augmentation works are being undertaken.

The Water Unit continues to provide the Planning Reforms Section with advice for the LEP review - particularly in relation to planning for future water and sewerage infrastructure requirements - to ensure the new LEP does not inadvertently restrict future augmentation options. Ongoing discussions will continue over the next 12 months to finalise any outstanding issues.

Preliminary discussions with South East Queensland (SEQ) Water are underway to examine various options whereby the Tweed could be supplied with water by SEQ. Council will be informed once a clearer understanding of connection issues is gained over the next 12 months.

Action 12: Procure Upgraded WTP at Tyalgum

Works is well under way to build a new water treatment plant (WTP) at Tyalgum, including augmenting components of the existing WTP. Council has chosen to construct a membrane filtration plant.

Council is in discussions with the NSW Office of Water to obtain Section 60 approval. The contract for the Design and Construct of the treatment process has been let and construction is due to commence shortly with completion expected by September 2012.

Action 13: Investigate and Determine Requirement for Upgrading the WTP at Uki

A hazard analysis and risk assessment of water quality at Uki WTP was completed as part of the Drinking Water Quality Management Plan. Further analysis and consideration is required to determine whether there is a need to upgrade the WTP. Design of the upgrade has been scheduled in the capital works program for 2013, with construction included in the 2015 budget.

Urban Wastewater

Action 14: Optimise Existing Sewerage Infrastructure

Council's Sewer Overflow Abatement Strategy (2007) prioritised a program of capital works and operational actions to 2013. The majority of these works are complete, or are funded in future budgets.

Council has also employed a Network Modeller to produce detailed sewerage catchment models calibrated with gauging information in order to determine future works to optimise sewerage catchments. Ongoing flow gauging and monitoring continues in East Banora Point, Tweed Heads Central, South-west Murwillumbah, South-west Tweed Heads and Bilambil Heights catchments.

Action 15: Determine Options for Augmentation of the Sewerage Infrastructure

A number of option studies and projects are being worked on to enable sewerage infrastructure to meet the demands of population growth, improved discharge quality, and infrastructure consolidation efficiencies.

- The Banora Point WWTP is being upgraded to increase its capacity from 62,500 EP to 75,000 EP with improved effluent quality. Construction commenced in September 2010 and it is anticipated that the upgraded plant will be operational by mid 2012.
- A new WWTP and associated reticulation system are under construction to service the villages of Burringbar and Mooball with completion and commissioning expected in late 2012.
- Council resolved in November 2010 to support, in principle, a proposed stand alone private water and wastewater utility scheme for urban land release Area 9 in Mooball. It is proposed that TSC would enter into an agreement with the utility service provider under an IPART licence to provide retail services. One of TSC's conditions is that the developer/private utility company remains open to considering the future option of servicing urban land release Area 8 in Burringbar as well.
- A development at 'Area 'E' at Terranora is likely to cater for about 4,000 additional people. The Development Control Plan for the area has been endorsed by Council but not yet adopted. It is likely to be put forward for adoption in late 2012 once requirements for developer contributions are finalised. The Water Unit has produced a draft sewerage strategy and draft concept highlighting minimum requirements for the area. Funding is also included in the 10 year funding program for future connection of the existing Parkes Lane estate (currently on septic).
- Infrastructure strategies have also been developed to concept stage for future developments at Cobaki Lakes and The Rise at Bilambil Heights. Further augmentation of the Banora Point WWTP would be required to cater for these new developments and Area E. Effluent disposal from the Banora Point WWTP would undergo increased scrutiny, and may require relocation of the effluent outfall. and/or provision of a higher level of treatment, and/or maximisation of recycled water (effluent reuse) opportunities.
- An infrastructure strategy to concept stage has also been developed for future development at Kings Forest. It is envisaged that this new development would require the augmentation of the Kingscliff WWTP to cater for the estimated 11,500 additional people to be serviced by this new development.

- Council has been approached by developers regarding augmentation of sewerage infrastructure to cater for development in South West Pottsville and the Hastings Point catchment. The proposal includes the developers becoming a private wastewater utility provider under the Water Industry Competition Act (WICA). A separate report will be put forward to Council once further information becomes available.

Action 16: Maximise Water Recycling (Effluent Reuse) Opportunities

A number of recycled water (effluent reuse) schemes have progressed across the shire in 2011, including:

- Les Burger Field (rugby club) at Bogangar, recycling up to 55kL/d from Hastings Pt WWTP. Transfer pipeline construction complete. Final construction for irrigation system should be completed by Dec 2012. Issues impacting completion include Council waited 6 months for initial response regarding Section 60 approval. Further work required on recycled water management plan before approval is likely to be granted.
- Burringbar/Mooball recycled water scheme, recycling up to 20ML/a. To be pursued once the new WWTP is operating. Transfer pipeline construction complete. Further investigations under way for suitable end uses. Scheduled in capital works program for 2013/2014.
- Tyalgum WWTP irrigation for additional Koala fodder plantation. Concept design under way. Scheduled in capital works program for 2014.
- Turf Farm on Round Mountain Rd, Bogangar. Scheduled in capital works program for 2014. Investigations under way. Still under consideration but viability is uncertain due to negative community response.
- Arkinstall Park and Memorial Gardens, Tweed Heads, recycling up to 230ML/a from Banora Pt WWTP. Still under consideration but viability is uncertain. Scheduled in capital works program for 2016.
- Barry Sheppard Oval and Round Mountain pony club, recycling up to 200ML/a from Hastings Pt WWTP. Still under consideration but viability is uncertain.
- Chinderah Ti tree plantation, recycling up to 950ML/a from Kingscliff WWTP. Under consideration.
- Tweed Heads South industrial area. Under preliminary consideration. Will depend on Banora Pt WWTP upgrade and customer effluent quality requirements.

In 2010/2011 the percentage of wastewater treatment plant (WWTP) effluent recycled was 4.8% compared with the 2013 target of 15%.

The main reason for this lower-than-expected result was a significant reduction in the use of treated effluent by the co-generation plant at Condong sugar mill. It is expected that this figure will increase again as new reuse projects, such as the one at Les Burger Field, come on line. New opportunities for effluent reuse are being investigated on an ongoing basis but stringent NSW State guidelines are impacting on Council's ability to introduce new schemes in a timely manner.

In respect to new development, Council is willing to receive and assess submissions from developers who propose reuse and/or water recycling.

Urban Stormwater

Action 17: Review Urban Stormwater Quality Management Plan

Ongoing work is addressing the action set by Council in February 2011.

The Urban Stormwater Quality Management Plan (USQMP) aims to provide water quality objectives for urban stormwater systems that are achievable and meet the ecological requirements of the target waterways. It exists to guide Councils activities with regard to urban stormwater, primarily approval of development.

This document, originally prepared in 2000, is currently under review, and will be going on public exhibition in March 2012. The review has identified a resource deficiency with regard to the management of existing public and private stormwater treatment assets within the Shire. Most are not maintained, and their efficacy is unknown.

Council's Natural Resource Management Unit, under the Waterways Program, is planning to audit existing stormwater quality treatment devices in 2012/2013. A schedule of deficiencies and rectification requirements will be prepared to determine future priorities. However given the limited resources available to manage existing stormwater treatment assets, confirming the timing for rectification of sub-standard systems will be difficult. This could potentially be partly addressed through inclusion of a stormwater levy in future rate rises.

Action 18: Update Development Design Specification D7 – Stormwater Quality

Council's Planning and Infrastructure Unit is updating D7 "*Development Design Specification: Stormwater Quality*" for new development. To ensure actions achieve appropriate goals, this review will set Water Quality Objectives based on the outcomes of the USQMP.

Treatment approaches and WSUD practices will be adopted in line with *Water by Design Guidelines (Healthy Waters Partnership)* from SE QLD. Target for completion mid 2012.

Future work will include review of the D5 "*Stormwater Drainage Design Specification*" to ensure consistency between design and quality objectives.

Action 19; Identify Targeted Retrofit Program for Retention/Treatment Hotspots

The Tweed Urban Stormwater Quality Management Plan prepared in April 2000 identified a number of priority projects for improving stormwater quality.

One project has been completed; being the installation of a gross pollutant trap during the redevelopment of Jack Evans Boat Harbour.

Investigations are underway into possibilities for improving water quality discharging to Trutes Bay from the Banora Western Drainage Scheme. However, further funding has not been identified to pursue this action. Until funding is secured it is unlikely that the scale of investment and intervention will match the scale of the water quality problem in this area.

Management of the waste captured in Gross Pollutant Traps (GPTs) continues to be an issue. A trial facility to accept the waste at Stotts Island Landfill could not meet environmental guidelines, and there is currently no legitimate location in Tweed Shire to dispose of captured sediments / pollutants taken from treatment devices. This remains a major constraint to implementing a maintenance system for public and private treatment devices. Replacement of this facility is extremely urgent as none of the treatment devices currently installed can be affective without access to a lawful disposal facility.

Catchment Management

Action 20: Review On-Site Sewage Management Strategy

Council's On-Site Sewage Management Strategy (OSMS) has been implemented over the last 10 years and is currently being revised with further development of policy, procedures and protocols. This is programmed for 2012.

Under the OSMS, Council's environmental health unit has implemented a comprehensive program of inspections to improve management of on-site disposal systems. It has generally been found that second round inspections have resulted in required improvements being undertaken by land owners.

Notwithstanding an enhanced catchment risk assessment which includes all water supply catchments is required to integrate the OSMS into the Catchment Management Strategy. Tools such as a Raw Water Catchment DCP and GIS layer defining catchment areas for Doon Doon, Uki, Tyalgum and Byrill Creek would help improve assessment of development applications.

Other achievements include provision of sewerage to Burringbar and Mooball. It will have a beneficial impact on diffuse leaching of effluent to water ways in this locality, partly offset by the discharge of effluent to Burringbar Creek.

Action 21: Develop Drinking Water Catchment Management Plan

Council's Water Unit has progressed work for the drinking water catchment management plan. The risk assessment process being carried out for the water quality management plan (Action 9) will broadly identify some of the hazards impacting on the drinking water catchment. A more detailed catchment management plan will be commenced, pending adequate resources, once Action 3 has been completed.

Council's Natural Resource Management Unit under the Waterways Program focuses on catchment management initiatives including planning controls, education, vegetation, restoration and engaging with the Catchment Management Authority (CMA). It chairs the Tweed River Committee and provides direction on initiatives for items such as stream bank protection. The mandatory Water & Sewer Dividend Payment funds catchment and water quality improvement initiatives.

Key to this is implementation of the River Health Grants Program, which aims to improve water quality by rehabilitating riparian zones, particularly fencing to ensure stock do not degrade and pollute streams. The effectiveness of this program is limited by the fact that it is voluntary and requires a co-investment by land owners. Approximately 25 km of stream bank has been treated in total through the river health grants scheme – including weed management, fencing and revegetation. This represents less than 1% of Tweed Shire riparian zones.

Further study is required to determine the relative lengths of good, fair and poor condition riparian zone; and the total area that would need to be rehabilitated to improvement water quality and aquatic ecosystem health.

OPTIONS:

There are no options for Council to consider.

CONCLUSION:

The IWCM actions are progressing well, with significant achievements in a number of areas.

A major review of Council's approach in 2012-13 will provide further strategic direction for future IWCM actions.

COUNCIL IMPLICATIONS:

a. Policy:

Further policy development is required across the full range of the Water and Wastewater functions of Council.

b. Budget/Long Term Financial Plan:

The IWCM Action Plan relates to Council's core business as a Local Water and Wastewater Utility. This program of work requires significant resource and financial commitments to complete. Failure to complete the actions to the satisfaction of government could put Council at risk. Poor Performance as a Local Water and Wastewater Utility could result in losing these functions.

c. Legal:

No - Legal advice has not been received
Attachment of Legal Advice - Not Applicable

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 4 Caring for the Environment
- 4.3 Maintain and enhance Tweed's waterways and its catchments
- 4.3.1 Manage water resources sustainably and minimise impact on the environment by achieving more integration of water supply, wastewater and stormwater services
- 4.3.1.1 Ongoing Integrated Water Cycle Management Actions
- 4.3.1.1.1 Annual update of Integrated Water Cycle Management Strategy
- 4.3.2 Improve urban stormwater discharge through water sensitive urban design
- 4.3.2.1 Water sensitive urban design measures

- 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
- 2.3.2.1 Deliver Demand Management Strategy
- 2.3.2.1.1 Implement Demand Management Actions and Priorities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

24 [CNR-CM] Quarterly Variation Report for Contract EC2009-068 - Banora Point Wastewater Treatment Plant 18MI Upgrade Construction: October 2011 to January 2012

SUBMITTED BY: Water

FILE NUMBER: GC12/2-2008068



Supporting Community Life

SUMMARY OF REPORT:

At the Council Meeting of 20 July 2010, a tender was accepted from Tenix Australia Pty Ltd for the construction of the 18ML Banora Point Wastewater Treatment Plant. The project will upgrade the wastewater treatment plant from 15ML/day to 18ML/day. The accepted lump sum tender price was \$28,074,144.20 inclusive of GST. This amount did not include payment of Rise and Fall which is payable under the Contract.

Contract works commenced in September 2010 and are predicted to be finished by May 2012.

The Council decision delegated authority to the General Manager to approve variations totalling up to 10% of the contract sum, (i.e. \$2,807,414.42 inclusive of GST). The total value of approved variations to the end of January 2011 is **\$1,142,209.13** inclusive of GST. This takes the current contract sum to the end of January 2012 to **\$29,216,353.32** inclusive of GST. This is well within the current limit of delegated authority of 10% of the original contract sum. Note this report covers the period from October 2011 to January 2012. Previous quarterly reports showed the total value of variations approved to the end of September 2011 was **\$1,002,643.65**. The variations that were the subject of those reports are not included here.

In addition to the variations detailed in this report, there are variations that are currently being reviewed by Council's project management team. Details of these variations are provided in CONFIDENTIAL ATTACHMENT A.

RECOMMENDATION:

That Council notes and endorses the total value of variations to date of \$1,142,209.13 inclusive of GST, for Contract EC2009-068 Banora Point Wastewater Treatment Plant Upgrade including variations not previously reported:

- **Variation No.43 – Recoating to the existing Inlet Works Stairs. (\$5,021.13 GST Incl.)**
 - **Variation No.44 – Apply epoxy coating to the floor of the inlet works by-pass channels and the top of the two existing step screen channels (\$12,785.08 GST Incl.)**
 - **Variation No.46 – September 2011 Quarter CPI Adjustment (\$107,961.54 GST Incl.)**
 - **Variation No. 47 – New pressed metal door frame for switch room double doors. (\$610.42 GST Incl.)**
 - **Variation No. 48 – Supply two replacement Ethernet cards (\$3,514.95 GST Incl.)**
 - **Variation No. 50 – Supply and install two new flumes in the western step screen channel. (\$9,672.36 GST Incl.)**
- 2 ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
- (c) confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**
 - (d) (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:

At the Council Meeting of 20 July 2010, a tender was accepted from Tenix Australia Pty Ltd for the construction of the 18ML Banora Point Wastewater Treatment Plant. The project will upgrade the wastewater treatment plant from 15ML/day to 18ML/day. The accepted lump sum tender price was \$28,074,144.20 inclusive of GST. This amount did not include payment of Rise and Fall which is payable under the Contract.

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In addition to the variations detailed in this report, there are variations that are currently being reviewed by Council's project management team.

The major variations covered by this report have been a consequence of either:

- Cost adjustment to the contract sum based on CPI amounts
- Redesign to provide a better outcome.

Details of the variations approved during the period October 2011 to January 2012 are provided below for the information of Council, as follows:

Variation No.	Description	Amount (Incl GST)	Status
	<i>Amount previously reported.</i>	\$1,002,643.65	
43	The existing stairs to the south of the inlet works required relocation under the contract. Upon removal, it was discovered the main structural components had corroded and it was agreed to blast and recoat these components.	\$5,021.13	Approved
44	Under the contract, the walls of the existing inlets works channels were required to be epoxy coated. When the covers were removed, the floor of these channels were found to have deteriorated as a result of the intermittent immersion in sewage. The tops of the existing coatings on the screenings channels were found to be the same. It was thus decided to epoxy coat these surfaces.	\$12,785.08	Approved
46	The contract included quarterly Rise and Fall adjustments due to its duration. This adjustment is for the September rise and fall payment.	\$107,961.54	Approved
47	The double doors on the switch room were required to be relocated as part of the works. Upon demolition, the door frame was found to be corroded. It was agreed to	\$610.42	Approved

Variation No.	Description	Amount (Incl GST)	Status
	install a new frame.		
48	The electrical specification required ETN21 Ethernet Cards. TSC uses EIP21 Ethernet Cards.	\$3,514.95	Approved
50	The western inlet works channel has now had a new step screen installed. As this channel has been idle, there was no flow control flumes installed in it. Flumes are required to slow the flow through the screen and maintain a constant head upstream and downstream of the screen	\$9,672.36	Approved
	TOTAL	\$1,142,209.13	

The above approved variations have been or will be incorporated into the works.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

The subject variations are within the contract budget and the total project budget.

The original project budget contingency is \$2,807,414.42(GST Incl.).

Therefore the current project budget contingency is \$1,665,205.29 (GST Incl.).

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:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.3 Provision of high quality and reliable wastewater services which meets health and environmental requirements and projected demand
- 2.3.3.7 Deliver Capital Works Program, (Only Large items listed)
- 2.3.3.7.5 Banora Point Waste Water Treatment Plant upgrade

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment** – Notice of Potential Variations: Quarterly Variation Report for Contract EC2009-068 – Banora Point Wastewater Treatment Plant 18ML Upgrade Construction: October 2011 to January 2012. (ECM 47263138)

25 [CNR-CM] Contract EC2011-236 Sewer Main Rehabilitation Tweed Shire 2011/2012

SUBMITTED BY: Water

FILE NUMBER: EC2011-236



Supporting Community Life

SUMMARY OF REPORT:

This report outlines the tender for rehabilitation of various sewer mains throughout the Tweed Shire in the 2011/2012 financial year. The report provides a recommendation on the preferred tenderer. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENTS A and B**. A summary of the Selection Criteria is also included in the body of this report. It is recommended that Council accepts the tender of Insituform Australia Pty Ltd for EC2011-236 Sewer Main Rehabilitation Tweed Shire 2011/2012.

Attachments A and B are **CONFIDENTIAL** in accordance Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because they contain commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

RECOMMENDATION:

That

1. The tender from Insituform Australia Pty Ltd for contract EC2011-236 Sewer Main Rehabilitation Tweed Shire 2011/2012 be accepted to the value of \$360,970.07 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 the Works.

3. **ATTACHMENTS A and B are CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
- (a) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**
 - (b) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret**

REPORT:

Tender Background

Council Tender EC2011-236 – Sewer Main Rehabilitation Tweed Shire 2011/2012 - invited responses for the provision of all materials, plant and labour and the performance of all operations of whatever kind necessary for the complete and proper rehabilitation of various sewer mains throughout the Tweed Shire.

Evaluation Criteria and Weighting

Tenders were evaluated based on the criteria listed in Clause 25 contained within the Conditions of Tendering.

Criterion	Weighting %
Tender Price (Total Normalised Score)	75
Tenderer's Experience and Capability	10
Methodology and Service Program	5
Proposed Contractor's Personnel	5
OH&S Management System	5
Total	100

Tender Evaluation

The tender evaluation was conducted by Council's Tender Assessment Panel, consisting of a Contract Engineer, Maintenance Engineer and Water & Wastewater Engineer (Chairman). A copy of the Tender Evaluation Report is included in **ATTACHMENT A** 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:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

OPTIONS:

Tender Submissions closed at 4:00pm (local time) on 8/02/2012 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484. A total of 3 responses were recorded for EC2011-236 at the Tender Box opening.

Tenderer	ABN
Insituform Pacific Pty Ltd	43 123 427 305
Interflow Pty Ltd	34 000 563 208
Kembla Watertech Pty Ltd	76 003 807 010

CONCLUSION:

Based on the economic advantage and conformity of non-price criteria, it is recommended that Insituform Australia Pty Ltd be nominated for contract EC2011-236 Sewer Main Rehabilitation Tweed Shire 2011/2012.

Details of Insituform Australia Pty Ltd relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.3: The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contracts Management Process document and Tenders Procedure.

b. Budget/Long Term Financial Plan:

Funding for the works will be provided from within the 2011/2012 Council Budget for Gravity Sewer Relining D3100.0743.

c. Legal:

This tender process is in accordance with Section 55 of the Local Government Act 1993 and Part 7 (Tendering) of the Local Government (General) Regulation 2005.

d. Communication/Engagement:

Not Applicable

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.3 Provision of high quality and reliable wastewater services which meets health and environmental requirements and projected demand
- 2.3.3.7 Deliver Capital Works Program, (Only Large items listed)
- 2.3.3.7.1 Annual Gravity Sewer Relining Program

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - Tender Evaluation Report (ECM 47118684)
 2. **Confidential Attachment B** - Tender Assessment (ECM 47118685)
-

26 [CNR-CM] Cabarita Youth Service Update

SUBMITTED BY: Community and Cultural Services

FILE NUMBER: Not Applicable



Supporting Community Life

SUMMARY OF REPORT:

Council considered a report in relation to Cabarita Youth Service (CYS) on 24 January 2012. The report outlined options the Executive Committee considered in relation to the future of the service following notice to vacate 'Heathers' (the old Cabarita Post Office) owned by Stockwells. CYS received notice to vacate the premises by 30 January 2012 at which time it was taken over by Woolworths for re-development. The report recommended the option then agreed by the majority of the CYS Executive, being to establish a co-location service delivery model. Following the decision of Council the Executive Committee nominated to seek premises for rental in the Cabarita town centre. At a meeting attended by CYS Executive Committee representatives, the Mayor and Council staff on 2 February, the new proposal was discussed and a request for financial assistance by CYS was made.

RECOMMENDATION:

That Council provides financial assistance to Cabarita Youth Service up to a maximum of \$5,000 over 12 months from the Youth Program budget subject to the conditions as outlined in the report.

REPORT:

Council considered a report in relation to Cabarita Youth Service (CYS) on 24 January 2012 in relation to the re-location of Cabarita Youth Service from the old Cabarita Post Office known as 'Heathers'.

In December 2011 the service received notification from Stockwell's to vacate the property by 30 January 2012. The CYS Executive Committee met on 11 January 2012 and considered the following options:

1. CYS to continue to provide services to the local community via a mobile and/or co-location (hot-desk) service delivery model**;
2. CYS moves to Les Burger Field offices for a period of 6-months (due to limited funds and funding sources);
3. CYS cease to provide operations for a short-term period ie. 1-2 months, whilst seeking other viable venue options.
4. CYS request Council subsidises 75% of the weekly rent of (\$340) for a period of 12 months.

At that time, the majority of the CYS Executive Committee was in favour of the co-location service delivery model. Council resolved to support Cabarita Youth Service to:

1. *Establish a co-location service delivery model for the delivery of services over the next 12 months.*
2. *Make appropriate storage arrangements for equipment over the next 12 months.*

Following that resolution, a meeting was held on 2 February 2012, between CYS representatives, the Mayor and the Director of Community and Natural Resources. CYS Executive Committee representatives presented Council with information pleading a case for financial assistance while renting a property in the town centre. The Executive had determined not to pursue the co-location service delivery model as they felt young people need a venue to come to that is in the town centre. At that meeting a pledge of financial assistance to the value of \$416 per month up to a maximum amount of \$5,000 for a period of 12 months was given (subject to ratification of Council).

A follow-up meeting was held on 10 February 2012, with Council's Community Service Staff and CYS Executive Committee Members to discuss the future of the service. A commitment was given to prepare a new report for Council's consideration endorsing the pledge of financial assistance subject to the following conditions:

1. CYS to obtain Public Liability insurance and forward a copy of the Certificate of Currency to Council;
2. A monthly Youth Work report must be submitted to Council using the current standard CYS Monthly Report form showing the client data collected for that period;

3. The money can be used for storage, accommodation or other purpose as considered necessary by CYS.

OPTIONS:

1. Adopt recommendation in the report and provide financial assistance for 12 months.
2. Not adopt the recommendation.

CONCLUSION:

It is recommended in this instant that financial assistance is provided in keeping with discussions held on 2 February 2012 subject to the conditions outlined on 10 February 2012 being:

1. CYS to obtain Public Liability insurance and forward a copy of the Certificate of Currency to Council;
2. A monthly Youth Work report must be submitted to Council using the current standard CYS Monthly Report form showing the client data collected for that period;
3. The money can be used for storage, accommodation or other purpose as considered necessary by CYS.

COUNCIL IMPLICATIONS:

a. Policy:

Youth Policy v1.0 adopted (12/08/2008)

b. Budget/Long Term Financial Plan:

Funding is available in the 2011/2012 adopted budget in Youth Programs to provide financial assistance to CYS if determined appropriate by Council.

c. Legal:

No-Legal advice has not been received
Attachment of Legal Advice-Not Applicable

d. Communication/Engagement:

Inform - We will inform CYS of Council's decision.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.5 Provide vibrant and accessible town, community and business centres
- 2.5.2 Facilitate the development of a network of neighbourhood centres and community places to meet the needs of local residents
- 2.5.2.2 Plan for and provide new community buildings in line with population growth
- 2.5.2.2.6 Assist Cabarita Beach Business Association identifying suitable temporary facilities for location of Cabarita Youth Service and map long-term arrangements.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

27 [CNR-CM] Vegetation Screen - Casuarina

SUBMITTED BY: Natural Resource Management

FILE NUMBER: Not Applicable



Caring for the Environment

SUMMARY OF REPORT:

Council undertook a site assessment in February 2012 of the level of vegetation growth behind the screen adjacent to beach access 6, Casuarina Beach. This screen was erected in January 2007 following intentional vandalism of vegetation in late 2006.

The assessment found that the vegetation has not fully grown to the height of the adjacent vegetation apart from scattered trees. However, it was noted that, had site revegetation been successful following the poisoning of trees, it is likely vegetation would have reached sufficient height and density to screen the area.

Therefore it is recommended further resources are committed to continued planting and weed control at the site and that the screen be removed but the metal superstructure which is holding the screen should be retained in place for a further two years.

RECOMMENDATION:

That Council:

- 1. Undertakes additional planting and weed control to rehabilitate the vegetation on the dune adjacent to beach access 6 at Casuarina Beach.**
- 2. Removes the vegetation screen fabric adjacent to beach access 6 at Casuarina Beach, leaving the support structure in place for a further two years or until vegetation growth and monitoring demonstrates satisfactory rehabilitation, whichever is the greater period.**

REPORT:

Council undertook a site assessment on 8 February 2012 of the level of vegetation growth behind the vegetation screen adjacent to beach access 6, Casuarina Beach. This inspection took place following a request from a resident noting that the screen had been erected and in place since January 2007.

Trees were planted on the site in 2007 but most did not survive for various reasons. Additional trees planted autumn 2010 are far from reaching a similar height to adjacent vegetation. Early removal of tree guards, damage to Coast Acacia and breaking down of dead timber at the site (which had not been done by the contractor or Council) has further delayed restoration of the site and significantly affected the success of the planting. There are still large gaps where more trees will need to be planted using hardy quick growing species only (Macarangas, Cottonwood, Coast Banksia and Pandanus) and weed control will need to be ongoing.

Across the site, scattered trees which have survived have reached the height of the screen and are providing some filtered screening of any ocean views resulting from the original poisoning of trees undertaken in 2006.

It is acknowledged also that, had site revegetation been successful following poisoning of trees, it is likely vegetation would have reached sufficient height and density to screen the area. However due to drought periods, lack of resources committed to maintaining plants initially and further unintentional damage of the more recent planting in 2010, the site has not been successfully restored.

Therefore it is recommended further resources are committed to continued planting and weed control at the site. If this can be done, the screen should be removed and kept but the metal superstructure which is holding the screen should be retained in place for a further two years. This is to ensure that the screen can be easily replaced should there be any further vandalism on the site. Should the site be restored satisfactorily and no further damage noted to vegetation after two years, the metal structure should be reassessed for removal. Resources need to be committed to additional planting, weed control and monitoring from the existing Lot 500 budget allocation.

OPTIONS:

Option 1 - that Council retain the screen until the vegetation is full height which may take several more years. Council to continue planting and weeding the site and monitor to ensure that further vandalism of the vegetation does not occur.

Option 2 - that Council removes the screen fabric but retains the superstructure for a further two years. Council to continue planting and weeding the site and monitor to ensure that further vandalism of the vegetation does not occur prior to removing the screen superstructure.

Option 3 - remove the screen and superstructure entirely. This will use resources at this stage that would be better utilised in further planting and rehabilitation works of the site and does not allow for easy re-erection of the screen should further vandalism occur. Council to continue planting and weeding the site and monitor to ensure that further vandalism of the vegetation does not occur.

CONCLUSION:

It is recommended that Option 2 be adopted by Council and the screen fabric be removed and stored with the superstructure retained in place for a further two years. It is considered that the length of time the screen has been in place has been a sufficient deterrent. Additionally, the level of awareness within the local community is much higher and there is now a dune care group actively working in this area.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

Minimal. Cost for removal and storage of screen fabric. Pole structure to remain in place until satisfied that no further damage has occurred. Additional rehabilitation works to be undertaken using existing budgets for vegetation management within Lot 500.

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:

- 4 Caring for the Environment
- 4.1 Protect the environment and natural beauty of the Tweed
- 4.1.1 Retain open space and greenbelts for conservation and for all people to enjoy
- 4.1.1.4 Council bushland management compliance
- 4.1.1.4.1 Respond to bushland compliance issues as necessary

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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28 [CNR-CM] Camphor Laurel Eradication and Management

SUBMITTED BY: Natural Resource Management

FILE NUMBER: Not Applicable



Caring for the Environment

SUMMARY OF REPORT:

At the Council meeting of 18 October 2011 Council resolved as follows:

That the General Manager investigates and reports back to Council on a draft policy document on the eradication and management of Camphor Laurel on all public or private land in the Tweed Shire.

Camphor Laurel (*Cinnamomum camphora*) is a serious tree weed throughout northern NSW, invading large tracts of agricultural land and native vegetation. Camphor Laurel was listed as a Class 4 weed under the NSW Noxious Weeds Act 1993 within Tweed Shire in 2009. The implications of the declaration are that landholders are now required to manage Camphor Laurel on their properties in accordance with the Class 4 Weed Control Management Plan for Camphor Laurel, or a site specific management plan for the property.

The need to effectively control weeds such as Camphor Laurel is recognised within Council's adopted Vegetation Management Strategy 2004; however the Strategy also acknowledges that large-scale removal needs to be carefully managed to avoid adverse impacts on the environment. The need for careful management is amplified by the observations that Camphor Laurel dominates large areas of bushland in parts of the shire, provides fauna habitat, is often found in sensitive parts of the landscape (e.g. steep and riparian areas) and commonly occurs in association with Threatened species.

Since 2009, Camphor Laurel harvest operations undertaken within Tweed Shire to supply bio-fuel to Condong sugar mill have raised community concerns regarding the environmental impacts of large-scale removal of Camphor Laurel. Whether such operations may be considered as Exempt Development under the 'Noxious Weed Control' provisions of Tweed Development Control Plan Section A10 has been a well-debated issue requiring considerable liaison between representatives of Council, Far North Coast Weeds, Office of Environment and Heritage, Office of Water, Camphor harvest contractors and landowners.

Presently, a site specific property management plan must be signed off by Far North Coast Weeds and Council prior to any such operations commencing. Since the management plan process has been introduced, community complaints have greatly reduced and the process

appears satisfactory. Management Plans are accompanied by an environmental assessment and buffering has generally been included within the plan.

Any landowner may apply for a site specific management plan through Far North coast weeds if the method or number of trees to be removed falls outside Council's exempt development provisions. For the purpose of managing Camphor Laurel harvest operations, a threshold of 20 trees per property per year was adopted.

The new Tweed LEP (when adopted) will incorporate standard state-wide definitions with the effect that Camphor Laurel harvest in rural or environmental management zones will be regarded as Forestry and subject to Forestry approval requirements. General Camphor Laurel control will be exempt from the new Tree Preservation Order (to be incorporated into the new LEP), so long as it is of minimal environmental impact.

This report concludes that a Council policy is not considered necessary in this instance because:

- it would duplicate current legislative requirements;
- Camphor Laurel may be controlled without consent (exempt development) by landholders under LEP 2000, providing it is carried out by methods that minimise impacts on flora and fauna and the environment;
- incorporation of a revised Tree Preservation Order within the new Tweed Local Environmental Plan will reflect the current exempt development provisions;
- incorporation of revised standard definitions within the new Tweed Local Environmental Plan will mean Camphor Laurel *harvest operations* will be regarded as Forestry, requiring development consent in rural and environmental protection zones. In this case Council will continue to work with the industry to streamline the process.

RECOMMENDATION:

That Council receives and notes the report on Camphor Laurel Eradication and Management.

REPORT:

Indigenous to China and Japan, Camphor Laurel (*Cinnamomum camphora*) was introduced to Australia as an ornamental species in 1822, established in the Sydney and Brisbane Botanic Gardens in 1854 and 1861 respectively, and promoted as a shade tree for parks, gardens and school grounds for many years.

Camphor Laurel is now a serious weed throughout northern NSW, invading large tracts of agricultural land and native vegetation. The need to effectively control weeds such as Camphor Laurel is recognised within Council's adopted Vegetation Management Strategy; however the Strategy also acknowledges that *large-scale* removal needs to be carefully managed to avoid adverse impacts on the environment. The need for careful management is amplified by the observations that Camphor Laurel dominates large areas of bushland in parts of the shire, provides fauna habitat, is often found in sensitive parts of the landscape (e.g. steep and riparian areas) and commonly occurs in association with threatened species.

The following discussion distinguishes between general Camphor Laurel *control* as carried out by most landholders on their property whereby trees are treated individually by stem injection, cut and paint or similar small-scale, gradual removal methods; and Camphor Laurel *harvest operations* where heavy machinery is used to fell numerous trees per day and the trees are generally chipped on site then the chip removed from the site through in a number of truckloads.

The Current Situation for Camphor Laurel control

In 2009, Camphor Laurel was listed as a Class 4 noxious weed under the Noxious Weeds Act 1993 within Tweed Shire (and other areas). The Far North Coast Weeds website states:

Class 4 control requirements are that 'the growth and spread of the plant must be controlled according to the measures specified in a management plan published by the local control authority and the plant may not be sold, propagated or knowingly distributed'.

The responsibility for the control of noxious weeds on private land rests with the land owner or occupier of the land.

The *Far North Coast Weeds Class 4 Weed Control Management Plan* states that control requirements for Camphor Laurel are:

- Camphor Laurel must not be sold, propagated or knowingly distributed.
- Landowners are required to prevent the spread of Camphor Laurel on their properties.
- Landowners must control Camphor Laurel as follows:
 - *Plants under 3m in height* – landowners are required to keep their property free of plants under three metres in height. Landowners are required to prevent the establishment of new seedlings and to destroy all plants under three metres in height.
 - *Trees over 3 m in height* – landowners are required to reduce the number of trees at the commencement of this plan by at least 10% annually. FNCW may require a landowner to control trees over three metres in height in accordance with an approved management plan applicable to their property.

Small-scale or gradual removal of Camphor Laurel trees over 3m in height is carried out by many landholders and Landcare groups using methods such as stem injection, chainsaw felling and subsequent painting or even spraying of smaller saplings and trees. Such methods result in death of the tree and therefore *control* the weed, and are unlikely to suddenly remove habitat or cause erosion problems. Such methods may be undertaken as exempt development.

Exempt development is a form of development that, if carried out in accordance with specific criteria, is considered to have a minimal impact on the environment and therefore does not require development consent from Council. Exempt development provisions are enabled through Clause 9 of Tweed Local Environmental Plan (Tweed LEP 2000) with specific provisions contained within the Tweed Development Control Plan (Tweed DCP A10). Exempt development provisions are designed to facilitate development of a minor nature where there is little risk of significant damage to the environment or cultural amenity. Examples of developments included in Council's exempt development schedule include garden sheds, TV antennas, air conditioning units, barbecues, fences etc. In this case the specific provision is entitled *noxious weed control*.

The current situation for Camphor Laurel *harvest operations*

The advent of electricity co-generation plants at Condong and Broadwater sugar mills generated substantial interest in the supply of Camphor Laurel as a bio-fuel. The joint venture between Delta Electricity Australia Pty Ltd and Sunshine Renewable Energy Pty Ltd which administered the co-generation plants appointed a number of contractors to source significant quantities Camphor Laurel. Far North Coast Weeds and others recognised the opportunity for benefit to landowners and the regional Camphor Laurel control effort that could be afforded by the harvest of Camphor Laurel where large areas were removed at one time.

However, the harvest operations did not result in death of the Camphor Laurel trees, meaning extensive follow-up work was required to prevent further outbreaks. In some cases, operations created problems for Council road maintenance crews, issues with neighbours (noise and nuisance) and environmental damage.

Council has a number of obligations and responsibilities in relation to proposals to harvest Camphor Laurel. These include Council responsibilities in relation to development consent and forward planning under the *Environmental Planning and Assessment Act 1979*, and environmental compliance under the *Protection of the Environment Operations Act 1997*.

As previously stated, exempt development provisions are designed to facilitate development of a minor nature where there is little risk of significant damage to the environment or cultural amenity. Under each category of exempt development, the scale of the development is limited by size and other criteria, beyond which development consent is required. In relation to *noxious weed control* the following apply:

- *Must be authorised under the Noxious Weeds Act 1993*
- *Must be carried out by methods that will not:*
 - *Have a significant impact on native flora and fauna;*

- *Create significant problems with land degradation including soil erosion, coastal erosion and siltation of waterbodies.*

Because of the scale of Camphor Laurel *harvest operations*, including the use of heavy machinery, on site processing and traffic generating nature of the works, the industry was advised that the magnitude of such works exceed exempt development provisions and therefore must be subject to development assessment. A threshold of 20 trees per property per year was adopted for this purpose

In an effort to resolve complications posed by this issue, Council has been working with the industry and FNC Weeds to ensure that assessment be undertaken and safeguards put in place sufficient to ensure any operations do not result in significant impacts to the environment.

This has resulted in a site specific Management Plan process, authorised under the Noxious Weeds Act 1993. The management plans provide for a pre-approval environmental assessment, with site-specific provisions incorporated in the plan (such as buffering of sensitive sites), and a commitment by the landowner (or FNC Weeds) for ongoing control after harvest is complete. Since the management plan process has been introduced, community complaints have greatly reduced and the process appears satisfactory in terms of environmental protection.

Any landowner may apply for a site-specific management plan through Far North Coast Weeds if the method or number of trees to be removed falls outside Council's exempt development provisions.

The Future Situation for Camphor Laurel *control*

It is proposed to have a single Tree Preservation Order (TPO) applying to the Tweed Shire upon adoption of the revised Tweed Local Environmental Plan. The draft provisions of this TPO will exempt noxious weed control including Camphor Laurel so long as the works comprise minimal environmental impact.

The Future Situation for Camphor Laurel *harvest operations*

The new Tweed LEP (when adopted) will incorporate standard state-wide definitions with the effect that Camphor Laurel *harvest operations* in rural or environmental management zones will be regarded as Forestry and require a Development Application. Under this scenario, Council will continue to work with the industry and FNC weeds to streamline this process.

OPTIONS:

Options available are to:

- Require the development of a policy for the short term to specify the 'rules' for Camphor Laurel removal as discussed in this report.
- Not develop a policy and rely on the current and future provisions as described in this report.

CONCLUSION:

This report concludes that a Council policy is not considered necessary in this instance because:

- it would duplicate current legislative requirements;

- Camphor Laurel may be controlled without consent (exempt development) by landholders under LEP 2000, providing it is carried out by methods that minimise impacts on flora and fauna and the environment;
- incorporation of a revised Tree Preservation Order within the new Tweed Local Environmental Plan will reflect the current exempt development provisions;
- incorporation of revised standard definitions within the new Tweed Local Environmental Plan will mean Camphor Laurel *harvest operations* will be regarded as Forestry, requiring development consent in rural and environmental protection zones. In this case Council will continue to work with the industry to streamline the process.

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:

- 4 Caring for the Environment
- 4.2 Conserve native flora and fauna and their habitats
- 4.2.3 Recognise the social and economic impacts of managing vegetation
- 4.2.3.1 Noxious weed management

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

29 [CNR-CM] Lakes Drive Pontoon Replacement - Offer of Grant from Transport Roads and Maritime Services' Better Boating Program

SUBMITTED BY: Natural Resource Management

FILE NUMBER: Not Applicable



Caring for the Environment

SUMMARY OF REPORT:

Council has been offered a grant of \$37,000 by the Department of Transport Roads and Maritime Services' Better Boating Program. The grant constitutes an estimated 50% of costs to replace a pontoon at the Lakes Drive Boat Ramp.

The pontoon is being replaced due to the previous structure being damaged beyond repair and removed in December 2010 for safety reasons. It is a very popular facility and there have been continuous calls for its replacement from the public.

Council's 50% contribution to this project will come from the waterways asset replacement and waterways asset management budget.

RECOMMENDATION:

That Council:

- 1. Accepts the grant offer of \$37,000 from the Department of Transport Roads and Maritime Services' Better Boating Program towards the replacement of the pontoon at the Lakes Drive Boat Ramp and votes the expenditure.**
- 2. Allocates a matching \$37,000 from the waterways asset replacement and waterways asset management budget to complete the project.**

REPORT:

Lakes Drive Boat Ramp on Terranora creek is a popular facility, used primarily by locals launching small vessels. The rocky nature of the foreshore and strong tidal currents in this area mean that launching and retrieving small trailer boats is very difficult without the presence of a pontoon or jetty.

Council constructed a facility in this location in 2003 with assistance from NSW Maritime, however the type of pontoon selected (modular plastic) was not sufficiently robust to withstand the loads exerted on it by tidal currents. On several occasions the pontoon segments broke apart, eventually sustaining a level of damage that could not be repaired. The structure was removed in December 2010.

Since its removal, Council has received dozens of calls from boaters who wish to see the pontoon replaced.

Council has redesigned the proposed structure to be constructed at Lakes Drive. It will consist of a concrete deck pontoon and aluminium gangway fixed to 2 concrete piles. The facility will be sufficiently robust to withstand daily tidal currents, flood flow and debris accumulation, as well as the intended use by vessels.

OPTIONS:

Council could chose not to accept the grant and not complete this project.

CONCLUSION:

The proposed structure is an important piece of community infrastructure, it will fulfil a well established existing need, and is a priority project within Councils waterways infrastructure management program. Council could not complete this project in the current financial year without assistance from the Better Boating Program grant.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

Grant offered on 50% terms with Council contribution of \$37,000 which will be sourced from the Waterways Asset Management program.

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:

- 4.1 Protect the Environment and Natural Beauty of the Tweed
- 4.1.3 Manage and regulate the natural built environment
- 4.1.3.9 Maintain Waterways Infrastructure (canals, jetties, boat ramps)
- 4.1.3.9.2 Replace Lakes Drive Pontoon

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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30 [CNR-CM] Acceptance of grant funding from Gordon Darling Foundation for Council's Gallery Director

SUBMITTED BY: Community and Cultural Services

FILE NUMBER: Not Applicable



Supporting Community Life

SUMMARY OF REPORT:

A grant from the Gordon Darling Foundation through the Darling Travel Grant scheme has been awarded to Council's Gallery Director Susi Muddiman. The grant funding of \$3,300 (inc. GST) is to be allocated towards international travel to view re-creations of artists' studios in preparation for the installation of the Margaret Olley Art Centre at Tweed River Art Gallery.

At the meeting held on 21 February 2012, Council endorsed the travel costs of the Art Gallery Director to Dublin, London and Bologna as part of the assessment process of the Margaret Olley Art Centre. The travel is funded in cooperation with the Friends of the Tweed River Art Gallery, the Tweed River Art Gallery Foundation and Council.

RECOMMENDATION:

That Council accepts the grant offer totalling \$3,300 from the Gordon Darling Foundation and votes the expenditure.

REPORT:

The Gallery Director was recently offered a travel grant by the Gordon Darling Foundation (GDF). These Travel grants provide an award of up to \$3,300 (inc. GST) for use by an individual of a public visual arts institution on a focussed visit within Australia. The grants are to be for a specific purpose and should benefit both the institution and the individual recipient.

The Tweed River Art Gallery was recently honoured and named as the beneficiary of an \$1,000,000 gift from the Margaret Olley Art Trust towards the establishment of the Margaret Olley Art Centre, as a purpose-built extension of the Tweed River Art Gallery. It is the Trust's desire to honour the express wish of the late Margaret Olley that her studio and elements of her home and collections be re-created at the Tweed River Art Gallery. The Margaret Olley Art Centre at the Tweed River Art Gallery will also be the repository of a large number of the artist's own works, including works in progress, ephemera and correspondence.

The purpose of this travel is to examine a number of respected re-creations of artists' studios in order to deliver the best possible outcome at Tweed River Art Gallery. Whilst there are a number of excellent studio re-creations in Australia, the Gallery Director has previously visited many of them, and believe that the home studio of Margaret Olley is quite possibly a unique environment that will be very difficult to replicate. The importance of Miss Olley's domestic environment was paramount to her practice, the result of which was a multi-layered, eclectic atmosphere that continues to exude an intoxicating and endearing ambience. The living spaces of her home convey a layering of time and a vibrant density. It is imperative that the re-creation of the three living spaces selected from Miss Olley's home be replicated in such a way as to successfully transfer these important aspects of her art and life to visitors. to the Tweed River Art Gallery. The Gallery Director is therefore keen to see, experience and learn from as many other 'unique' re-creations of artist's studios as possible.

The Francis Bacon Studio in Dublin, housed in the Hugh Lane Gallery, has an excellent reputation, and more closely resembles the multi-layering of artistic inspiration and practice which was so important to Olley's practice. The Bacon studio was also the subject of a major relocation, from Bacon's studio in London to his birthplace of Dublin. The Gallery Director will meet with the curators in Dublin as to how this process worked, its successes and failures, and transfer this knowledge into practical solutions in working on the logistics of the relocation of Olley's home to Murwillumbah.

The Gallery Director will also learn more about the database designed for the Bacon project. As the Margaret Olley Art Centre will also serve as an educational centre, she would like the Olley Collection database to eventually become a resource than can be accessed on-line for researchers and students. This being the case, it is important that it is developed in a way that can be easily transferrable and user-friendly in its static appearance.

Other aspects of the Francis Bacon Studio to be discussed with the curators include details of the presentation of the Studio and how it is accessed by the public, as well as logistical, operation and practical consideration such as recurrent costs, merchandising opportunities, media coverage etc.

As part of this study trip, the Gallery Director will also visit the Casa Morandi Museum in Bologna, Italy. This museum was also the subject of a considerable relocation project.

Morandi's practice and the still life genre were important influences on Olley's artistic practice. The house in via Fondazza 36, where Giorgio Morandi lived and worked from 1910 to 1964 was opened to the public on 17 October 2009.

The international travel will also include three days in London to visit a number of world-class galleries and museums, including the National Portrait Gallery, the National Gallery, the Wallace Collection, the Saatchi Gallery, the Courtauld Institute and the Royal Collection.

Following is a copy of the letter from Gordon Darling Foundation outlining publicity and reporting requirements of Foundation in relation to this grant.



GORDON DARLING FOUNDATION

CHAIRMAN: J. GORDON DARLING AC CMG

DEPUTY CHAIR: MARILYN DARLING AC

TRUSTEES: JAMES MOLLISON AC, ALISON CROOK AC, PHILIP BACON AM, RON RABBITT AM

ADMINISTRATOR: AILEEN ELLIS, SHERRIE BENTON

Susi Muddiman
Director
Tweed River Art Gallery
PO Box 816
Murwillumbah NSW 2484

29 February 2012

Dear Susi

On behalf of the Trustees I enclose a cheque for \$3,300 (inclusive of GST) as payment for the Darling Travel Grant/Domestic awarded to the Tweed River Art Gallery.

The Foundation requires a receipt in due course.

It is a condition of the Darling Travel Grant that acknowledgment of the Foundation is made in **all** material subsequently published relating to this project and that the Foundation Logo is used on all printed material (minimum height 8mm). The logo is available electronically or as a hard copy bromide.

The Foundation should be advised of any change or delay to the travel plans.

As part of the grant recipients are required to provide a report on the travel and outcomes. This report should be received by August 31 and should not exceed *two pages*.

I look forward to your report on the outcomes from your travel to visit the Francis Bacon studio, Dublin, and the Giorgio Morandi house in Bologna.

Kind regards

Aileen Ellis

TELEPHONE (03) 9828 2108 - FACSIMILE (03) 9828 8107
BOX 7488 - ST BILDA ROAD PO - MELBOURNE - 3004
E-MAIL: gdf@tda.com.au

OPTIONS:

Not Applicable

CONCLUSION:

These grant funds were offered to the Gallery via a peer assessment process based on the Gallery's performance. No application was made to the Foundation. A proposal for international travel was subsequently approved by the Foundation.

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:

- 2 Supporting Community Life
- 2.1 Foster strong, cohesive, cooperative, healthy and safe communities
- 2.1.3 Provide opportunities for residents to enjoy access to the arts, festivals, sporting activities, recreation, community and cultural facilities
- 2.1.3.4 Provide accessible visual arts programs
- 2.1.3.4.1 Presentation by the Tweed River Art Gallery of exhibitions of regional, national and international art and culture material, with emphasis on Gallery initiated projects (also see 3.1.3.1.1)

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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31 [CNR-CM] Tweed Shire Council Lease to Southern Cross University - Part of Courtyard Area at Tweed Heads Civic Centre

SUBMITTED BY: Design

FILE NUMBER: Not Applicable



Civic Leadership

SUMMARY OF REPORT:

Southern Cross University has leased an area of 180m² in the northern courtyard at Tweed Heads Civic Centre since 2006. The lease will expire on 26 March 2012 and a request to lease the area until 31 December 2013 has been received.

The University has placed demountables in the leased area to provide further office space whilst further developing facilities in the Tweed remain ongoing.

There have been no issues arising from the use of the area by the University and it is recommended that Council approves entering into a further lease. The land is classified as operational so there are no statutory restraints in the leasing of the land until 30 June 2013 with two options to extend by three months.

RECOMMENDATION:

That:

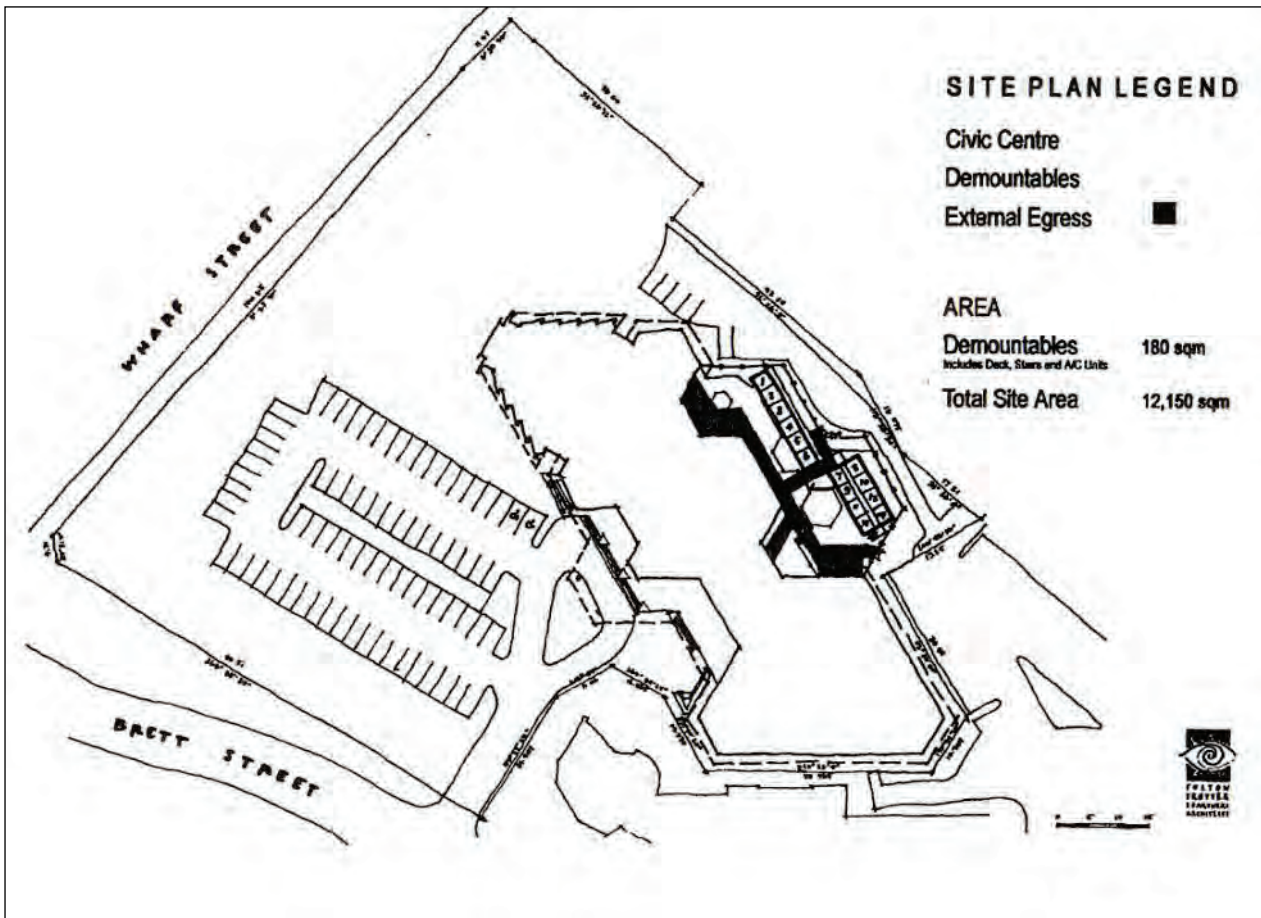
- 1. Council approves entering into a lease with Southern Cross University to lease part of the northern courtyard at the Tweed Heads Civic Centre for a commencing rental of \$7,117.19 per annum (incl GST) to be CPI indexed annually; commencing on 27 March 2012 and expiring on 30 June 2013 with two further three month options.**
- 2. All documents be executed under the Common Seal of Council.**

REPORT:

Southern Cross University has leased an area in the northern courtyard at Tweed Heads Civic Centre since 2006. The current lease will expire on 26 March 2012 and a request to lease the area until 31 December 2013 has been received.

The University has placed demountables in the leased area to provide further office space whilst further developing facilities in the Tweed remain ongoing.

The plan below shows the location of the leased area:



There have been no issues arising from the use of the area and it is recommended that Council approves a new lease, with a commencing rental to be \$7,117.19 per annum (incl GST). This figure is derived from the commencing rental in 2006 of \$6,000 with annual CPI increases determined to be the current market rental at that time.

It is now necessary to resolve to enter into a lease with the University and to execute all documentation under the Common Seal of Council.

OPTIONS:

Not Applicable

CONCLUSION:

Not Applicable

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
- 1.3 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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REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

32 [EO-CM] Tweed Valley Sailing Club Request for Land at Fingal

SUBMITTED BY: Recreation Services

FILE NUMBER:



Supporting Community Life

SUMMARY OF REPORT:

Tweed Valley Sailing Club has developed an association providing services for those wishing to sail dinghies in a club environment. The club has had enquiries from a number of people who would be able to participate if they were able to store the sailing dinghies close to the area of operation which is the Fingal Boat ramp or Old Fingal Boat Barbour.

The club is seeking an area to construct a fenced, hardstand area of around 30m x 30m in which to provide storage for the club members' dinghies. A number of potential areas were identified with all but one being on Crown land. Crown Lands have advised that they will not support the construction of the proposed storage area on Crown land. The remaining option is as site within road reserve on Fingal Road.

This site is highly visible and it is therefore anticipated that there may a level of community concern regarding the proposal. Development approval is also required to construct the facility. Accordingly, to progress the proposal, the Sailing Club would need to undertake a significant amount of community consultation to demonstrate general support for the proposal, and undertake detail planning in preparation for lodging of a development application

Prior to the sailing Club investing time and resources into undertaking community consultation and developing a development application it requires an indication from Council as to whether it will provide owners' consent for the development application and construction of the facility and provision for the subsequent occupation of the site.

RECOMMENDATION:

That Council:

1. **Supports, in principle, the use of road reserve in Fingal for Tweed Valley Sailing Club's use as a dinghy storage area, subject to demonstrating community support.**
2. **Place notification of the proposal In the Tweed Link inviting public comment for a period of twenty-eight (28) days.**

REPORT:

Tweed Valley sailing Club has developed an association providing services for those wishing to sail dinghies in a club environment. The club has had enquiries from a number of people who would be able to participate if they were able to store the sailing dinghies close to the area of operation which is the Fingal Boat ramp or Old Fingal Boat Barbour.

The club is seeking an area to construct a fenced, hardstand area of around 30m x 30m in which to provide storage for the club members' dinghies. A number of potential areas in Fingal were identified with all but one being on Crown land.



Tweed Valley Sailing Club Incorporated Association - INC9895105
c/o Geoffrey Colwill, 39 Clareville Road, Smiths Creek NSW 2484

Commodore - Hugh Milliken (0410) 486 998
tvscmail@gmail.com
Vice Commodore - Bill Fenelon (0411) 123 405
wfenelon@hotmail.com
Public Officer - Geoffrey Colwill (02) 6679-4231
geoffrey.colwill@gmail.com

21 October 2011

To Mike Rayner
General Manager
Tweed Shire Council

BOATING, Tweed River
TWEED SHIRE COUNCIL
FILE No: FINGAL BOATING - NEW SITE
DOC. No:
RECD: 25 OCT 2011
ASSIGNED TO: BEAMLEY
HARD COPY IMAGE

Dear Sir

Request for access to land at Fingal Head to support new Sailing Club

The Tweed Valley Sailing Club was formed in February 2011, to provide a facility for those wishing to sail dinghies and trailer sailers in a club environment. The Club has tapped into an unmet demand from families/individuals in the Tweed, who otherwise have to travel to Ballina or Southport to sail and/or introduce their children to sailing.

We formally created an incorporated association in April and then opened a bank account. We now have over 100 people/families on our email list, hold regular sailing days, and usually have about 15 boats and 60/70 people attending.

We have had enquiries from approximately 30 potential members (and a number of existing members) who would be able to participate if they were able to store a sailing dinghy close to our area of operation at the Fingal boat ramp and/or old boat harbour.

We have therefore identified the need for a hard-stand area in Fingal Head to help to continue meet the needs of people in the shire, and in this way to further grow the club. We have met with staff of the Council (Stewart Brawley, Graham Burton) who were very helpful and enabled us to identify three locations for possible consideration. These are shown on the figure on the next page.



We have looked closely at all three options and believe that **Area 3** is most suitable for our needs. The hardstand would have direct access to the new Fingal boat harbour without the need to cross any roads, which is important most particularly for our junior members.

We believe that the storage of sailing dinghies in this area enhances the community benefit of the boat ramp facility. The hardstand would be shaped and sized to suit, with it being our intent to have an area of around 30m x 30m. The area would be fenced to ensure that the hardstand provides secure storage, and this fencing could be built in such a way as to not intrude visually on the area (chainwire fence 2.4m high, with double gates for access).

The hardstand itself would be built to Council requirements, with the club, at this stage, intending it to be a gravel surface. Issues of surface run-off both during construction and in permanent use would have to be considered to ensure that the surface is appropriate for the area.



The TVSC enjoy a close and supportive relationship with the local community in Fingal Head. We have have positive feedback on the idea of such a facility in the area shown. Areas 1 and 2 would probably enjoy less support from the locals, as both areas have issues with visual impact as well as flooding to consider.

In light of the brief outline above, can we request that the TSC consider the feasibility of such a proposal, and identify the range of issues we would need to address in order to get the proposed facility up and running in Area 3?

We are fortunate to have an energetic committee with civil engineering, business management and a range of other skills represented. We are however a club in its first formative stage and the support of the council would be critical to us establishing a firm foundation for the future. This would in turn provide a much needed, long term, sporting and social facility for families in the shire.

We look forward to hearing from you as soon as practical. Thanks.

Regards

Hugh Milliken, Commodore
Tweed Valley Sailing Club
0410 486 998



Crown Lands have advised that it will not support the construction of the proposed storage area on Crown land. Consequently, the only remaining option is an area of road reserve described as area 2 in the correspondence from Tweed Valley Sailing Club and shown on the map below



This site is highly visible and it is therefore anticipated that there may be a level of community concern regarding the proposal. Development approval is also required to construct the facility. Accordingly, to progress the proposal, the Sailing Club would need to undertake a significant amount of community consultation to demonstrate general support for the proposal, and undertake detail planning in preparation for lodging of a development application.

Prior to the sailing Club investing time and resources into undertaking community consultation and developing a development application it requires an indication from Council as to whether it will provide owners' consent for the development application and construction of the facility and provision for the subsequent occupation of the site.

OPTIONS:

That Council:

- a) Advise the Tweed Valley Sailing Club that subject to demonstrating significant community support for the project and providing a suitable design, Council will provide owners consent to a development application for the construction of a fenced dinghy storage area within the road reserve on Fingal Road.
- b) Advise the Tweed Valley Sailing Club that it does not support construction of a fenced dinghy storage area within the road reserve on Fingal Road.

CONCLUSION:

The proposed site is not ideal and not the Sailing Clubs first option. However, it appears it may be the only option available to the Club in Fingal. The site is highly visible and potentially may elicit a significant amount of community concern or comment.

Prior to the sailing Club investing time and resources into undertaking community consultation and developing a development application it requires an indication from Council if it will provide consent for the development application and construction of the facility and subsequent occupation of the site.

It is recommended that Council endorse Option a and place notification in the Tweed Link inviting comment.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

N/A

c. Legal:

No-Legal advice has not been received
Attachment of Legal Advice-Not Applicable

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.3 Provide well serviced neighbourhoods
- 2.3.6 Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

33 [EO-CM] Review of Fees for Use of Salt Central Park

SUBMITTED BY: Recreation Services

FILE NUMBER: N/A



Supporting Community Life

SUMMARY OF REPORT:

Council received a submission from Destination Tweed requesting amendments be made to the fee structure for activities at Salt Central Park, and amendments to the Salt South Kingscliff Central Park Plan of Management to reflect the altered fee structure.

The original fee structure for Salt Central Park was based on the vision of the developer of Salt, the Late Brian Ray, that Salt Central Park would be a venue for major touring performers. This vision has not been realised with one concert being staged in 2005 and the management moving subsequently moving in a different direction. This has rendered the current fee structure irrelevant.

As the fee structure is prescribed in Council's fees and charges and not within the Plan of Management, changes can be implemented by amending the fees and charges for 2012/2013 without a requirement to amend the plan of management.

RECOMMENDATION:

That :

- 1. The \$25,000 fee for events in Salt Central Park be removed from the 2012/2013 Fees and Charges.**
- 2. Council includes fees for Salt Central Park within Item 116 Parks and Reserves of the 2012/2013 Fees and Charges.**

REPORT:

Council has received a submission from Destination Tweed requesting changes to the fee structure for activities at Salt Central Park, and to the Salt South Kingscliff Central Park Plan of Management. The submission also sought to implement processes to allow for the use of the park for corporate events and activities and an associated fee structure

Fee structure

The original (and current) fee structure for Salt Central Park is a fixed fee of \$25,000 for ticketed events. The original fee structure for Salt Central Park was based on the vision of the developer of Salt, the Late Brian Ray, that Salt Central Park would be a venue for major touring performers. This vision has not been realised with one concert being staged in 2005 and the management subsequently moving in a different direction. This has rendered the current fee structure irrelevant.

As the fee structure is prescribed in Council's fees and charges and not within the Plan of Management, changes can be implemented by amending the fees and charges for 2012/2013 without a requirement to amend the Plan of Management. The existing \$25,000 fee will be deleted and the fees for the use of Salt Central Park will be considered with the same fee structure as other parks within the Shire - Item 116 of Council's Fees and Charges as follows:

Item 115 from the 2011/2012 Fees and Charges to be deleted:

Activity Function	Title of Fee/Charge	Fee or Charge Levied 2011/2012	Fee or Charge Levied 2012/2013	Pricing Category	GST Included
115 SALT Central Park Hire	Major ticketed event	\$ 25,000.00 Fixed	\$ 25,000.00 Fixed	E	Y

Item 116 in draft 2012/2013 Fees and Charges which will apply to Salt Central Park:

Activity Function	Title of Fee/Charge	Fee or Charge Levied 2011/2012	Fee or Charge Levied 2012/2013	Pricing Category	GST Included
116 Parks & Reserves	Casual Park Hire	\$	\$	E	Y
	Wedding Ceremonies (3 hrs max, NO receptions permitted, NO exclusive use	49.00	50.00		Y
	Small scale functions e.g. Birthday celebrations (licence issued for use of one day or less by individuals for private use. No exclusive use rights)	49.00	50.00		Y

Activity Function	Title of Fee/Charge	Fee or Charge Levied 2011/2012 \$	Fee or Charge Levied 2012/2013 \$	Pricing Category	GST Included
	Crams Farm Dairy (exclusive use of Dairy, power costs incl)	84.00	85.00		Y
	Temporary Crown or Community Land Licence Agreements for commercial activities in parks and on beaches e.g. Major Surf Competitions, Circuses, Expos, Music Events			A	Y
	First Day	156.00	163.00	A	Y
	Subsequent Days	86.00	90.00	A	Y
	Power supply (per day) - Community and Commercial activities e.g. festivals, markets. (Additional charges may apply in high use situations).	49.00	61.00	A	Y
117 Sports Grounds	Seasonal charge (winter/summer) for mowing, cleaning and upkeep Fee per field basis set to recover 20% of maintenance costs (incl Murwillumbah Leagues Club & Burringbar Reserves Trust - Tom O'Connor Field). Fee per field for 25 week season	1590.88	1590.88	A	Y
	Schools use of turf wicket per day	100.00	100.00	A	Y
	Casual Sports Ground Hire (per day) coaching, training	49.00	50.00	A	Y
	Cricket - Social use of synthetic wicket per day (no seasonal concessions apply)	93.00	95.00	A	Y
	Key Fee - replacement key for metered Country Energy power boxes	49.00	51.00	E	Y
	Replacement locks for parks and Gardens or Country Energy power boxes	66.00	69.00	E	Y

Use of the park for corporate events

Salt Central Park is public land owned in fee simple by Tweed Shire Council. It is classified as Community Land, and categorised as a park pursuant to the provisions of the Local Government Act (1993) (the Act).

Under the provisions of the Act, Corporate or commercial activities could only be allowed only if they are consistent with the park's core objectives. Such activities could include operation of a kiosk, public recreational equipment hire and similar. Note that such activities, while being permissible under the Local Government Act, may still require assessment and approval under the Environmental Planning and Assessment Act (1979).

Corporate or commercial activities that are not consistent with the park's core objectives however, cannot be supported. This would include activities such as conference dinners, corporate/private style entertainment and the like.

This interpretation of the Act was confirmed by Maddock's Lawyers (Stan Kondilios and Cecilia Rose) in the form of verbal advice.

Provisions of the Local Government Act (1993)

Section 36 of the Local Government Act (1993) states that all Community Land must be categorised into one or more categories. These are:

- (a) a natural area,
- (b) a sportsground,
- (c) a park,
- (d) an area of cultural significance,
- (e) general community use.

Salt Central park is categorised as a Park, the core objectives of which are prescribed in Section 36 (G):

- "(a) To encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and*
- (b) To provide for passive recreational activities or pastimes and for the casual playing of games, and*
- (c) To improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management."*

Section 46 deals with activities or events that can be leased or licensed on community land. Section 46(2) states that:

"..... a lease, licence or other estate in respect of community land may be granted for a purpose mentioned in subsection (1) (b) only if the purpose for which it is granted is consistent with the core objectives....."

Section 46(6) adds that:

"A plan of management is void to the extent that it purports to authorise the grant of a lease, licence or other estate in contravention of this section."

Section 47D deals with the occupation of community land otherwise than by lease or licence. This section states that:

- "(1) The exclusive occupation or exclusive use by any person of community land otherwise than in accordance with:*
- (a) a lease, licence or estate to which section 47 or 47A applies, or*
- (b) a sublease or other title directly or indirectly derived from the holder of such a lease, licence or estate, is prohibited."*

Section 68 also deals with which activities on Community Land require the approval of Council. Section 68 (1) states, in part that *"a person may carry out an activity specified in the following table only with the prior approval of Council..."* The referenced table appears in S68 Part D, and includes *"Engage in a trade or business"*. However, such a trade or business must be consistent with the core objectives for a park, as described elsewhere in this report, before a lease or license can be granted.

OPTIONS:

Retain the \$25,000 fee for events in Salt Central Park
Remove the \$25,000 fee for events in Salt Central Park

CONCLUSION:

The \$25,000 event fee for Salt Central Park is no longer relevant or practical. Removal of the fee from Council's 2012/2013 fees and charges will allow events in Salt Central Park to be considered within the same fee structure as other parks in the Shire.

The provisions of Local Government Act (1993) do not allow for the use of community land for events or activities that are not consistent with the core objectives of the categorisation. Salt Central Park is categorised as a 'Park' under the Local Government Act (1993) and the core objectives for a park do not allow the park to be used for corporate/private events and functions.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

N/A

c. Legal:

No-Legal advice has not been received
Attachment of Legal Advice-Not Applicable

d. Communication/Engagement:

Inform - We will keep you informed.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2	Supporting Community Life
2.3	Provide well serviced neighbourhoods
2.3.6	Provide conveniently placed and well equipped parks, sporting, recreational, cultural and community facilities

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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34 [EO-CM] Classification of Land - 23 Honeyeater Circuit, South Murwillumbah

SUBMITTED BY: Design

FILE NUMBER:



Civic Leadership

SUMMARY OF REPORT:

At its meeting of 13 December 2011 Council resolved to enter into a Contract for Sale for the purchase of Lot 503 in DP 1132400, being 23 Honeyeater Circuit, South Murwillumbah for the construction of a records storage facility.

The purchase was settled on 19 January, 2012 and a notice of intention to classify the land as operational land was published in the Tweed Link on 31 January 2012, with a submission period of 28 days.

No submissions were received and it is recommended that Council resolve to classify the land as operational land pursuant to section 25 of the Local Government Act, 1993.

RECOMMENDATION:

That Council approves the classification of Lot 503 in DP 1132400 located at 23 Honeyeater Circuit, South Murwillumbah as operational land pursuant to section 25 of the Local Government Act, 1993.

REPORT:

As per Summary of Report.

CONCLUSION:

No submissions were received and it is recommended that Council resolve to classify the land as operational land pursuant to section 25 of the Local Government Act, 1993.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

Nil

c. Legal:

Council is required to classify all land vested in it, or acquired by Council, pursuant to section 25 of the Local Government Act, 1993.

d. Communication/Engagement:

Council advertised its intentions to classify the land in accordance with section 34 of the Local Government Act, 1993.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.3 Delivering the objectives of this plan
- 1.3.1 Council's organisation will be resourced to provide the essential services and support functions to deliver the objectives of this Plan
- 1.3.1.16 Provision of property and legal services for internal clients

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

35 [EO-CM] Tender Recommendation EC2011-253 Kirkwood Road Habitat Restoration

SUBMITTED BY: Contracts

FILE NUMBER: EC2011-253



Supporting Community Life

SUMMARY OF REPORT:

Tweed Shire Council (TSC) is seeking to engage a bush regeneration contractor to prepare a Habitat Restoration Plan and undertake on-ground restoration works required as compensation for the loss of Endangered Ecological Community (EEC) Subtropical Coastal Floodplain Forest (SCFF) associated with the Kirkwood Road project at Tweed Heads South. A proposal is required for the following works:

1. Preparation of a Habitat Restoration Plan to direct on-ground restoration works;
2. Restoration of two designated offset sites (1A and 2A) through community reconstruction (tubestock planting/direct seeding) and assisted regeneration (targeted weed control);
3. A five year maintenance period, including watering and disease and pest management of tubestock, weed control and monitoring;
4. Annual progress and final works completion reporting.

Tenders were invited for EC2011-253 Kirkwood Road Habitat Restoration on 19 December 2011 in The Sydney Morning Herald. Tender Submissions closed at 4:00pm (local time) on 8 February 2012 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484. A total of 10 responses were recorded at the Tender Box opening.

This report provides a recommendation on the preferred tenderer. Recommendations have been formulated based on the Evaluation Criteria which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENT A**. A summary of the Evaluation Criteria is also included in the body of this report.

RECOMMENDATION:

That:

1. **Council accepts the tender of Bushland Restoration Services for EC2011-253 Kirkwood Road Habitat Restoration for the value of \$196,124.00 inc GST.**

2. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 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**

REPORT:

Tender Background

Tweed Shire Council (TSC) is required to engage a Bush Regeneration Contractor to prepare a Habitat Restoration Plan and undertake on-ground restoration works as part of Kirkwood Road Project. These requirements are required as compensation for the loss of Endangered Ecological Community (EEC) Subtropical Coastal Floodplain Forest (SCFF) during the construction works of the Kirkwood Road project at Tweed Heads South. The Tenderers were requested to prepare tenders for the following works:

1. Preparation of a Habitat Restoration Plan to direct on-ground restoration works;
2. Restoration of two designated offset sites (1A and 2A) through community reconstruction (tubestock planting/direct seeding) and assisted regeneration (targeted weed control);
3. A five year maintenance period, including watering and disease and pest management of tubestock, weed control and monitoring;
4. Annual progress and final works completion reporting.

Tenders were advertised for EC2011-253 Kirkwood Road Habitat Restoration on 3 January 2012 in The Sydney Morning Herald. Tender Submissions closed at 4:00pm (local time) on 8 February 2012 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484. A total of 10 responses were recorded at the Tender Box opening.

Notice to Tenderers (NTT)

There were 4 notice to Tenderers directed to entities that had registered an interest in the tender during the tender advertising period.

These Notice to Tenderers are tabulated below in Table 1:

Table 1.

Date Issued	Description
Notice to Tenderers No. 1- 9 Jan 2012	Notification of a onsite pretender meeting
Notice to Tenderers No. 2-	Notification confirming time of site meeting
Notice to Tenderers No. 3	Staging of works and woodchip mulch supply
Notice to Tenderers no. 4	Notice that extracts of the draft strategy was included in the tender documents

Tenders Received and Tender Evaluation

Tenders received are fully listed below in Table 2 below.

The tender evaluation was conducted in accordance with Council's Procurement Protocol 1.4. Tenders were evaluated using the following criteria and weightings, this criteria was developed and weighted by the Council Officer as follows; Relevent Experience 10%, Track Record 10%, Technical Skills 20%, Management 10%, Methodology 20%, Time Performance 10% and price 20%.

Tender evaluation scores are shown in the Table 2 and full detail is included in the attached Tender Evaluation Spread Sheet.

Table 2

No	Tenderer	Tender Evaluation Score
1	Australian Wetlands	4.54
2	Boyds Bay Landscape & Environment	4.58
3	Bushland Restoration Services	5.26
4	Cardno Splat	4.86
5	EcoSure	4.38
6	Envite	4.98
7	Forest Restorations	4.03
8	Geko Regen	4.35
9	Scape Shapes	4.22
10	Bush Care Services	4.46

CONCLUSION:

Tender Recommendation

Based on the assessment of both non-price and price criteria, it is recommended that Bushland Regeneration Services be nominated for EC2011-253 Kirkwood Road Habitat Restoration works.

Details of Bushland Regeneration Services relative competitiveness is shown in the Evaluation Report and this company has the resources and personal with suitable experience to undertake these works.

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

Budget for works as part of the Kirkwood Road Project is \$900,000 spread over a number of years. The funding for this is split as per the agreement with Tweed Shire Council and Roads and Maritime Services of New South Whales.

c. Legal:

No-Legal advice has not been received
Attachment of Legal Advice-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
- 2.4.1.2 Provision of arterial roads as planned in Tweed Roads Contribution Plan
- 2.4.1.2.2 Completion of Kirkwood Rd east interchange

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential** Attachment -Tender Evaluation Spread Sheet. (DW 47269435).
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36 [EO-CM] NSW Long Term Transport Master Plan

SUBMITTED BY: Director

FILE NUMBER: Not Applicable



Supporting Community Life

SUMMARY OF REPORT:

The NSW Government is delivering a Long Term Transport Master Plan. Transport for NSW and has developed the *NSW Long Term Transport Master Plan - Discussion Paper* for the community and business to have a say on transport planning. Submissions on the Discussion Paper, close on 27 April 2012. Feedback from submissions will assist in preparation of a Draft NSW Long Term Transport Master Plan, scheduled to be released for comment early July 2012. The final plan is scheduled for release in November 2012 and will *"provide a basis for the further development of individual Regional Transport Plans, which will then be developed for each of the main regions."*

The Discussion Paper has a heavy emphasis on transport objectives, inter modal choice, landuse and economic impacts, transport infrastructure priorities during the next 20 years, and has in depth details on the issues that concern Sydney. Its treatment of the rest of NSW is brief. Uniquely, Tweed's major public transport problem is not provision of infrastructure, but is the sorting out the governance of the commuter bus system.

The discussion paper does acknowledge *"The high population and employment growth in South East Queensland attracts Northern Rivers residents across the border as commuters. The growth of the Gold Coast-Tweed major city will also create strong demand for transport connections."*, but does not propose the solution identified in Council's *Tweed Public Transport Strategy* adopted in July 2011, the extension of the Queensland TransLink system to Tweed Shire.

It is recognised that consideration of cross border suburban bus service issues for the NSW section of the Gold Coast/Tweed urban area is a relatively small issue in the overall preparation of the Long Term Transport Master Plan for NSW. However, Tweed is in a unique situation as decisions made by both the NSW and Queensland Governments have a major impact on our transport services. Up to this time there has been no coordinated strategic planning, provision or governance of transport services by a partnership of the two state governments for the whole Gold Coast/Tweed urban area. This has resulted in the take up of public transport for commuter use in Tweed Shire being less than 1% of total trips.

RECOMMENDATION:

That Transport for NSW be requested to have regard to the content of this report in preparation of the NSW Long Term Transport Master Plan and in particular to include the following:

- 1. The plan should ensure that NSW transport planning for the Tweed, integrates with the strategic transport planning already carried out in the:**
 - **South East Queensland Regional Plan 2009-2031**
 - **South East Queensland Infrastructure Plan and Program 2008-2036**
 - **Connecting SEQ 2031- An Integrated Regional Transport Plan for South East Queensland**
 - **Gold Coast Southern and Central Area Transport Study (GCSCATS) 2012**
 - **Tweed Public Transport Strategy - July 2011**
 - **Far North Coast Regional Strategy - 2006**
- 2. The plan should acknowledge Tweed's unique cross border governance issues in the provision of suburban public transport that needs to seamlessly integrate services on both sides of the state border which divides the Gold Coast/Tweed urban area. The plan should explore NSW/Queensland cross border processes that can facilitate the governance of public transport in the Tweed Shire urban area being transferred to Queensland's TransLink.**
- 3. The NSW Long Term Transport Master Plan should recognise the role of the Gold Coast Airport as the second busiest airport located in NSW and its role in providing Tweed and other Northern Rivers Residents with high frequency, low cost, long distance travel to NSW regional destinations, Australian capital cities and major interstate regional centres.**
- 4. The NSW Long Term Transport Master Plan should acknowledge that urban arterial roads in major urban centres outside Sydney, Newcastle, Wollongong and the Central Coast, such as the Tweed Shire part of the Gold Coast/Tweed urban area, should be classified as "State Roads" and be managed and funded by the state.**
- 5. The active transport modes of walking and cycling are just as relevant to the rest of NSW and should not be presented in a Sydney only context. The final master plan should present these transport modes in a whole of NSW context.**
- 6. A key objective of the final plan should be the equitable provision of access to transport services for disadvantaged groups including people with a disability, NSW residents not located in Sydney and residents of newly developed urban growth centres (eg Cobaki Lakes, Kings Forest where typically transport services lag behind development). The Final plan should propose mechanisms to ensure equitable provision of transport services for all residents of NSW over the life of the Plan.**
- 7. The proposed *Northern Rivers Regional Transport Plan* should acknowledge that the Tweed sub-region has very different transport issues requiring very**

different transport solutions to the rest of the Northern Rivers Region (Byron, Lismore, Casino-Richmond Valley, Ballina and Kyogle).

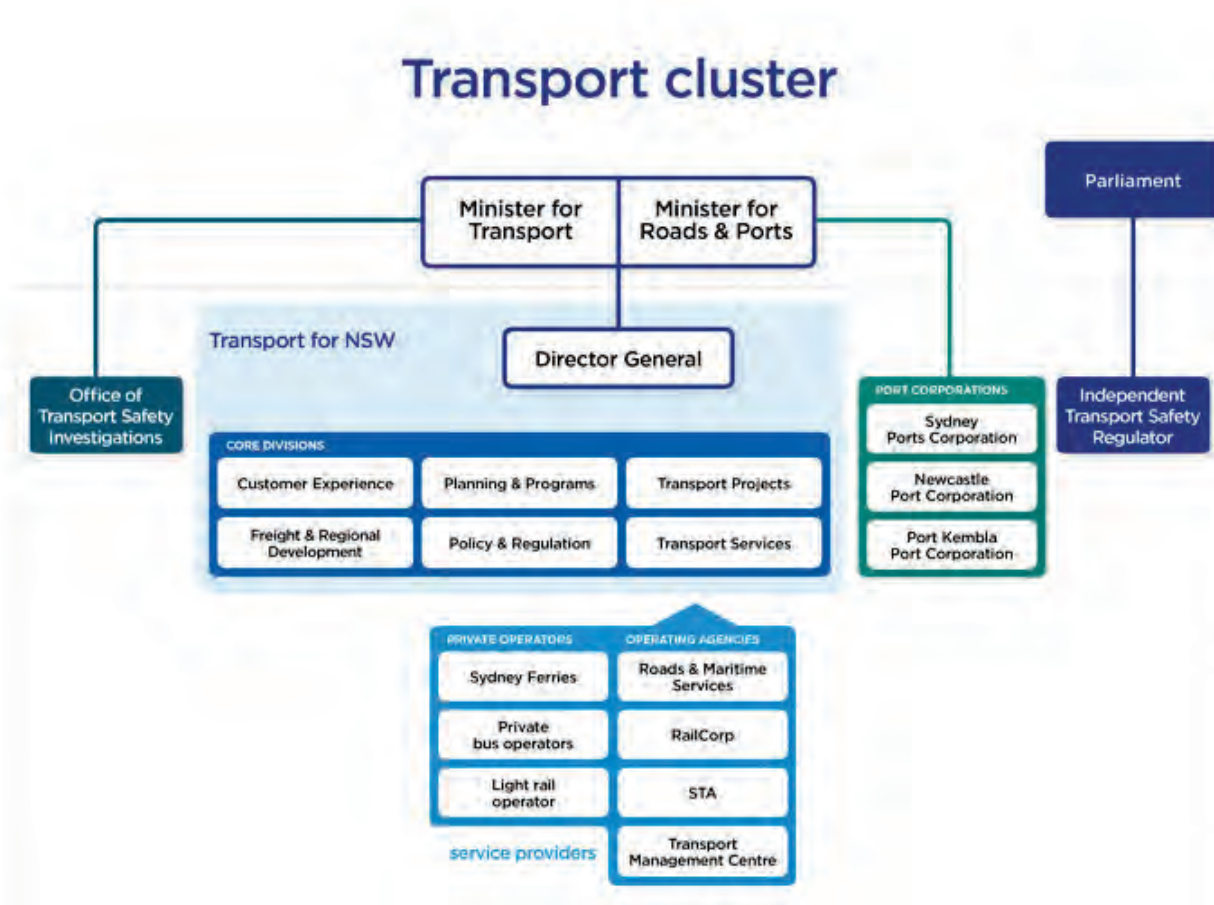
- 8 The section of the *Northern Rivers Regional Transport Plan* addressing the Tweed sub-region should align with strategic transport planning documents referred to in Recommendation 1.
9. The authors of the proposed *Northern Rivers Regional Transport Plan* should liaise closely with representatives of the Queensland Government, Queensland transport agencies, Gold Coast City Council and Tweed Shire Council to ensure transport solutions for the Tweed sub-region are part of an integrated transport solution for the Gold Coast Tweed urban area.

REPORT:

1. Delivery of NSW Long Term Transport Master Plan

The NSW Government is committed to delivering a Long Term Transport Master Plan in 2012. Transport for NSW has developed the *NSW Long Term Transport Master Plan - Discussion Paper* for the community and business to have a say on transport planning in NSW. Submissions on the Discussion Paper, close 27 April 2012.

Transport for NSW has been created as the umbrella government agency for decision making and planning of NSW transport. The organisation is responsible for improving the customer experience, planning, program administration, policy, regulation, procuring transport services, infrastructure and freight. Operating agencies such as RMS (Roads and Maritime Services - Formerly Roads and Traffic Authority), RailCorp, Sydney Ferries, Country Rail Infrastructure Authority, Transport Construction Authority and State Transit Authority have been freed up to focus on service delivery – providing safe, reliable, clean and efficient transport services.



Feedback from discussion paper submissions will assist in preparation of a Draft NSW Long Term Transport Master Plan, scheduled to be released for public feedback early July 2012. The final plan is scheduled for release in November 2012.

Following release of the NSW Long Term Transport Master Plan, work is expected to begin on regional transport master plans. These regions are designated in the Discussion Paper as: Sydney, Central Coast, Illawarra, Hunter, Southern, Murray - Murrumbidgee, Western, New England, Mid North Coast and Northern Rivers.

2. NSW Long Term Transport Master Plan - Discussion Paper

The Discussion paper has the following sections:

1. Purpose of Discussion Paper
2. Progress to Date
3. NSW Government and Transport Objectives
4. The 20 Year Challenge
5. Sydney Transport
6. Regional Transport
7. Freight Transport
8. Funding

In **Section 1**, The aim of the plan is to *"identify the next set of priorities for transport, identify how we will meet the future needs of our customers and ensure a competitive and sustainable transport strategy is in place to support the State's development over the next 20 years."*

Section 2 mainly lists transport infrastructure the NSW Government has constructed in recent years.

Section 3 is about transport objectives for NSW. Subsection 3.16 lists a number of proposed objectives and invites debate about them. These include: customer needs and expectations; support of economic development, informing good planning and investment strategies; coherence and integration across all modes; performance/delivery; efficiency; environmental sustainability; inclusiveness/accessibility/quality of life; safety.

Whilst Section 3.12 discusses the need for accessibility and social equity in transport provision, these are not fully detailed in the objectives list in 3.16. Equity of access to transport services for disadvantaged groups including people with a disability, NSW residents not located in Sydney and residents of newly developed urban growth centres (eg Cobaki Lakes, Kings Forest where typically transport services lag behind development) should be a key objective of the Final Plan.

Section 4 explores the major challenges facing the NSW transport system in the next 20 years.

Section 5 relates to Sydney only. It goes into far more depth than sections on the rest of NSW. Topics discussed are; challenges for the city centre; challenges for major/regional centres in Sydney (Parramatta, Liverpool, Penrith); challenges for Sydney Airport and Botany Bay; challenges for outer Sydney growth centres; development of Sydney's strategic transport corridors; future approaches to transport in Sydney; how Sydney train services can be improved; how the network of motorways and major roads can be better used; how bus services in Sydney can be improved; the role of light rail; how Sydney ferries can be better used; how can cycling be encouraged; how can walking be promoted; more innovative use of taxis; how can community transport be improved; how can changing between transport modes in Sydney be encouraged; how can access to Sydney Airport be improved; should some form of road pricing be considered; how can pricing and supply of parking influence demand for private car travel; how can land use and transport be better integrated;

Section 6 discusses regional transport issues. On a whole of state basis it discusses the highway network, the rail and coach network, local bus services and school buses, high speed rail and regional aviation.

Section 6.2 sets out the challenges for the NSW highway network. It outlines the extent of the State Roads (18,028km fully managed and funded by NSW Government). Regional Roads (18,231km Council managed, receiving state financial support) and local roads (145,565km managed and funded by Councils). The issue raised by Tweed Shire in 2011 concerning the classification of urban arterial roads in major urban areas (outside Sydney, Newcastle, Wollongong and the Central Coast) is not canvassed in the Discussion Paper.

Section 6.3 examines the future of the rail network and associated coach services that have replaced train services. It acknowledges that freight is the major user of rail outside Sydney. It also talks about the future role of passenger services due to competition from other operators.

Section 6.4 is a very cursory overview of local bus services in regional NSW.

Section 6.5 discusses the possibility of high speed rail connections along the east coast of Australia. It is not considered as a short term option, but should be maintained as an option in the long term.

Section 6.6 is a section on regional aviation (Sydney Airport is discussed in section 5.1.3). The presentation is very Sydney centric. The regional airports are considered mainly in a role as feeder airports to Sydney. Interestingly the largest NSW airport outside of Sydney, Gold Coast Airport, is left out of the map of NSW regional air services. Even though Gold Coast airport is part in NSW (and part in Queensland), and conducts around 60 regular passenger flights per day providing comprehensive services to the residents of the Tweed, the authors of the discussion paper seem to be unaware of its existence.

The discussion paper is silent on the profound changes that have occurred in the usage pattern of long distance intra state and interstate public transport travel. Many years ago, trains were the preferred mode. Now the preferred mode is air and to a lesser extent private coach lines. The advent of cheap airfares and frequent flights from the Gold Coast and poor rail timetables are significant factors that have resulted in patronage of the NSW Coach/Rail service out of Murwillumbah collapsing. The range of destinations and frequency of flights from Gold Coast Airport is ever increasing and now includes Sydney, Melbourne, Newcastle, Canberra, Townsville, Cairns, Mt Isa, Darwin, Perth, Adelaide, Launceston and Hobart as well as international destinations. With the advent of these frequent and economical services, the Rail/Coach system provided by NSW Countrylink cannot compete.

The challenges for each specific region are explored in Section 6.7. The full text of the section on the Northern Rivers Region advises:

"6.7.6 What are the transport challenges for the Northern Rivers?"

The Northern Rivers region includes the centres of Tweed Heads, Lismore, Ballina, Casino and Byron Bay. It has a population of around 244,000. The region has both high employment and population growth, supported by migration from Sydney, regional NSW and South East Queensland. The high population and employment growth in South East Queensland attracts Northern Rivers residents across the border as commuters. The growth of the Gold Coast-Tweed major city will also create strong demand for transport connections. The concentration of employment in service industries in Tweed and Lismore is increasing local congestion.

Total employment for the region is around 69,300. The regional economy is strongly focused on the services sector including retail at 15 per cent, health and social assistance at 14 per cent, education at 10 per cent, and accommodation and food services at nine per cent. These service sectors make up 48 per cent of regional employment. The manufacturing sector makes up eight per cent of employment in the region.

The major roads are the Bruxner Highway, Pacific Highway and Summerland Way. The main rail line is the North Coast line (freight and passenger). The Casino to Murwillumbah line is currently disused.

Like a number of other regions, this region has an ageing population that needs to access health and aged care services in regional centres. Transport supports the strong tourism sector especially around Byron Bay and there is a marked seasonal impact on road use and local transport services.

Sustained growth will place increasing demands on the transport system. The Pacific Highway Upgrade is proceeding in the region. There is a need to address east-west access for high productivity vehicles. There may be a need for upgrades such as widening or new overtaking lanes on east-west road links in the future, such as the Bruxner Highway. Investigations are being conducted into the resumption of the Casino-Murwillumbah rail service and extensions to South East Queensland."

Tweed's transport problems mainly centred on lack of suitable regular commuter bus services connecting to the rest of the Gold Coast/Tweed urban area, are not shared by the rest of the Northern Rivers Region. Whilst the comments in the discussion paper do identify the Gold Coast/Tweed as a major urban area, it does not go anywhere in identifying our major transport issues, let alone any solutions (such as extension of Queensland's TransLink into the Tweed).

The sub section on the Central Coast Region (Gosford and Wyong) is interesting as this is a regional growth area with similar issues to Gold Coast/Tweed. Whilst there is nothing like the detail provided for Sydney, the discussion paper goes into a little more detail than provided for Tweed in the Northern Rivers section. It includes comments such as:

"Over the next 20 years the Central Coast will experience strong growth. The higher than State average share of people over 65 will need to be addressed by the transport choices offered. Car dependency in the Central Coast is very high. Only four per cent of the Central Coast population use public transport for the commute to work, of which train trips to Sydney are the major component. Over 25 per cent of the workforce travels outside the region to work. The road and rail links to Sydney are critical to the area for access to employment, services and social activities. There is a need to ensure the region develops a transport network that matches its growth in population. The links to Newcastle and Sydney will need improvement."

Most of the comments on the Central Coast would also apply to the Tweed with its relationship to the Gold Coast and Brisbane, although Tweed's one per cent of commuter use of public transport is much worse than the Central Coast's four per cent.

Section 6.8 advises the final NSW Long Term Transport Master Plan will:

"provide a basis for the further development of individual Regional Transport Plans, which will then be developed for each of the main regions. While a number of the challenges are the same, particularly how the regions connect to Sydney and other major centres, each Regional Transport Plan will be developed in consultation with local communities to ensure that the unique requirements of each region are carefully considered so that transport planning can be individually tailored and prioritised for the region."

The Discussion Paper includes Tweed in the "Northern Rivers" region mapped in Figure 26 as including, Tweed, Byron, Ballina, Richmond Valley (Casino) and Kyogle. In terms of transport, this region contains two very distinct sub-regions being the Tweed sub-region and the rest of the region that can be classified as the Richmond sub-region. The Tweed sub-region being mostly part of the Gold Coast Tweed urban area is very focused on transport connections within this urban area and to South East Queensland for employment and many everyday and higher levels services. The Richmond sub-region has a more conventional regional focus with priorities being on local and intertown transport services and connections to other regions and centres by air, rail and road. Connections with South East Queensland do not have the same importance as in the Tweed sub-region. The future Regional Transport Plan needs to recognise that these two distinct sub-regions have very different transport issues requiring very different transport solutions.

Section 7 explores freight transport in NSW.

Most of this section explores issues related to grain haulage. Freight issues for the Northern Rivers are not explored. The Northern Rivers is currently served by the Sydney/Brisbane line through Casino and a number of major roads the most important being the Pacific Highway which carries the bulk of freight through Tweed Shire. There is no intermodal freight interchange on the Northern Rivers. Given its strategic location, Casino is likely to be the best placed location for such an interchange on the Northern Rivers

Section 8 explores funding options which include: greater use of public-private partnerships; road pricing (fuel taxes, tolls, license/registration fees, high occupancy road lanes, area/zone charging such as Singapore, heavy vehicle time based charging, parking space levies), role of fares.

3. Tweed Public Transport Strategy

In July 2011, Tweed Shire Council adopted a Public Transport Strategy. The principal recommendation of this strategy is to seek the support of the NSW Government to integrate the bus services in Tweed Shire into the Queensland "TransLink" system.

Due to historical and geographical circumstances, much of Tweed Shire's population of over 90,000 is located in the Gold Coast/Tweed urban area with a combined population of 671,662 (ABS 2011). Being part of a large urban area that is mostly in Queensland, Tweed's social, cultural and business links are predominantly with the Gold Coast, Brisbane and the rest of South East Queensland. The Gold Coast portion of the Gold Coast/Tweed urban area enjoys a superior public transport system through the TransLink system which provides an integrated inter modal service across busses, heavy rail, ferries and soon light rail. This service operates on an easy to understand radial zonal ticketing system centred on Brisbane and utilises the *Go Card* which may be used seamlessly on any of these services.

The Tweed part of the Gold Coast/Tweed urban area is by contrast, very much the poor relation when it comes to public transport. The TransLink system stops at the state border and Tweed residents must rely on the poorly zoned, infrequent and much more expensive NSW administered system. Even though the Surfside busses which serve Tweed originate in the Gold Coast and are equipped with TransLink ticketing equipment, this service cannot be utilised in Tweed due to current governance arrangements in this part of NSW. The transfer of bus services in Tweed to TransLink would require substantial cross border legislative and administrative amendments that will need the highest level of support from the NSW and Queensland Governments, TransLink and Transport for NSW.

The TransLink public transport operation in the Queensland portion of the Gold Coast/Tweed urban area is provided within a robust strategic planning context. It is informed by the "South East Queensland Regional Plan 2009-2031", the "South East Queensland Infrastructure Plan and Program 2008-2036", and more recently "Connecting SEQ 2031- An Integrated Regional Transport Plan for South East Queensland". Following the release of Connecting SEQ 2031, the Queensland Department of Transport and Main Roads (TMR) has now initiated the Gold Coast Southern and Central Area Transport Study (GCSCATS) in recognition of the need to provide a more sustainable and integrated transport system.

Public transport in the NSW Northern Rivers Region and indeed in all of NSW lacks the strategic planning framework that is imbedded in the Queensland system. The NSW Department of Planning released the Far North Coast Regional Strategy in December 2006 as a framework for land use planning. It has a two page section on regional transport that proposed the following actions:

- *Planning and construction of the Pacific Highway upgrade program through the Region will be continued.*
- *Local environmental plans will provide for passenger interchanges in all major regional centres, major towns and towns. These interchanges will be well connected to pedestrian and cycle ways.*
- *Land use and transport planning must be integrated to minimise the need to travel, and to encourage energy and resource efficiency.*
- *Local environmental plans are to recognise and protect the regional transport network through appropriate planning provisions.*
- *The Casino to Murwillumbah rail corridor will be protected.*

- *As the Gold Coast rail extension is planned, investigation will be undertaken to determine whether demand warrants extension of the route into NSW.*

The Regional Strategy's planning objectives are positive and construction of the Pacific Highway through Tweed Shire to Freeway standard is planned to be completed by the end of 2012. The sum of the proposed actions however does not represent a comprehensive, integrated approach to transport planning in our region. It is to be hoped that the NSW Long Term Transport Master Plan may initiate some long overdue catch up for strategic planning of transport in NSW.

4. Summary

The NSW Long Term Transport Master Plan - Discussion Paper, has a heavy emphasis on transport objectives, inter modal choice, landuse and economic impacts, transport infrastructure priorities during the next 20 years, and has in depth details on the issues that concern Sydney. Its treatment of the rest of NSW is brief. Uniquely, Tweed's major public transport problem is not provision of infrastructure, but is sorting out the governance of the commuter bus system.

The discussion paper does acknowledge *"The high population and employment growth in South East Queensland attracts Northern Rivers residents across the border as commuters. The growth of the Gold Coast-Tweed major city will also create strong demand for transport connections."*, but does not propose the solution identified in Council's *Tweed Public Transport Strategy*, the extension of the Queensland TransLink system to Tweed Shire.

It is recognised that consideration of cross border suburban bus service issues for the NSW section of the Gold Coast/Tweed urban area is a relatively small issue in the preparation of the Long Term Transport Master Plan for NSW. However, Tweed is in a unique situation as decisions made by both the NSW and Queensland Governments have a major impact on our transport services. Up to this time there has been no coordinated strategic planning, provision or governance of transport services by a partnership of the two state governments for the whole Gold Coast/Tweed urban area. This has resulted in the take up of public transport for commuter trips in Tweed Shire being less than 1% of total trips.

The discussion paper is silent on the governance of the transport system. This is a major concern for Tweed Shire, given Councils adopted strategy on the need for public transport in Tweed to be removed from the NSW governance system and placed in Queensland's TransLink system.

Equity of access to transport services for disadvantaged groups including people with a disability, NSW residents not located in Sydney and residents of newly developed urban growth centres (eg Cobaki Lakes, Kings Forest where typically transport services lag behind development) is not well covered in the discussion paper and should be a key objective of the Final Plan.

The discussion paper is silent on the need to classify urban arterial roads in major growing urban centres, outside of Sydney, Newcastle, Wollongong and the Central Coast, so that the key roads serving urban growth areas may be managed and financed by the State.

The discussion paper is silent on the profound changes that have occurred in long distance intra state and interstate public transport travel. These trips are now mainly conducted by air and to a lesser extent by private coach lines. Customer support for long distance rail travel has collapsed. Even though Gold Coast airport is part in NSW and conducts around 60 regular passenger flights per day providing comprehensive services to the residents of the Tweed, the authors of the discussion paper have not included this airport as part of the NSW Regional air services network.

Active transport mode challenges for walking and cycling are only presented in a Sydney context. These active modes are just as relevant to the rest of NSW and the final master plan should present these transport modes in a whole of NSW context.

The Discussion Paper's proposed *Northern Rivers Regional Transport Plan* needs to acknowledge that the Tweed sub-region has very different transport issues requiring very different transport solutions to the rest of the region (Lismore, Byron, Ballina, Casino and Kyogle). It is therefore essential that the section of the *Northern Rivers Regional Transport Plan* addressing the Tweed sub-section align with transport strategies in South East Queensland and the Gold Coast City. To achieve this the authors of the proposed *Northern Rivers Regional Transport Plan* need to closely liaise with representatives of the Queensland Government, Queensland transport agencies, Gold Coast City Council and Tweed Shire Council to ensure transport solutions for the Tweed sub-region are part of an integrated transport solution for the Gold Coast Tweed urban area.

5. Submission to NSW Long Term Transport Master Plan

5.1 Public Transport

Recommendations

1. The plan should ensure that NSW transport planning for the Tweed, integrates with the strategic transport planning already carried out in the:

- South East Queensland Regional Plan 2009-2031
- South East Queensland Infrastructure Plan and Program 2008-2036
- Connecting SEQ 2031- An Integrated Regional Transport Plan for South East Queensland
- Gold Coast Southern and Central Area Transport Study (GCSCATS) 2012
- Tweed Public Transport Strategy - July 2011
- Far North Coast Regional Strategy -2006

2. The plan should acknowledge Tweed's unique cross border governance issues in the provision of suburban public transport that needs to seamlessly integrate services on both sides of the state border which divides the Gold Coast/Tweed urban area. The plan should explore NSW/Queensland cross border processes that can facilitate the governance of public transport in the Tweed Shire urban area being transferred to Queensland's TransLink.

5.2 Aviation

Recommendations

3. The NSW Long Term Transport Master Plan should recognise the role of the Gold Coast Airport as the second busiest airport located in NSW and its role in providing Tweed and other Northern Rivers Residents with high frequency, low cost, long distance travel to NSW regional destinations, Australian capital cities and major interstate regional centres.

5.3 State Road Classification

Recommendation

4. The NSW Long Term Transport Master Plan should acknowledge that urban arterial roads in major urban centres outside Sydney, Newcastle, Wollongong and the Central Coast, such as the Tweed Shire part of the Gold Coast/Tweed urban area, should be classified as "State Roads" and be managed and funded by the state.

5.4 Active Transport - Walking and Cycling

Recommendation

5. The active transport modes of walking and cycling are just as relevant to the rest of NSW and should not be presented in a Sydney only context. The final master plan should present these transport modes in a whole of NSW context.

5.5 Equity of Access to Transport Services

Recommendation

6. A key objective of the final plan should be the equitable provision of access to transport services for disadvantaged groups including people with a disability, NSW residents not located in Sydney and residents of newly developed urban growth centres (eg Cobaki Lakes, Kings Forest where typically transport services lag behind development). The Final plan should propose mechanisms to ensure equitable provision of transport services for all residents of NSW over the life of the Plan.

5.5 Proposed Northern Rivers Regional Transport Plan

Recommendations

7. The proposed Northern Rivers Regional Transport Plan should acknowledge that the Tweed sub-region has very different transport issues requiring very different transport solutions to the rest of the region (Byron, Lismore, Casino-Richmond Valley, Ballina and Kyogle).

8. The section of the *Northern Rivers Regional Transport Plan* addressing the Tweed sub-section should align with strategic transport planning documents referred to in Recommendation 1.

9. The authors of the proposed *Northern Rivers Regional Transport Plan* should liaise closely with representatives of the Queensland Government, Queensland transport agencies, Gold Coast City Council and Tweed Shire Council to ensure transport solutions for the Tweed sub-region are part of an integrated transport solution for the Gold Coast Tweed urban area.

COUNCIL IMPLICATIONS:

a. Policy:

Desired alignment of NSW Transport Policy with Council's adopted Tweed Public Transport Strategy.

b. Budget/Long Term Financial Plan:

Substantial impacts on Budget and Long Term Financial Plan

c. Legal:

Not Applicable.

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
- 2.4.2 Promote the provision of cost effective public transport for all-persons access
- 2.4.2.4 Provide public transport planning strategies

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

37 [TCS-CM] Monthly Investment and Section 94 Developer Contributions Report for the Period Ending 29 February 2012

SUBMITTED BY: Financial Services

FILE NUMBER: Not Applicable



Civic Leadership

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Cl. 212 of the Local Government (General) Regulations and Council policies.

Council had **\$158,985,518** invested as at **29 February 2012** and the accrued net return on these funds was **\$760,322** or **5.77%** annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at period ending 29 February 2012 totalling \$158,985,518 be received and noted.

REPORT:

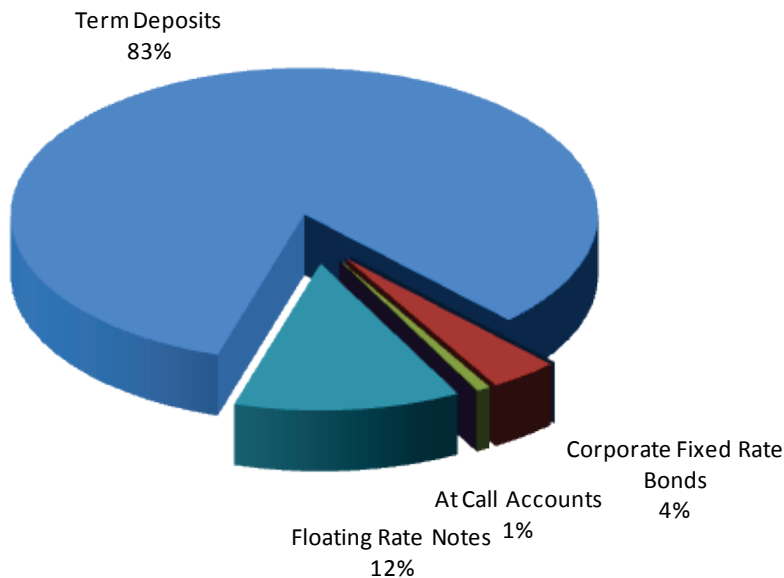
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

1. Restricted Funds as at 1 July 2011

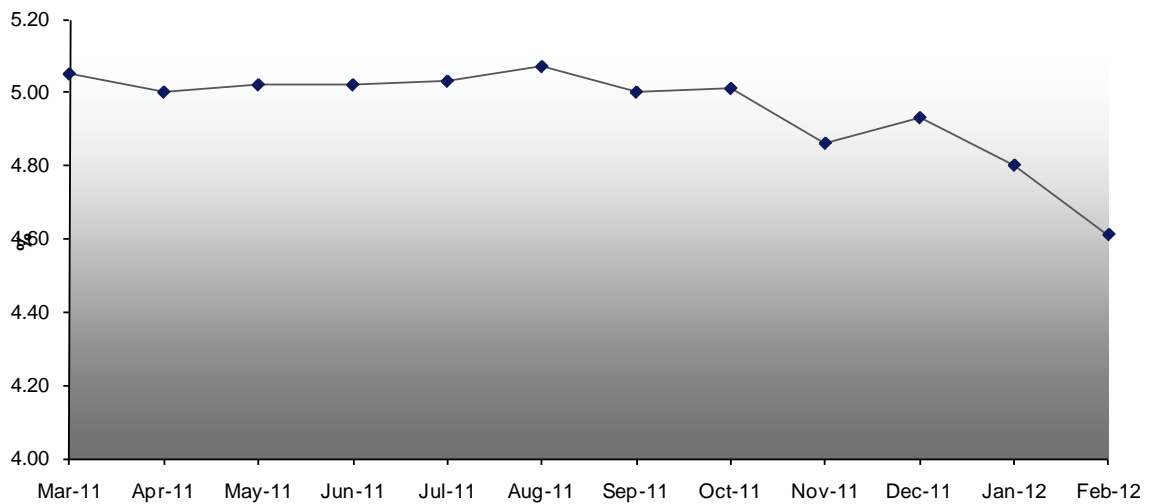
Description	(\$'000)			
	General Fund	Water Fund	Sewer Fund	Total
Externally Restricted	2,864	10,137	61,173	74,174
Crown Caravan Parks	12,430			12,430
Developer Contributions	27,770	15,770		43,540
Domestic Waste Management	8,373			8,373
Grants	3,395			3,395
Internally Restricted	16,613			16,613
Employee Leave Entitlements	2,199			2,199
Grants	3,404			3,404
Unexpended Loans	6,488			6,488
Total	83,536	25,907	61,173	170,616

Note: Restricted Funds Summary next update September 2012

2. Investment Portfolio by Category



3. Investment Rates - 90 Day Bank Bill Rate



4. Direct Securities

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date
Members Equity Bank	2,000,000.00	1,997,600.00	5.56	FRN	08/03/2012
CBA	1,000,000.00	1,008,125.11	5.69	FRN	17/04/2012
Westpac Bank	1,000,000.00	1,045,240.00	7.25	Fixed Rate Bond	24/09/2012
Westpac Bank	1,000,000.00	1,045,240.00	7.25	Fixed Rate Bond	24/09/2012
Deutsche Bank	1,000,000.00	959,528.00	5.40	FRN	23/11/2012
ANZ Bank	1,000,000.00	1,071,260.00	8.50	Fixed Rate Bond	22/04/2013
Suncorp Metway	2,000,000.00	1,990,340.00	5.55	FRN	26/05/2014
AMP Bank	2,000,000.00	1,989,212.00	5.80	FRN	06/06/2014
National Australia Bank	1,000,000.00	1,000,970.00	5.49	FRN	05/11/2015
Westpac Bank	2,000,000.00	1,994,013.10	5.47	FRN	09/11/2015
CBA Retail Bond	1,000,000.00	976,500.00	5.44	FRN	24/12/2015
CBA Retail Bond	498,250.00	488,250.00	5.44	FRN	24/12/2015
CBA Retail Bond	492,500.00	488,250.00	5.44	FRN	24/12/2015
National Australia Bank	2,000,000.00	2,000,660.00	5.61	FRN	21/06/2016
RaboBank	1,000,000.00	975,530.00	5.51	FRN	27/07/2016
RaboBank	1,000,000.00	975,530.00	5.51	FRN	27/07/2016
CBA	1,000,000.00	993,090.00	5.48	FRN	02/08/2016
CBA	2,000,000.00	1,986,180.00	5.48	FRN	02/08/2016
CBA/Merrill Lynch Zero Coupon Bond	4,000,000.00	2,800,000.00	7.28	Fixed Rate Bond	22/01/2018
Total	26,990,750.00	25,785,518.21	5.95		

ABS = Asset Backed Security
 Bond = Fixed Rate Bond
 CDO = Collateralised Debt Obligation
 FRN = Floating Rate Note

5. Term Deposits

TERM DEPOSITS SORTED BY MATURITY AS AT 29/02/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
01-Mar-11	22-May-12	Adelaide Bendigo Bank	2,000,000.00	364	6.350
13-Sep-11	07-Aug-12	Adelaide Bendigo Bank	2,000,000.00	732	6.600
20-Sep-11	19-Mar-13	Adelaide Bendigo Bank (Mar 2013)	1,000,000.00	728	6.500
08-Feb-12	07-Aug-12	AMP (RIMSEC)	1,000,000.00	181	6.000
08-Feb-12	08-Aug-12	AMP (RIMSEC)	1,000,000.00	182	6.000
29-Jun-11	14-Aug-12	AMP Bank (CURVE)	1,000,000.00	371	6.100
28-Sep-11	03-Sep-13	AMP Bank (CURVE) (Sept 2013)	500,000.00	735	6.000
04-Apr-11	10-Sep-13	AMP Bank (CURVE) (Sept 2013)	500,000.00	742	6.000
12-Jul-11	22-May-12	ANZ	2,000,000.00	363	6.400
24-Jan-12	24-Apr-12	Bank of QLD	2,000,000.00	91	6.000
18-Oct-11	08-Apr-14	Bank of QLD (Apr 2014)	2,000,000.00	1100	6.390
27-Oct-11	13-Aug-13	Bank of QLD (Aug 2013)	2,000,000.00	1096	7.050
11-Jan-12	13-Mar-12	Bank of QLD (direct)	2,000,000.00	126	5.900
18-Oct-11	17-Apr-12	Bank of QLD (Direct)	4,000,000.00	186	6.000
09-Sep-11	25-Mar-14	Bank of QLD (Mar 2014)	1,000,000.00	1099	6.750
13-Feb-12	14-May-12	Bank of QLD (matures Nov 2013)	2,000,000.00	91	5.875
17-Feb-12	18-Sep-12	BOQ	2,000,000.00	214	6.000
18-Oct-11	06-Mar-12	Heritage BS	1,000,000.00	182	5.900
11-Nov-11	06-Mar-12	IMB	1,000,000.00	370	6.360
29-Feb-12	31-May-12	IMB (Dec 2013)	2,000,000.00	91	5.727
14-Feb-12	14-Aug-12	ING (Curve)	2,000,000.00	182	6.000
21-Feb-12	21-Aug-12	ING (Curve)	1,000,000.00	182	6.050
25-Aug-11	07-Mar-12	ING (RIMSEC Sept 2012)	2,000,000.00	91	5.687
14-Feb-12	14-Aug-12	ING (RIMSEC)	2,000,000.00	181	6.000
28-Feb-12	28-Aug-12	ING (RIMSEC)	2,000,000.00	182	6.040
29-Feb-12	29-May-12	ING (RIMSEC) (matures Sept 2012)	1,000,000.00	90	5.627
29-Feb-12	30-May-12	ING (RIMSEC) (May 2012)	1,000,000.00	91	5.627
30-Nov-11	12-Jun-12	Investec Bank (June 2012)	1,000,000.00	369	6.420

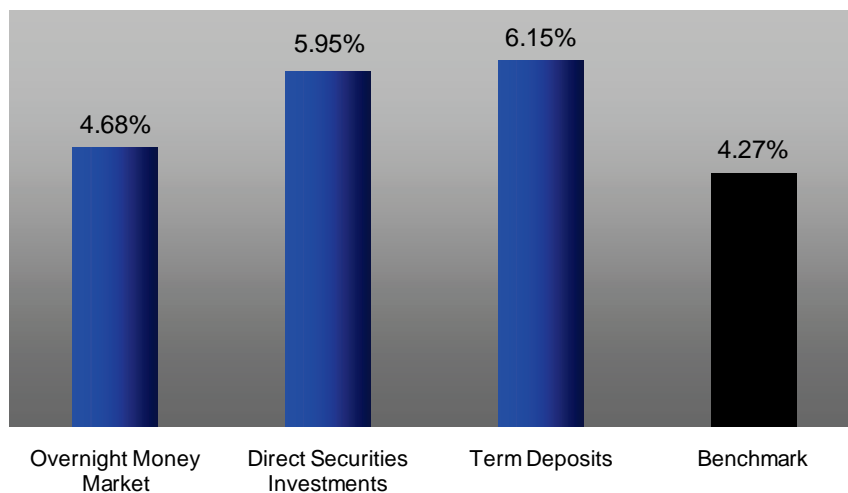
TERM DEPOSITS SORTED BY MATURITY AS AT 29/02/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
30-Nov-11	21-May-13	Investec Bank (May 2013)	1,000,000.00	735	7.100
09-Dec-11	09-Mar-12	Investec Bank (RIMSEC) (Jun 2014)	1,000,000.00	91	6.490
28-Dec-11	28-Mar-12	LGFS CRI (Jun 2012)	4,000,000.00	90	5.550
20-Dec-11	20-Mar-12	LGFS CRI (Mar 2012)	1,000,000.00	91	5.232
06-Sep-11	07-Aug-12	Members Equity Bank	1,000,000.00	368	6.300
21-Dec-11	24-Apr-12	NAB	2,000,000.00	125	6.130
06-Sep-11	08-May-12	NAB	2,000,000.00	371	6.330
10-Jan-12	15-May-12	NAB	5,000,000.00	126	6.150
08-Nov-11	24-Jul-12	NAB	5,000,000.00	369	6.320
17-May-11	11-Dec-12	NAB	2,000,000.00	733	6.950
16-Feb-12	16-May-12	NAB (Aug 2012)	1,000,000.00	90	5.630
27-Jan-12	27-Apr-12	NAB (Jul 2012)	5,000,000.00	91	5.520
03-May-11	26-Mar-13	NAB (Mar 2013)	1,000,000.00	735	6.380
27-Feb-12	28-May-12	NAB (RBS) (Aug 2015)	2,000,000.00	91	5.650
22-Jul-10	11-Aug-13	NAB (RBS) (Aug 2015)	2,000,000.00	1095	6.000
24-May-11	02-Mar-12	NAB (Sept 2012)	5,000,000.00	91	5.780
25-May-11	02-Sep-13	NAB (Sept 2013)	4,000,000.00	1098	6.520
07-Feb-12	10-Feb-15	RaboDirect (Curve)	1,000,000.00	1098	6.000
21-Jul-11	22-Nov-16	RaboDirect (Curve) (Nov 2016)	1,000,000.00	1835	6.300
05-Aug-11	06-Mar-12	RaboDirect (RIMSEC)	1,000,000.00	365	6.600
08-Dec-10	20-Mar-12	RaboDirect (RIMSEC)	1,000,000.00	224	6.200
09-Aug-11	20-Mar-12	RaboDirect (RIMSEC)	1,000,000.00	307	6.300
04-Mar-11	22-Mar-16	RaboDirect (RIMSEC) (Mar 2016)	1,000,000.00	1827	7.150
22-Mar-11	13-Mar-12	Rural Bank (Curve)	2,000,000.00	189	6.000
17-Jan-12	17-Apr-12	Suncorp Metway	3,000,000.00	91	6.000
10-Jan-12	10-Jul-12	Suncorp Metway	3,000,000.00	185	6.050
11-Aug-10	18-Jul-12	Suncorp Metway	2,000,000.00	727	6.720
14-Feb-12	07-Aug-12	Suncorp Metway	4,000,000.00	175	6.000
23-Feb-12	28-Aug-12	Suncorp Metway	1,000,000.00	187	6.020
12-Aug-10	23-Jul-13	Suncorp Metway (RBS) (July 2013)	1,000,000.00	1097	7.300
17-Feb-12	22-May-12	Westpac	2,000,000.00	95	5.900
28-Feb-12	03-Jul-12	Westpac	2,000,000.00	126	5.900

TERM DEPOSITS SORTED BY MATURITY AS AT 29/02/12					
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield
22-Mar-11	07-Apr-16	Westpac (Apr 2016)	2,000,000.00	1825	7.000
20-Feb-12	18-May-12	Westpac (Feb 2016)	2,000,000.00	88	5.570
11-Jan-12	11-Apr-12	Westpac (Jan 2016)	8,000,000.00	91	5.708
07-Apr-11	05-Mar-13	Westpac (Mar 2013)	2,000,000.00	735	6.350
16-Feb-12	16-May-12	Westpac (Nov 2014)	2,000,000.00	90	5.710
17-Jan-12	17-Jul-12	Wide Bay CU	1,000,000.00	182	6.000
11-Nov-11	13-Mar-12	Widebay CU (RIMSEC)	1,000,000.00	210	6.200
			132,000,000.00		6.155

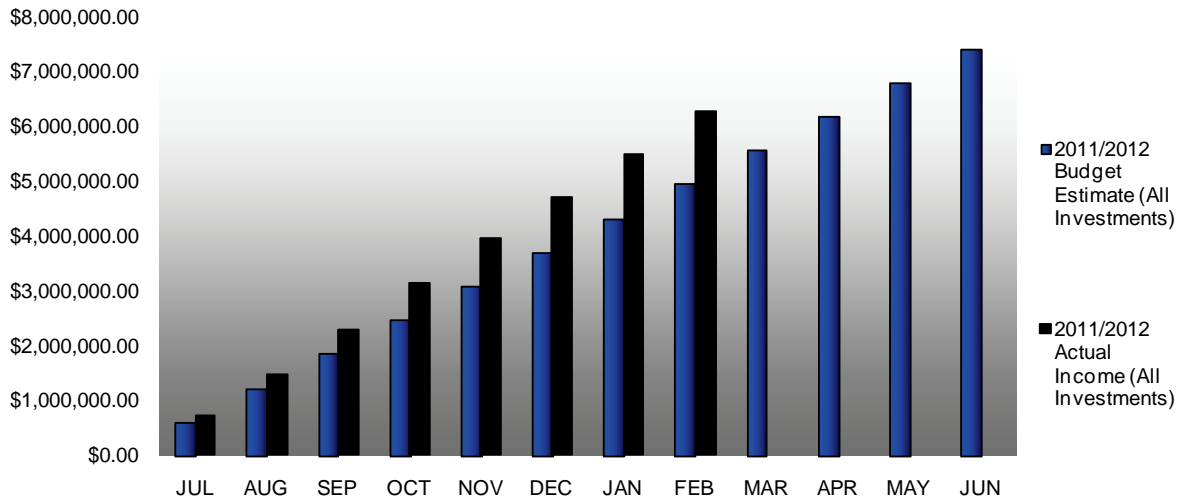
6. Performance by Category

Category	Face Value	Market Value	Average Return	Above/(Below) 30 day BBSW Benchmark
Overnight Money Market	\$1,200,000.00	\$1,200,000.00	4.68%	0.41%
Direct Securities Investments	\$26,990,750.00	\$25,785,518.21	5.95%	1.68%
Term Deposits	\$132,000,000.00	\$132,000,000.00	6.15%	1.88%
Benchmark	\$160,190,750.00	\$158,985,518.21	4.27%	Benchmark 30 Day UBS Bank Bill Index

Performance by Category Compared with Benchmark



7. Total Portfolio Income Year to Date



8. Investment Policy Diversification and Credit Risk

Total Portfolio Credit Limits Compared to Policy Limits					
Long-Term Credit Ratings	Investment Policy Limit	Actual Portfolio	Short-Term Credit Ratings	Investment Policy Limit	Actual Portfolio
AAA Category	100%	0.00%	A-1+	100%	24.78%
AA Category	100%	25.92%	A-1	100%	17.70%
A Category or below	60%	5.05%	A-2	60%	15.80%
BBB Category or below	20%	6.96%	A-3	20%	0.63%
Unrated	10%	2.53%	Unrated	10%	0.63%
		40.46%			59.54%

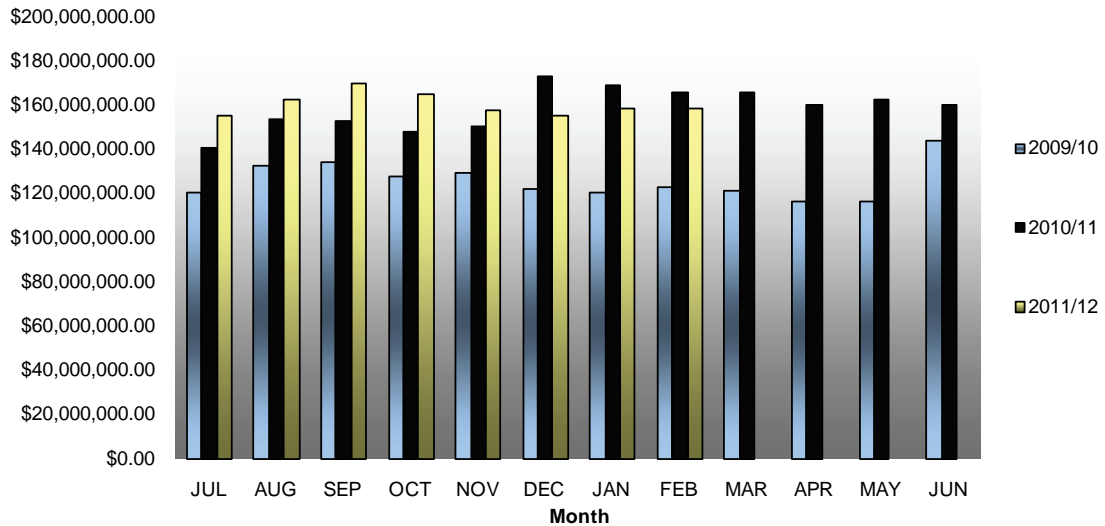
9. Term to Maturity

Maturity Profile	Actual % Portfolio	Policy Limits
Less than 365 days	61.44%	Maximum 100% Minimum 40% of portfolio
Between 365 days and 2 years	11.38%	Maximum 60%
Between 2 years and 5 years	24.65%	Maximum 35%
Between 5 years and 7 years	2.53%	Grandfathered investment. Outside current policy limit
Total	100.00%	

10. Investment Alternatives Explained

Investment Product	Maturity Range	Usual term to maturity	Major Benefits	Major risks
At Call Cash	At Call	Immediate to a few months	Highly liquid - same day access to funds with no impact on capital	Not a capital growth asset
			Highly secure as a bank deposit	Underperforms other asset classes in the long term
Bank Bill	1 - 180 days	Less than 1 year	Highly liquid - same day access to funds, usually with no or minimal impact on capital	Not a growth asset
			Highly secure (bank risk)	Underperforms other asset classes in the long term
				May incur a small loss for early redemption
Term Deposit	Up to 5 years	Less than 2 years	Liquid - same day access to funds	Will incur a small capital loss for early termination
			Highly secure as a bank deposit	Underperforms growth assets in the longer term
Floating rate Note Bond	1 - 5 years	Greater than 2 years	Increased yield over bank bills	Not a growth asset
			Can accrue capital gain if sold ahead of maturity and market interest rates have fallen	Can incur capital losses if sold ahead of maturity and market interest rates have risen
			Coupon interest rate resets quarterly based on 90 day bank bill swap rate	Credit exposure to company issuing the paper
			Relatively liquid	May not be bank guaranteed
			Less administration than bank bills	Underperforms other asset classes in the long term
Fixed Rate Bond	1 - 5 years	Greater than 3 years	Can accrue capital gain if sold before maturity and market interest rates have fallen	Can incur capital losses if sold before maturity and market interest rates have risen
			Fixed return - semi annual coupons	Credit exposure to company issuing paper
			Generally liquid	
			Can be government or corporate issuer	

11. Monthly Comparison of Total Funds Invested



12. Section 94 Developer Contributions - Monthly Balances and Receipts Report - 29 February 2012

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	Banora Point West/Tweed Heads South Open Space	3,994,747	-
02	Banora Point Western Drainage	508,251	-
03	Banora Point West/ Tweed Heads South Community Facilities	36,953	-
04	Tweed Road Contribution Plan	10,765,770	37,175
05	Local Area Open Space	819,258	-
06	Street Tree Planting in Residential Areas	151,920	-
07	West Kingscliff Opens Space & Drainage	474,024	-
10	Cobaki Lakes Open Space & Community Facilities	(771)	-
11	Shire Wide Library Facilities	1,472,824	-
12	Bus Shelters	50,784	-
13	Eviron Cemetery	(39,767)	-
14	Mebbin Springs Subdivision - Rural Road Upgrading	76,500	-
15	Community Facilities	337,275	-
16	Emergency Facilities - Surf Lifesaving	319,654	-
18	Council Administration & Technical Support	1,172,369	-
19	Kings Beach/Casuarina/Kings Forest	699,646	-
20	Seabreeze Estate - Open Space	638	-
21	Terranora Village Estate - Open Space & Community Facilities	26,191	-

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
22	Shirewide Cycleways	343,941	-
23	Shirewide Carparking	1,835,105	-
25	Salt Development - Open Space & Car Parking	857,322	-
26	Shirewide/Regional Open Space	2,630,082	-
27	Tweed Heads Masterplan Local Open Space & Streetscaping	57,703	-
28	Seaside City	20,794	-
90	Footpaths & Cycleway	-	-
91	DCP14	91,550	-
92	Public Reserve Contributions	112,413	-
95	Bilambil Heights	447,685	-
Total		27,262,862	37,175

13. Economic Commentary

Australian Cash Rate

The Reserve Bank of Australia (RBA) again left the cash rate at 4.25% pa at their 6 March meeting. The RBA noted that Australia's cash rate is "about right at the moment" as economic growth is close to trend and the European debt crisis does not disrupt global output as much as expected.

Economists however continue to expect further rate cuts by the RBA this year as sovereign debt issues in Europe continue to affect global trade, particularly with China and global confidence in general. Inflation is at the lower end of the 2% to 3% target range and unemployment is expected to rise from 5.1% to 5.8% during 2012.

Council's Investment Portfolio

Council's investment portfolio is conservatively structured in accordance with Division of Local Government guidelines with 84% of the portfolio held in term deposits or cash at call. Term deposits and bonds continue to provide above trend returns while minimizing capital risk.

All investment categories out-performed the UBS 30 day bank bill benchmark this month. Overall, the investment portfolio has returned an average 1.44% pa above the 30 day UBS bank bill index for the last 12 month period.

Source: Oakvale Capital Limited & Governor of the RBA

14. Investment Portfolio Summary as at 29 February 2012

GENERAL FUND

CORPORATE FIXED RATE BONDS	5,961,740.00	
FLOATING RATE NOTES	19,823,778.21	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	0.00	
TERM DEPOSIT - LOAN 104 OFFSET	0.00	
TERM DEPOSITS	47,000,000.00	
CALL ACCOUNT	1,200,000.00	73,985,518.21

WATER FUND			
TERM DEPOSITS	31,000,000.00		
FUND MANAGERS	0.00	31,000,000.00	
SEWERAGE FUND			
TERM DEPOSITS	54,000,000.00		
FUND MANAGERS	0.00	54,000,000.00	
	TOTAL INVESTMENTS		158,985,518.21

It should be noted that the General Fund investments of **\$73 million** are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

All Water and Sewerage Fund investments can only be expended in accordance with Government regulation and Council resolution.

Statutory Statement - Local Government (General) Regulation 2005 Cl. 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



**Chief Financial Officer
(Responsible Accounting Officer)**

OPTIONS:

Not Applicable

CONCLUSION:

Not Applicable

COUNCIL IMPLICATIONS:

a. Policy:

Not Applicable

b. Budget/Long Term Financial Plan:

In accordance with Budget Projections.

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
- 1.3 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.

38 [TCS-CM] Procurement Policy Version 1.4

SUBMITTED BY: Corporate Governance

FILE NUMBER: Not Applicable



Civic Leadership

SUMMARY OF REPORT:

Council to adopt the revised Procurement Policy Version 1.4, following suitable public exhibition and request for submissions.

RECOMMENDATION:

That the Procurement Policy Version 1.4 be adopted, replacing the previous Procurement Policy Version 1.3.

REPORT:

At the Council Meeting of 13 December 2011, the following was resolved in relation to consideration of the Procurement Policy Version 1.4:

"RESOLVED that Council, in accordance with Section 160 of the Local Government Act 1993, places the Procurement Policy Version 1.4 on public exhibition for a period of not less than twenty-eight (28) days and allows a period of forty-two (42) days for any submissions, with the following amendments:

1. Change 5.6 to read "Quality is an integral and core element in the provision of all goods, services and works. Council encourages contractors and suppliers to have quality assurance accreditation under AS/NZS ISO9001:1994 and for manufacturers AS/NZS ISO9002:1994"

and

2. The deletion of the entire sentence "Council may, by resolution from time to time restrict the buying of goods, works or services from foreign countries" (as shown in the document at 6 Procurement Preference page 8 of 14) page 291 of the business papers."

Following the decision by Council, the necessary amendments were made and the proposed policy was placed on public exhibition, with submissions closing on 29 February 2012. No submissions were received in relation to the policy; therefore it is now placed before Council for consideration and adoption.

OPTIONS:

Council adopts the revised Procurement Policy Version 1.4.

CONCLUSION:

Policy adoption by Council which will result in the Policy becoming a formal policy, with the replacement of the previous version.

COUNCIL IMPLICATIONS:

a. Policy:

Procurement Version 1.4

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:

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. Procurement Policy Version 1.4 (ECM44907691).
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REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

39 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 8 February 2012

Venue:

Canvas & Kettle Meeting Room

Time:

9.15am

Cr Milne opened the meeting by welcoming members and recognising the traditional owners of the land on which the meeting was being held.

Present:

Cr Katie Milne (Chair); Cr Dot Holdom; Robert Quirk (NSW Cane Growers' Association); Richard Hagley; Ben Fitzgibbon (Office of Environment and Heritage); Carl Cormack (Roads & Maritime Services); Claire Masters (Tweed Landcare Inc); Scott Petersen (Tweed River Charter Operators); Max Boyd (Community Representative); Rhonda James (Restoration Industry); Jane Lofthouse, Tom Alletson, Mark Kingston (Tweed Shire Council).

Informal:

Lachlan Stace (NRCMA); Cathey Philip (Minutes Secretary).

Apologies:

Pat Dwyer (Department of Industry & Investment NSW); David Oxenham, Sebastien Garcia-Cuenca, (Tweed Shire Council); Bob Loring (Department of Primary Industries - Fisheries); Martin Dobney (Action Sands Chinderah); Lance Tarvey (Office of Environment and Heritage); Judy Robinson (Fingal Head Community Representative).

Minutes of Previous Meeting:

Minutes of the previous meeting held 14 December 2011 have not yet been submitted to Council and therefore cannot be adopted by Committee at this stage.

The Committee recognised that the minutes will be presented to Council's Executive Management Team and then to Council on 21 February 2012.

Business Arising:

BA1. Project Reports

a) Wake Impact Study

Tom provided copies to members who expressed an interest.

b) Draft Tweed Urban Stormwater Quality Management Plan 2011

Tom provided an update and handed copies to members who expressed an interest. He explained that this was a revised document. Document is to assist people in managing their urban stormwater.

Jane arrived at 9.30am

After a lengthy discussion the Committee decided that a sentence be inserted into the document noting that compliance with the stormwater quality management plan does not preclude the need to undertake contaminated land or acid sulfate soils assessments or investigation of any other matters that may impact water quality as a result of the development.

RECOMMENDATION:

Moved: Max Boyd

Seconded: Cr Holdom

That Council places the draft Tweed Urban Stormwater Quality Management Plan 2011 on public exhibition.

BA2. Shorebird Education Signs

Tom briefly discussed the shorebird education signs and advised that David Oxenham has advised that a recommendation to Council to approve the proposed expenditure needs to come from the Committee.

Tom advised members where the signs are to be erected and that their positions had been determined in liaison with a Tweed Bird Observers representative.

It was suggested that additional signs be erected at the new boat harbour at Fingal Head and Kerosene Inlet. Tom said he would discuss with Tweed Byron Local Aboriginal Land Council.

RECOMMENDATION:

Moved: Robert Quirk

Seconded: Rhonda James

That Council allocates \$3,000 from the Tweed River Committee education program to the fabrication and installation of shorebird education signs within the Tweed Shire.

BA3. 2012 World Environment Day

Tom briefly discussed World Environment Day and advised that David Oxenham has advised that a recommendation to Council to approve the proposed expenditure needs to come from the Committee.

RECOMMENDATION:

Moved: Max Boyd

Seconded: Rhonda James

That Council allocates \$5,000 from the Tweed River Committee education program to support a world environment day event for school children at the Pottsville Environment Centre.

Suspension of Standing Orders:

Standing Orders were suspended to deal with the following agenda items as Robert had to leave the meeting at 11am.

A3. Tweed River Committee Strategic and Functional Review - Scope

The scope and methods to review the strategic purpose, priorities and functionality of the Tweed River Committee were presented by Tom.

After a lengthy discussion it was agreed that the Committee did need a facilitator to assist in reviewing its operations and priorities.

*David Oxenham arrived at 10.30am
Dave Hanna & Sally Cooper arrived at 10.35am*

Lachlan suggested the Committee look at the NRCMA catchment action plan review.

RECOMMENDATION:

Moved: Rhonda James

Seconded: Cr Holdom

That the Tweed River Committee engages a facilitator to undertake a strategic review of its operations and priorities.

Tom is to prepare a brief and will liaise with Jane and David to engage the right facilitator. He will provide a copy of the preferred facilitators submission to the Committee for review, via email.

Robert left at 11am

The suspension of Standing Orders continued to allow the following item to be discussed.

A2. Kerosene Inlet - Access Control and Flushing Enhancement Project

David Hannah and Sally Cooper from Council's Design Unit presented an overview of the environmental management works that have been undertaken to protect and enhance tidal wetland habitat in Kerosene Inlet.

Members asked various questions and made various comments regarding the work carried out.

Dave and Sally left at 11.45am

Max raised issue of a DVD and how beneficial it would be.

Resumption of Standing Orders:

Standing Orders were resumed.

Agenda Items:

A1. NRCMA - Better Boating More Fish Project

Lachlan Stace from the NRCMA attended the meeting and described their project which will be run in the Tweed, aiming to educate boaters and fishers on the following topics:

- Aquatic Habitat and what they can do to help it, including wake awareness

- Aquatic pests and how they can help stop the spread
- Volunteering - giving boaters avenues to help protect their playground

Lachlan raised possibility of having a Tweed River Educational Cruise. Tom will liaise with Lachlan regarding suitable dates etc.

David Oxenham left at 12.10pm

A2. Kerosene Inlet - Access Control and Flushing Enhancement Project

Dealt with in Standing Orders.

A3. Tweed River Committee Strategic and Functional Review - Scope

Dealt with in Standing Orders.

A4. Chinderah Foreshore Upgrade Draft Master Plan

An electronic copy of the plans for the Chinderah Foreshore Upgrade was presented at the meeting for information.

Cr Milne requested that it be suggested to the relevant Council staff that the Tweed River Committee requests the landscaping include the planting of the native endemic trees, including the red tamarind tree, and that stormwater quality issues be thoroughly addressed.

A5. Grant Applications Submitted to the Commonwealth Government - Clean Energy Future Biodiversity and Carbon Farming Fund

Tom advised that Council has submitted two grant applications to the Biodiversity Fund and one to the Carbon Farming Fund and explained what works Council will carry out if successful.

Submitted for the Committee's information only.

A6. NRM Unit Restructure

Mark updated the Committee on the significant changes to staffing and responsibilities of Council's NRM Unit. These being:

- Entomology now under the NRM Unit banner - this will include other pests
 - Waterways Assistant
 - Bush Futures project finishing
 - Environment educational area
 - Sustainability Officer away for 12 months - part time replacement
 - Assessing Development Applications
-

General Business:

GB1. Communications and Marketing Attendance

Max suggested a member of the Communications and Marketing section of Council be invited to appropriate meetings to promote the good work being done by the Committee. It was suggested promotion could be via a DVD/podcasts etc.; it did not have to be only via print media.

GB2. Kingscliff Sand Nourishment EIS

Jane advised that sediment samples from the Tweed River have been taken. Pipeline routes are being examined. Nothing has been identified thus far in the EIS process that indicates any major obstacle to proceeding with sand extraction.

Next Meeting:

The next meeting of the Tweed River Committee will be held Wednesday 11 April 2012.

The meeting closed at 12.45pm.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

A review of the history, performance and future direction of the Tweed River Committee is supported by the Executive Management Team. It is therefore considered appropriate that Council undertakes the engagement.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

Tweed Urban Stormwater Quality Management Plan 2011

That Council places the draft Tweed Urban Stormwater Quality Management Plan 2011 on public exhibition.

Shorebird Education Signs

That Council allocates \$3,000 from the Tweed River Committee education program to the fabrication and installation of shorebird education signs within the Tweed Shire.

2012 World Environment Day

That Council allocates \$5,000 from the Tweed River Committee education program to support a world environment day event for school children at the Pottsville Environment Centre.

Tweed River Committee Strategic and Functional Review - Scope

That Council engages a facilitator to undertake a strategic review of the operations and priorities of the Tweed River Committee.

40 [SUB-LTC] Local Traffic Committee Minutes Meeting held Thursday 23 February 2012

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 10.00am

PRESENT:

Committee Members: Cr Barry Longland (Mayor), Ms Liz Smith, Roads and Maritime Services, Snr Constable Ray Wilson, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Mr Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr Ray Clark (Chairman), Mr Paul Brouwer, Mr Leon McLean, Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Mr Danny Rose Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

[LTC] Confirmation of Previous LTC Minutes Meeting held 17 November 2011

ORIGIN:

Planning & Infrastructure

SUMMARY OF REPORT:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 17 November 2011 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC-SOR] Schedule of Outstanding Resolutions - 23 February 2012

1. [LTC] Chinderah Bay Drive, Chinderah (Item B4)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM33214307; Traffic - Committee; Speed Zones; Chinderah Bay Drive

SUMMARY OF REPORT:

From Meeting held 19 May 2011 (Item B4)

Request received for a reduction in the speed limit to 50km/h on Chinderah Bay Drive, Chinderah.

"Speed Limit is currently 60kph and is too high with the pedestrian traffic at the Fish Shop, slow-moving tourist traffic, continued accidents on Jenner's corner."

The Chairman advised that this be listed on the Schedule of Outstanding Resolutions.

COMMITTEE ADVICE:

That the RTA be requested to conduct a speed zone review of Chinderah Bay Drive, Wommin Bay Road, Waugh Street and Phillip Street with a view to reducing the 60kph zones to 50kph.

Current Status: That Item 1 from Local Traffic Committee meeting held 17 November 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 19 May 2011- Item B4).

2. [LTC] Kennedy Drive, Tweed Heads West (Item B7)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3948168; Traffic - Committee; Kennedy Drive, Tweed Heads; Kennedy Drive - Tweed Heads West; Norman Street; Parking - Zones; Traffic - Lights; Traffic - Roundabouts; Boat Ramps

SUMMARY OF REPORT:

From Meeting held 27/8/09 (Item B7)

Concern received in relation to increasing traffic problems along Kennedy Drive.

"In particular the intersection of Norman Street and Kennedy Drive causes local residents a great deal of frustration which is worsened by parking of boats and boat trailers using the boat ramp located on the opposite side of the road.

..... Norman Street is one of the few streets where right hand turns are permitted and this also contributes to traffic problems. He has suggested that either a roundabout or traffic lights are needed to facilitate turning into and out of Norman Street."

The Norman Street/Kennedy Drive intersection has been the subject of community concern for a number of years.

A concept design for a roundabout has been previously completed by Council officers and unfortunately there is insufficient room within the road reserve to install a small roundabout. The installation of traffic signals would not meet the warrants of the Roads and Traffic Authority of NSW guidelines.

Another alternative is to provide a narrow central median on Kennedy Drive which would prevent right turns from both the boat ramp area and Norman Street into Kennedy Drive. This is very undesirable as it would inconvenience many motorists and encourage possibly less safe "U" turns to be made on Kennedy Drive away from the intersection.

Council officers will advise the Committee of the accident history of this intersection.

Council officers advised that of seven accidents from 2005 to 2008, four of them were right rear crashes. The right turns were from Kennedy Drive into Norman Street. Council officers suggested that a right turn lane be further investigated with a view for reducing this type of crash.

From Meeting held 25/11/10:

Council's Traffic Engineer advised that a consultant has been appointed to look at signalised intersection treatment options for the Kennedy Drive / Norman Street intersection.

COMMITTEE ADVICE:

That:-

1. Council officers further investigate the possibility of a right turn lane on Kennedy Drive into Norman Street.
2. That this item be listed on the Schedule of Outstanding Resolutions.

From Meeting held 21/7/11:

The Chair updated the meeting on the various options that have been considered for addressing the traffic problems at the subject intersection and tabled an intersection design plan that provides revised linemarking, provision of medians and protected right turn lanes. It also provides pedestrian facilities for crossing Kennedy Drive with a view to linking into a future cycleway and reconfigures the entry/exit and circulation lanes for the boat and trailer parking area. All traffic exiting the Kennedy Drive service road will be limited to left turns only into Norman Street.

Cr Skinner left the room at 10.30am and returned at 10.35am

In order to provide a safe pedestrian crossing point on Kennedy Drive some additional blisters will be required in the existing parking lane. The proposed intersection design will reduce the number of available parking spaces on Kennedy Drive east of the Norman Street intersection. Prohibitive parking signage will need to be provided.

The Committee endorsed the intersection design in concept.

The Committee noted that access into the service road may be difficult for some service vehicles and Council officers will review the design accordingly. There also appears to be a risk of side swipe accidents due to vehicles turning right from Norman Street into the service road conflicting with left turning traffic from Kennedy Drive. The Committee requested that Council officers investigate these risks and consider 'left in' 'left out' provisions for the service road.

The Committee will be advised of the outcomes of these additional investigations at a future meeting.

Current Status: That Item 2 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 17 November 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 27 August 2009 (Item B7).

3. [LTC] Kennedy Drive, Tweed Heads - Tweed Street Audit (Item B5)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 19660428; Traffic - Committee; Pedestrian Crossings; Traffic - Safety; Kennedy Drive, Tweed Heads

SUMMARY OF REPORT:

From Meeting held 23 September 2010 (Item B5):

Request received for the provision of a safe crossing for people near Kennedy Plaza. It is reported that "*since the opening of the new bypass the traffic is horrific and pedestrians can wait up to 15 minutes*". It is also reported that "*motorists making illegal right hand turns into Kennedy Plaza also contribute to traffic congestion*".

Kennedy Drive near Kennedy Plaza carries over 20,000 vehicles per day, which is significant. A marked pedestrian crossing was located in this vicinity prior to the installation of the traffic signals at Ducat Street. This crossing was removed on request from the Roads and Traffic Authority of NSW as the signals provided a much safer crossing point for pedestrians. The signals are located approximately 200m west of the middle of the shopping centre. There is also a pedestrian underpass connecting residents on the southern side of Kennedy Drive to the shopping centre.

The pedestrian warrant for a marked or signalised pedestrian crossing would not be met at this location.

Council's crash database shows 6 reported crashes occurred in the vicinity of Kennedy Plaza between 2004 and 2009, none of which involved a pedestrian.

The Roads and Traffic Authority of NSW Representative advised that the Roads and Traffic Authority of NSW were investigating the Ducat Street/Kennedy Drive signals which will include the Kennedy Plaza area. It was suggested that this matter be listed as an Outstanding Resolution until the Roads and Traffic Authority of NSW have finalised their investigation. This investigation may include the possibility of the inclusion of a pedestrian refuge, which is the subject of concern.

COMMITTEE ADVICE:

That Kennedy Drive, Tweed Heads South be listed on the Outstanding Resolutions report.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 17 November 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 23 September 2010 (Item B5).

4. [LTC] Clothiers Creek Road, Clothiers Creek (Item B4)

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 37021766; Traffic - Committee; Traffic - Speed Zones; Access to Property - Driveways; Directional Signs; Clothiers Creek Road; Raven Place; Condor Place

SUMMARY OF REPORT:

Request received in relation to the speed of vehicles travelling on Clothiers Creek Road, Clothiers Creek in particular between Raven Place and Condor Place.

"Lately we've seen many vehicles overtaking over double unbroken lines in front of our property and also between Raven's Place and Madura Tea. This practice is a recipe for disaster as the sections of road where this occurring are only short and have restricted vision because of blind corners.

There are four road intersections, in excess of forty private driveways, two major businesses between Farrant's Hill Road and the Pacific Hwy interchange.

1. *We'd like to see the speed limit dropped to 70km/h between Nunderi and the Highway which could possibly bring the majority of motorists down to 80km/h.....*
3. *Some signage erected to alert motorists of concealed driveways (at present there's only one.....)*

.... We believe the existing speed limit on our section of road excessive due to the amount of traffic that travels, exits and enters every day."

On 25 November 2010 the Committee considered an item that related to various speed zoning issues across the Shire, including Clothiers Creek Road. The Committee advised as follows:

"That speed zone reviews for the following roads be referred to the Roads and Traffic Authority of NSW:

1. *Fraser Drive (between Botanical Circuit and Terranora Road)*
2. *Clothiers Creek Road*
3. *Tomewin Road, the 100km/hr zone just outside of Murwillumbah"*

The outcomes of a speed zone review on Clothiers Creek Road has yet to be received from the Roads and Traffic Authority of NSW.

COMMITTEE ADVICE:

That the speed zone review request for Clothiers Creek Road of 25 November 2010 for the Roads and Traffic Authority of NSW be placed on the Schedule of Outstanding Resolutions.

Current Status: That Item 5 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 17 November 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 22 September 2011 (Item B4).

5. [LTC] Rowlands Creek Road, Mitchell Street and Kyogle Road, Uki (Item B3)

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 40745641; Rowlands Creek Road; Kyogle Road, Mitchell Street, Uki; Traffic - Committee; Speed Zones; School Zones; Pedestrian Safety

SUMMARY OF REPORT:

Request received in relation to continuing traffic problems in the village of Uki.

"In September 2009 members of the Uki community met with Council's Traffic Committee regarding traffic problems in the village. Consequently TSC raised the pedestrian crossing outside the school in Kyogle Road, which has helped to significantly reduce speeding through the village.

At the same time TSC also installed raised reflectors at the entrance to Rowlands Crk Rd from Kyogle Rd and clearly marked the road at that intersection – a section of road which is regularly maintained.

So one would assume that these measures all help to reduce speed along Rowlands Creek Road.

However, most drivers ignore all of this and continually drive on the wrong side of the road, driving over the reflectors, which have subsequently been destroyed. (In fact, most of this happened within the first few months.) The remaining cement bits now make it worse by causing a loud clattering noise as cars tear up and down the road.

More importantly, unfortunately, is the stop sign which has long been rendered useless, as it's totally ignored by most drivers. This is because people coming from Rowlands Creek onto Kyogle Road use this section of road as a speedway in order to get onto Kyogle Rd, before cars (already on Kyogle Rd) reach this corner.

Most drivers also fail to indicate whether they're coming straight down Rowlands Crk Road or turning left at the school. Far too many vehicles coming into Rowlands Crk Rd from the Murwillumbah end also swerve without indication.

Therefore, pedestrians walking across to, or from, the two Cafes, School or Guesthouse often have to run in order to avoid being hit by vehicles which are doing far in excess of the speed limit as they come into the village – from either direction. In fact, vehicle speed hardly changes as they swerve into Rowlands Crk Rd, so speed limit signage may just as well be non-existent.

So both ways are treacherous and it's only a matter of time before someone or something is hit. And given that it's near the school it could well be a child.

After discussion with concerned community members, we believe that speed deterrents need to be placed on this section of road.

Perhaps one-way options should also be considered.

A deterrent is needed at the intersection of Mitchell St & Rowlands Creek Road to slow traffic coming from that direction. Then something is required at the entrance from Kyogle Rd into Rowlands Crk Rd near the Lounge Lizard Café and Guesthouse.

At the very least two substantial speed humps (or chicanes) are required – not gentle risers like the pedestrian crossing or purple-coloured tiled section of road recently installed at both ends of the entrance to the village, but something that will force drivers, in particular local hoons, to slow down significantly or stop.

There's also a problem outside the school on the shorter 'dog leg' of Rowlands Crk Rd which turns sharply at the school, opposite the Uki Cafe. Given that this part of the road is so narrow, and with school traffic often causing congestion, other vehicles cannot pass or overtake safely – in spite of most drivers attempting to do so.

I would appreciate if this matter could be discussed by Council's Traffic Committee as soon as possible. Several community members, including myself, are willing to address the Committee should further information be required. Alternatively, if members of the Committee were free to meet village community members on site, we would be more than happy to arrange a suitable time."

Two letters were tabled at the meeting, one from Uki Public School and one from Uki Public School P&C.

Council has previously considered the designation of one-way roads around the cenotaph, however heavy vehicles were unable to turn safely into Rowlands Creek Road, Uki. Designating as one-way would not necessarily address speeding and non-compliance with existing road rules.

The Committee noted that there are a number of stakeholders in this area that need to be consulted on the various traffic options. Council officers need to obtain traffic and speed data in order to provide options for the consultation process and will report back to the committee. NSW Police noted that previous patrols in this area have not identified a significant speeding issue.

COMMITTEE ADVICE:

That:

1. Council officers undertake speed and traffic counts on Rowlands Creek Road in the vicinity of the cenotaph to determine the level of non-compliance in this area.
2. Subject to the data collected Council officers consider options for possible traffic calming devices and other measures to address safety issues on Rowlands Creek Road, Uki in the vicinity of the cenotaph.
3. This item be listed on the Schedule of Outstanding Resolutions.

Current Status: That Item 6 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 17 November 2011 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 17 November 2011 (Item B3).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Seaview Road, Banora Point

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 46330418; Traffic - Committee; Local Area Traffic Management; Traffic - Safety; Seaview Road

SUMMARY OF REPORT:

Request received from Manager Design Unit to install "No Stopping" signs at the end of Seaview Road, East Banora Point. A condition of consent for the development at this site was to install a vehicle turnaround area on private land with an easement to Council.

It is requested that Council install the signage to facilitate a safe turn around.

There was some discussion relating to enforcement of signage in residential areas and the responsibility of the Body Corporate for this development.

COMMITTEE ADVICE:

That "No Stopping" signs be installed at the end of Seaview Road, Banora Point to facilitate a vehicle turn around area.

RECOMMENDATION TO COUNCIL:

That "No Parking" signs be installed on private property at the end of Seaview Road, Banora Point to facilitate a vehicle turn around area.

*FOR VOTE - Snr Const Ray Wilson, Ms Liz Smith, Mr Rod Bates, Cr Barry Longland
PRESENT. DID NOT VOTE - Mr Col Brooks*

A2 [LTC] Lennox Circuit, Pottsville

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 45598542; 46325255; Traffic - Committee; Traffic - Safety; Seabreeze Estate Development; Pedestrian - Safety; Lennox Circuit

SUMMARY OF REPORT:

Request received in relation to the junction where Lennox Circuit meets the Lennox Circuit loop.

"As I live in the next street back and regularly walk, ride and drive through this intersection, I feel I should at least bring to councils attention what I perceive as a place waiting for an accident.

There are 2 issues:

Any one in a motor vehicle travelling from the roundabout at Seabreeze Boulevard towards Lennox Circuit loop and wants to turn right into the loop, has very limited vision of what is coming down the hill to their left. I have witnessed many ways in which drivers approach a right turn at this intersection, some nearly stopping, others quite quickly, one lady I witnessed the other day resorting to honking her horn as she did the right turn. We always continue to the left and turn into our street from the other end to avoid the corner and we always give our visitors directions to avoid the unwary from doing the right turn. We drive a Nissan Patrol which makes things worse as the trees marked in green on the attached map make vision up to the left impeded, this may be better in a smaller car.

The second issue is where the pedestrian crossover for this intersection is located (marked in yellow on the attached map).

I feel it is far too close to this corner and would like to see it moved further down the road on the straighter part between the roundabout and the loop. My husband and I already choose to cross the road further down, as we feel unsafe crossing where the path is at present. My husband rides a mobility scooter so he has to go across the grass until he gets to the next crossing."

Recreation Services have been requested to trim the branches of shrubs at the intersection to improve sight distance for pedestrians and drivers.

COMMITTEE ADVICE:

That double centre lines be installed on Lennox Circuit at the beginning of the loop to reinforce the appropriate turning movements and the priority road configuration.

RECOMMENDATION TO COUNCIL:

That double centre lines and RRPMs be installed on Lennox Circuit at the beginning of the loop to reinforce the appropriate turning movements and the priority road configuration.

*FOR VOTE - Snr Const Ray Wilson, Ms Liz Smith, Mr Rod Bates, Cr Barry Longland
PRESENT. DID NOT VOTE - Mr Col Brooks*

A3 [LTC] Sathya Sai School, Nullum Street, Murwillumbah

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 29113523 and 29114576; Traffic - Committee; Schools - Sathya Sai;
Traffic - School Zones; Traffic - Safety; Traffic - Pedestrian Crossings; Nullum
Street

SUMMARY OF REPORT:

This item has been brought forward from the 17 November 2011 Schedule of Outstanding Resolutions (Item No. 4).

Background:

From meeting held 17 March 2011 (item B5):

Request received (ECM 29113523) in relation to:

"Parents and children are exiting the Sathia (sic) Sai school and walking between buses to get to their cars parked on the duck pond side of Nullum St. This is a very dangerous practice. There is a school crossing further to the south from the school but it is not being used probably because it is too far away."

It is suggested that this crossing could be moved north in Nullum Street so it is outside the school and the present bus zone be moved south and possibly lengthened to comfortably accommodate two buses.

Council officers will investigate this matter on site and report to the meeting.

Further request received (ECM 29114576):

"I am writing in regards to the unsafe conditions outside Sathya Sai Primary School and on the intersection of Nullum St. and Wollumbin St.

The Sathya Sai Primary School has increased its enrolments considerably since it's expansion, and consequently the facilities provided by the R.T.A. are insufficient to provide a safe environment for pedestrians. I am writing to request that the crossing that is currently unmarked on Nullum St. be marked, flagged and manned by a lolipop person.

I am also requesting that a marked pedestrian crossing be implemented on the corner of Nullum St. and Wollumbin St.. That area is incredibly unsafe and impossible to cross safely with a child."

Council's traffic database provides:

1. Vehicle count, Nullum Street (north of Prince Street) 1,289 vehicles per day.
2. Council's accident database shows no reported pedestrian accidents on Nullum Street between Prince Street and Wollumbin Street for the period 2003 to 2008.

For pedestrian crossing warrants to be met under relevant Roads and Traffic Authority of NSW guidelines, well over 300 pedestrians per hour crossing Nullum Street are required for the vehicle volumes on Nullum Street. Clearly these warrants would not be met.

For school crossings, the Roads and Traffic Authority of NSW are the determining authority for these facilities.

Council officers will provide pedestrian traffic counts (peak period) to the Committee for consideration.

There was much discussion about potential benefits regarding various possible infrastructure improvements at the frontage to Sathya Sai School including providing a footpath on the Knox Park side of Nullum Street. It was suggested that Council officers further consider pedestrian infrastructure improvement that could be undertaken in the area at the frontage of the school.

For the pedestrian crossing request at the Wollumbin Street/Nullum Street intersection, it was noted that the pedestrian warrants were not met for the installation of a marked pedestrian crossing. Immediately following the close of school at 2.55pm on Tuesday 15 March 2011 for a 25 minute period, only 2 adults and 1 child were observed crossing Nullum Street at the Wollumbin Street intersection.

Observations Sathya Sai School Nullum St, Murwillumbah

Afternoon visit

School ends 2:55pm

- No flags on school crossing.
- Angle parking no wheel stops vehicles intruding into grassed area obstructing pedestrians
- No buffer behind angle parks
- Most vehicles through site did not appear to observe 40km/h speed limit.
- Several parents did u-turns over double centre lines.

Buses

Arrive	Depart
2:56	2:58
3:06	3:07
3:09	3:10
3:09	3:10
3:15	3:16
3:15	3:16

Bus zone worked smoothly with no more than 2 buses on site at any one time.
Bus zone opposite school on Knox Park side was not used during observations.

Crossing road

2:50pm – 3:20pm

Adults	9
Unaccompanied children	4
Adult with children	16 adults/23 children

Very low usage of designated “crossing point”. Drivers were observed to be uncertain whether to stop and give way to pedestrians as no flags were in place.

Site inspection ended 3:20pm.

Morning Site visit

17/3/2011

- No flags in place.
- Parents generally escorted children across the road.
- 5 minute parking area adjacent to school used well
- No parent access to school observed in Nullum Lane.

COMMITTEE ADVICE:

That the Sathya Sai School, Nullum Street, Murwillumbah item be placed on the list of Outstanding Resolutions.

From Meeting Held 23/6/11:

The Road Safety Officer advised that a meeting had been held on site with the Deputy Principal. It is proposed to relocate the children's crossing closer to the entrance to the School. This would involve modification to the existing bus zone. A concept design will be developed and circulated to the affected bus companies and school for comment. This will be submitted to the Committee for approval after comments are received.

From Meeting held 23/2/12:

A draft Concept Plan will be submitted for comment from the Committee. The plan recommends relocation of the bus zone, children's crossing and 5 minute parent parking.

COMMITTEE ADVICE:

That:

1. The existing children's crossing on Nullum Street be relocated closer to the Sathya Sai School providing a usable pedestrian desire line from the on-street parking adjacent to Knox Park.
2. The school bus zone be relocated further south on Nullum Street on the approach to the relocated children's crossing.
3. Parent 5 minute parking be relocated north of the relocated children's crossing on Nullum Street, terminating at the driveway to the adjacent business premises.

RECOMMENDATION TO COUNCIL:

That:

1. The existing children's crossing on Nullum Street be relocated closer to the Sathya Sai School providing a usable pedestrian desire line from the on-street parking adjacent to Knox Park.
2. The school bus zone (reflecting school zone times) be relocated further south on Nullum Street on the approach to the relocated children's crossing and be extended to accommodate 3 buses.
3. Parent 5 minute parking (during school zone times) be relocated north of the relocated children's crossing on Nullum Street, terminating at the driveway to the adjacent business premises.
4. Surfside Buslines be contacted and advised of the unsafe practice of children being dropped off on the opposite side of the road to the school.

5. Council consult with the Sathya Sai School with these new arrangements.

*FOR VOTE - Snr Const Ray Wilson, Ms Liz Smith, Mr Col Brooks, Cr Barry Longland
PRESENT. DID NOT VOTE - Mr Rod Bates*

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] 2012 Half Smiddy Challenge 2 - 6 May 2012

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 45880579; 46323082; Traffic - Committee; Festivals/Events; Traffic - Safety

SUMMARY OF REPORT:

Request received permission to conduct a cycle tour from 2 - 6 May with a group of 30 cyclists to raise funds for cancer research.

"I wish to advise Tweed Shire Council's Traffic Committee that the ride will travel through its area of jurisdiction during the progress of the event. Partial or full road closures are not required.

We are currently working closely with the RTA and New South Wales Police Major Events for necessary approvals and on-road permit.

Please find enclosed a detailed daily route description which has been submitted to New South Wales Police and RTA along with a Certificate of Currency for Public Liability cover to \$20 million."

It should be noted that this event is not considered a race and is provided for advice of the Traffic Committee as Council approval is not required.

COMMITTEE ADVICE:

That the 2012 Half Smiddy Challenge 2 to 6 May 2012 be noted by the Local Traffic Committee.

B2 [LTC] Boxsell Road and Limpinwood Road

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 45297952; 46322045; Traffic - Committee; Traffic - Safety; Boxsell Road;
Limpinwood Road

SUMMARY OF REPORT:

Request received in relation to road safety at Boxsell Road and Limpinwood Road.

"Though we still hold that mirrors are a sensible requirement for the safety of vehicles leaving Boxall Rd (sic) the installation of warning signs would be a good initial move.

We suggest signs on Limpinwood Road on the approaches to Boxall Rd such as "Caution - Concealed Driveway" or "Caution - Turning (SLOW) vehicles at Intersection.

Boxall Rd is the street at which the Council Tyalgum Refuse/Recycle Station is located. Vehicles - particularly those towing trailers, leaving Boxall Rd are at serious risk of collision with vehicles on Limpinwood Rd. The Refuse Station only works at week-ends. This is also the time when many travellers/visitors are travelling on Limpinwood Rd.

These visitors, particularly motorcycles, are not familiar with the intersection and are often travelling at 100klms past the intersection.

The greatest hazard occurs because Limpinwood Rd on the Chillingham side is actually at an obtuse angle to Boxall Rd, meaning that it actually approaches Boxall Rd virtually from behind.

The installation of "safety mirrors" would seem to be the most obvious solution."

The speed limit on Limpinwood Road is 100km/h and it is estimated that the 85th percentile speed, whilst lower than 100km/h at this intersection, would be greater than the 50km/h maximum speed recommended for the installation of convex safety mirrors.

Measurements for sight distance at the intersection will be tabled for discussion at the meeting.

Cr Longland left the meeting at 10.48am

COMMITTEE ADVICE:

That appropriate combined intersection and advanced warning signs be installed on Limpinwood Road at the intersection with Boxsell Road.

B3 [LTC] Boyd Street - Parking

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 45647513; 46320959; Traffic - Committee; Parking - Permits; Traffic - Parking Zones; Boyd Street

SUMMARY OF REPORT:

Request received for the restricted parking on Boyd Street, Tweed Heads north of Brett Street to be unrestricted to allow residents to utilise the parking.

"...if the present situation Nth of Brett Street could be altered from restricted Parking to unrestricted to allow residents in this area to avail themselves of it.

My reason is no major business in the area and residents with more than one vehicle, or Inadequate space in their present circumstances for larger vehicles.

The alternative could be the issue of resident parking permits on a restricted basis, i.e. one per resident or ratepayers only."

Council does not have the resources to implement a resident parking scheme in residential areas. The current two hour parking designation was installed in Boyd Street north of Brett Street to address perceived issues with nearby business and clientele using on road parking for extended periods of time.

The removal of the two hour parking limit in Boyd Street between Florence Street and Brett Street could be considered after advertising in Council's Tweed Link.

The Committee discussed the history of the implementation of parking restrictions in this area and considered the existing parking restrictions should remain.

COMMITTEE ADVICE:

That no further action be taken in relation to parking on Boyd Street, Tweed Heads.

B4 [LTC] Velo Battle on the Border Cycling Festival

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 45209053; Traffic - Committee; Traffic - Safety; Bicycle Events; Festival Events; Road Closure - Temporary; Cane Road; Queensland Road; Numinbah Road; Zara Road; Tyalgum Road; Kyogle Road; Park Avenue; North Arm Road; Casuarina Way; Dianella Drive; Tweed Coast Road; Plantation road; Cudgen Road; Duranbah Road; Eviron Road; Clothiers Creek Road; Clothiers Creek Road; Rosewood Avenue; Tweed Coast Road; Bells Boulevard; Shipstern Street; Pass Street; Salt Water Crescent

SUMMARY OF REPORT:

Request received for approval to conduct the Velo Battle on the Border Cycling Festival from Friday 4 May to Monday 7 May 2012. This is the fourth year for the event. Program is as follows:

Date	Location	Time	Event	Participants
Friday 4 th May	Mantra on Salt, Gunnamatta Avenue	5pm-8pm	Registration and welcome dinner	Up to 450 participants
Saturday 5 th May	Murwillumbah Showgrounds	5.30am-4pm	Stage 1 – Time Trial Stage 2 – Road Race	9 Divisions = 8 Races = max 80 participants per race no more than 450 participants
Saturday 5 th May	Mantra on Salt, Gunnamatta Avenue	6.30pm-8.00pm	Presentations	Max. 300 people
Sunday 6 th May	Salt Park, Bells Bvd	5.30am – 12.30pm	Stage 3 – Road Race	9 Divisions = 8 Races = max 80 participants per race no more than 450 participants
Sunday 6 th May	Salt Park, Bells Bvd	6.30am-5.30pm	56km / 136km / 177km Social Ride	3 ride distances up to 300 people
Monday 7 th May	Salt Park, Bells Bvd	7.00am-3.00pm	Stage 4 – Criterium	10 Races – max. 450 participants

The applicant has advised that their efforts to consult more broadly with community and local business has proved most encouraging and they are pleased to partner with these entities to deliver a valuable economic and socially responsible project with gains to all stakeholders.

"Roads will be closed on a rolling road closure permit to ensure full safety for the riders as they race on the road.

QSMSports proposes to provide:

- Residents/businesses will receive notification two weeks prior to the event*
- Notices will be placed in the Tweed Link 6 weeks 4 weeks and the week of the event*
- Notices will go asking for Community input 5 months in advance*
- Residents will have access to the motorbike escort service for urgent entry/exit on routes."*

Further information will be sought from QSM and tabled at the meeting.

The Committee was advised that there is Police support for the events.

Cr Longland returned at 11.10am

COMMITTEE ADVICE:

That the Velo Battle on the Border Cycling Festival from Friday 4 May to Monday 7 May 2012 is supported subject to standard conditions including Police approval, community consultation and being advertised in the Tweed Link.

B5 [LTC] Chinderah Off Ramp

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 43566505; Traffic - Committee; Traffic - Linemarking; Pacific Highway East

SUMMARY OF REPORT:

Request received in relation to the arrows on the left lane exit to the Service Centre at the Chinderah Off Ramp.

"Arrows on the left lane exit to the Service Centre indicate a left turn. However, road markings on the road leading to Cudgen and the Tweed Coast Road also indicate a left turn.

This is very confusing, not just to local residents who, by now, understand the road markings, but to travellers (sic), tourists etc., who invariably find themselves at the Service Centre.

Consequently, we ask that Council adds a "straight forward" arrow to the two each of the left turning arrows on the Cudgen Road to avoid this confusion and frustration."

Council has received similar complaints regarding line marking in this vicinity.

Issues discussed included speed zoning, a 'Stop' sign at the service station exit, confusion over speed limit signs on the Highway and the off ramp, and heavy vehicles obstructing access to the service station due to queuing.

The RMS Representative advised that a speed zone review is soon to be undertaken on the Pacific Highway in relation to the opening of the Banora Point Upgrade to include the southern end access.

COMMITTEE ADVICE:

That the left lane exit and other issues relating to traffic movements at the Service Centre at the Chinderah Off Ramp be referred to the Roads and Maritime Services of NSW for review.

B6 [LTC] Twin Towns Triathlon Club Annual Championship Race 17 March 2012

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 44923420; Traffic - Committee; Traffic - LATM; Bicycle Matters - General; Winders Place; Eucalyptus Drive; Fraser Drive; Amaroo Drive; Leisure Drive; Glen Ayr Drive; Ash Drive; Botanical Circuit; Woodlands Drive; Darlington Drive

SUMMARY OF REPORT:

Request received for permission to use Tweed Shire roads for the 2001/2012 Twin Towns Triathlon Club Annual Championship Race on Saturday 17 March 2012.

"Cycle leg of TTTC championship event comprises 14.5km course with members on the road between 6.30am and 7.45am.

The cycle leg begins at Club Banora (side adjacent to tennis courts) then turn left onto Leisure Drive. Continue straight until traffic lights at Fraser Drive and turn left. Continue up Fraser Drive and turn left at Glen Ayr Drive and then left at Ash Drive onto Amaroo Drive. Proceed to Fraser Drive and turn right. Turn left at Botanical Circuit and continue the loop until left at Leisure Drive and left at Fraser Drive. Continue to roundabout at Vintage lakes and turn right until travelling south on Fraser Drive. Turn left at the traffic lights then turn right at roundabout on Woodlands Drive and right at roundabout on Darlington Drive. Continue around loop until left at roundabout on Leisure Drive and then left back into Club."

COMMITTEE ADVICE:

That the Twin Towns Triathlon Club Annual Championship Race on Saturday 17 March 2012 be approved subject to standard conditions and Police approval.

B7 [LTC-LATE] Speed Zone Review - Terranora Road, Banora Point

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 46377364; Traffic - Committee; Traffic - Speed Zones; Terranora Road, Banora Point; Blue Haze Crescent; Fraser Drive, Banora Point

SUMMARY OF REPORT:

Advice received regarding Council's request for a speed zone review along Terranora Road from Blue Haze Crescent to Fraser Drive, Banora Point.

Advice received as follows:

"Speed zones are generally determined by factors such as adjacent land use, road and traffic conditions and crash history. Based on these factors the review recommended that the existing 60km/h speed limit be retained.

An outcome of the review included a request for Council to remove the eastbound 60km/h repeater sign, located just west of the steep winding section. This should be replaced with a 'REDUCE SPEED' sign."

The Committee referred a speed limit review of Terranora Road to the RMS recommending that the existing 50km/h speed limit be extended from Blue Haze Crescent to Fraser Drive. It should be noted that Council does not have designated authority for speed limits and can only provide advice to the RMS.

COMMITTEE ADVICE:

For the information of the Local Traffic Committee.

B8 [LTC-LATE] Speed Zone Review - Numinbah Road, Numinbah and Chillingham

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 46330444; Traffic - Committee; Traffic - Speed Zones; Numinbah Road, Numinbah and Chillingham

SUMMARY OF REPORT:

Advice received as follows in relation to Roads & Maritime Services speed zone review undertaken along Numinbah Road, Murwillumbah:

"The outcomes of this review are as follows:

- 1. It is recommended that the existing 100km/h speed limit from Tomewin Road to 160m east of Satinwood Place be reduced to 80km/h. This is a total distance of 13km.*

2. *It is recommended that the existing 60km/h speed limit from 160m east of Satinwood Place to 390m north of Larnock place be reduce (sic) to 50km/h. This is a total distance of 1km.*
3. *It is recommended that the existing 100km/h speed limit from 390m north of Larnock Place to the NSW/Qld border be reduce (sic) to 80km/h. This is a total distance of 9.6km."*

In June 2010 Council officers at the invitation of the Roads & Traffic Authority of NSW (RMS) participated in a Road Safety Audit of Numinbah Road due to the high number of motor cycle crashes. Outcomes of the Audit included successful applications to the Federal Black Spot Program to improve line marking and curves. The Audit also recommended review of the speed limit.

The RMS Representative advised that the review was conducted prior to works undertaken under the Black Spot Program and the recommendations will be further reviewed and submitted to Council.

COMMITTEE ADVICE:

For the information of the Local Traffic Committee.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 22 March 2012 in the Mt Warning Meeting Room commencing at 10.00am.

There being no further business the Meeting terminated at 12.07pm.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 Seaview Road, Banora Point
Nil

A2 Lennox Circuit, Pottsville
Nil

A3 Sathya Sai School, Nullum Street, Murwillumbah
Nil

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

A1 Seaview Road, Banora Point

That "No Parking" signs be installed on private property at the end of Seaview Road, Banora Point to facilitate a vehicle turn around area.

A2 Lennox Circuit, Pottsville

That double centre lines and RRPMS be installed on Lennox Circuit at the beginning of the loop to reinforce the appropriate turning movements and the priority road configuration.

A3 Sathya Sai School, Nullum Street, Murwillumbah

That:

1. The existing children's crossing on Nullum Street be relocated closer to the Sathya Sai School providing a usable pedestrian desire line from the on-street parking adjacent to Knox Park.
 2. The school bus zone (reflecting school zone times) be relocated further south on Nullum Street on the approach to the relocated children's crossing and be extended to accommodate 3 buses.
 3. Parent 5 minute parking (during school zone times) be relocated north of the relocated children's crossing on Nullum Street, terminating at the driveway to the adjacent business premises.
 4. Surfside Buslines be contacted and advised of the unsafe practice of children being dropped off on the opposite side of the road to the school.
 5. Council consult with the Sathya Sai School with these new arrangements.
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41 [SUBCOM] Reports from Subcommittees and/or Working Groups

The following are reports from subcommittees and/or Working Groups not requiring a decision of Council:

1. Aboriginal Advisory Committee Minutes from Meeting held Friday 3 February 2012 ECM46428226.
 2. Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held Tuesday 14 February 2012 ECM 47319412.
 3. Minutes of the Equal Access Advisory Committee Meeting held Wednesday 15 February 2012 ECM 47173725.
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ORDERS OF THE DAY

42 [NOR-Cr D Holdom] Popularly Elected Mayor

NOTICE OF RESCISSION:

Councillor D Holdom moves that the resolution at Minute No 642, Item no 53 from the meeting held 18 October 2011 being:

".... that Council determines to conduct a constitutional referendum at the September 2012 election to seek the response from the electors for a popularly elected Mayor for the electoral term commencing September 2016."

be rescinded.

43 [NOR-Cr D Holdom] Councillor Numbers

NOTICE OF RESCISSION:

Councillor Cr D Holdom moves that the resolution at Minute No 632 at Item No 40 from meeting held 18 October 2011, being

"..... that Council determines to conduct a constitutional referendum at the September 2012 election to seek the response from the electros for an increase in the number of Councillors for the electoral term commencing September 2016 to nine (9)."

be rescinded.

- 44 [NOR-Crs W Polglase, P Youngblutt and J van Lieshout] [PR-CM] Development Application DA11/0356 for a Wakeboarding Coaching Clinic between Fingal and Chinderah along the Tweed River (Operating from Fingal Boat Ramp) at Lot 403 DP 755740 Main Road, Fingal

NOTICE OF RESCISSION:

Councillors W Polglase, P Youngblutt and J van Lieshout move that the resolution at Item 10 at Minute No 75 from the meeting held 21 February 2012 being:

"... that Development Application DA11/0356 for a wakeboarding coaching clinic between Fingal and Chinderah along the Tweed River (operating from Fingal boat ramp) at Lot 403 DP 755740; Main Road, Fingal Head be refused for the following reasons:

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

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

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

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

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

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

State Environmental Planning Policies:

- *SEPP 14: Coastal Wetlands*
- *SEPP 26: Littoral Rainforests*
- *SEPP 64: Advertising and Signage (Clauses 10 and 27)*
- *SEPP 71: Coastal Protection (Clause 8(a), (d), (g), (h), (i) and (p)(i))*
- *NCREP: Clauses 15, 32B, 75, 76 and 81*

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

The Tweed LEP 2000:

- *Clause 4: Aims of this plan*
 - *Clause 5: Ecologically sustainable development*
 - *Clause 8(1): Consent Considerations*
 - *Clause 11: Zoning*
 - *Clause 13: Development of uncoloured land on the zone map*
 - *Clause 25: Development in Zone 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and on adjacent land*
 - *Clause 29: Development adjacent to Zone 8(a) National Parks and Nature Reserves*
 - *Clause 31: Development adjoining waterbodies*
4. *The proposal is inconsistent with management plans produced by Council and the Maritime authority that highlight the need to protect ecology and reduce erosion within the vicinity of the Tweed River.*
 5. *Pursuant to Section 79C (1) (c) of the Environmental Planning & Assessment Act 1979 (as amended) the proposed site is not considered suitable for the proposed development.*

It is Council's view that use of unzoned land adjacent to environmental conservation areas of State significance for the purposes of a wakeboarding coaching clinic is considered unacceptable due to its impact upon the habitat of estuarine fauna, in particular that of migratory shorebirds.

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

It is Council's view that it is in the broader general public interest to enforce the standards contained within the Tweed LEP 2000 specifically as it relates to the objectives of unzoned land and the 6(a) Open Space, 6(b) Recreation, 7(a) Environmental Protection (Wetlands and Littoral Rainforests), 7(d) Environmental Protection (Scenic/Escarpment), 8(a) National Parks and Nature Reserves and 2(a) Low Density Residential zones."

be rescinded.

- 45 [NOM-Cr W Polglase] Development Application DA11/0356 for a Wakeboarding Coaching Clinic between Fingal and Chinderah along the Tweed River (Operating from Fingal Boat Ramp) at Lot 403 DP 755740 Main Road, Fingal Head

NOTICE OF MOTION:

Councillor W Polglase moves that Council supports Development Application DA11/0356 for a Wakeboarding Coaching Clinic between Fingal and Chinderah along the Tweed River (Operating from Fingal Boat Ramp) at Lot 403 DP 755740 Main Road, Fingal Head in principle and requests the Director Planning and Regulation to bring forward conditions of approval for consideration at the April 2012 meeting.

46 [NOM-Cr W Polglase] Sale of Council Land

NOTICE OF MOTION:

Councillor W Polglase moves that:

1. The General Manager be requested to bring forward a report on what lands Council can put forward for sale as an expression of interest process.
 2. A workshop be held prior to this report going to Council for consideration.
-

47 [NOM-Cr W Polglase] Budget 2012-2013

NOTICE OF MOTION:

Councillor W Polglase moves that Council gives consideration to allocating an additional One Million Dollars (\$1,000,000) for road reconstruction, resealing and maintenance from the 2012-2013 draft Budget. These funds would be in addition to the funds already allocated in the draft budget.

48 [NOM-Cr J van Lieshout] Byrrill Creek Dam Council Poll

NOTICE OF MOTION:

Councillor J van Lieshout:

In view of the diverse community opinion on whether the Tweed Shire should proceed with the future construction of a dam to provide water for a projected increase in population and the possible event of having to share water with neighbouring regions - the opportunity exists to hold a Council Poll at the upcoming Local government Elections in September 2012 to indicate community support in this regard.

Council J van Lieshout moves that at the Local Government Elections held in the Tweed Shire in September 2012 a Council Poll be included to indicate as to whether there is support of the Tweed community for the future construction of Byrrill Creek Dam by Tweed Shire Council.

49 [NOM-Cr D Holdom] Budget Allocation Comprehensive Koala Management Plan

NOTICE OF MOTION:

Councillor D Holdom moves that the Draft 2012/2013 budget and Long Term Financial Plan include funding of no more than \$120,000 per annum to support the implementation of the Comprehensive Koala Plan of Management and that the funding be found by re-prioritising other budgets within the Caring for the Environment Theme/NRM Budget.

50 [NOM-Cr D Holdom] Historic Commercial Uses of the Tweed River

NOTICE OF MOTION:

Councillor D Holdom moves that the General Manager investigates and reports back to Council on what business vessels are still operating on the Tweed River, as supplied in attachment form to Item 10 of the Ordinary Meeting held 21 February 2012, given the overview statement made to the attachment as follows:

"Other development applications previously assessed for commercial operations on the Tweed River that may have relevance to the current proposal include the following. Most of the applications were lodged for continuation of businesses following compliance action and as a result of the Council resolution of 6 December 2000 that sought development applications within 40 days from all commercial boating operators that did not have a current consent."

51 [NOM-Cr B Longland] Report on Trial of Doggy Litter Bags

NOTICE OF MOTION:

Councillor B Longland moves that Council officers bring forward a report on the cost and feasibility of implementing a twelve month trial of a Doggy Litter Bag facility on a suitable Tweed Coast beach, to allow dog owners to collect and dispose of dog faeces.

52 [NOM-Cr K Milne] Bag Stations for Dogs

NOTICE OF MOTION:

Councillor K Milne brings forward a report on providing Bag Stations for collection and disposal of dog poo in select beach and barbeque areas.

Note: Response to community request.

53 [NOM-Cr K Milne] Tweed Heads Revitalisation Community Committee

NOTICE OF MOTION:

Councillor K Milne moves that Council establishes a community based committee to provide a framework for actions and prioritisation of community preferences in revitalising the Tweed Heads CBD.

54 [NOM-Cr K Milne] Chemical Free Council

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on the possibility of developing a strategy to model Council Civic Centres as chemical free buildings.

55 [NOM-Cr K Milne] Accreditation of Ecological Consultants

NOTICE OF MOTION:

Councillor K Milne moves that Council:

1. Writes to the NSW and Federal Ministers for Planning and Local Government to request Accreditation of Ecological Consultants to ensure that high standards of professionalism are maintained in development application processes, and to provide a mechanism for reporting that does not place an undue burden on Councils.
2. Submits a motion to the next Local Government and Shires Association conference and the National Local Government Association to request Accreditation of Ecological Consultants to ensure that high standards of professionalism are maintained in development application processes, and to provide a mechanism for reporting that does not place an undue burden on Council.
3. Lobbies government on this issue as a serious flaw and high priority gap exists in Government planning/assessment processes.

Note: Council spends numerous hours of valuable staff time reviewing consultants' reports and plans. In some instances consultants' reports are found to be inadequate which leads to further review required and an undue burden on Council and ratepayer resources. In a few cases there are repeat offenders.

At present there is no Accreditation Scheme for Ecological consultants in place to provide a disincentive for consultants to submit substandard reports. This is a serious gap in the Planning processes.

56 [NOM-Cr K Milne] Community Carbon Neutral Committee

NOTICE OF MOTION:

Councillor K Milne moves that Council seeks expressions of interest from the community to ascertain if there is interest from the community in Council establishing a Community Carbon Neutral Advisory Committee.

57 [NOM-Cr K Milne] Carbon Neutral Status

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on how Council could work towards a plan to develop a carbon neutral Shire, as modelled by Sydney Council who have recently achieved Carbon Neutral certification from the Federal Government on behalf of 'Low Carbon Australia'.

See Attached: Sydney is First Carbon Neutral Council, Local Government Focus, February, 2012

<http://www.loc-gov-focus.aus.net/index.php?view=editions/2012/february/greenhouse.php>

58 [NOM-Cr K Milne] Hydro Power

NOTICE OF MOTION:

Councillor K Milne moves that Council bring forward a preliminary report on the potential of developing hydro power or micro hydro systems.

UNDER SEPARATE COVER:

1. Hydro Electricity Fact Sheet 6, Australian Institute of Energy (ECM 47385478).
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59 [NOM-Cr K Milne] Kingscliff Beach Erosion Community Updates

NOTICE OF MOTION:

Councillor K Milne moves that Council provides on the Council website a link on the Kingscliff Beach erosion issue including updates on the total expenses incurred to date and expected costs, and the latest plans and relevant advice available to ensure the community is updated on these issues in a transparent manner.

60 [NOM-Cr K Milne] Women in Senior Government Positions - Affirmative Action

NOTICE OF MOTION:

Councillor K Milne moves that Council writes to Local Government Minister Mr Don Page to:

1. Request advice on the legislation and guidelines for the recruitment of Local Government staff in relation to both soft and hard affirmative action options, and
2. For the Minister to consider whether there are any inconsistencies in the Local Government recruitment processes enabling the provision of a more effective strategy, including quota systems, to overcome the lack of equal representation.

Note:

“The special measures provision in the *SDA (Sexual Discrimination Act)* is limited, in its terms, by a test as to purpose. Section 7D(1)(a) provides that a person may take special measures for the purpose of achieving substantive equality between men and women. Section 7D(3) makes clear that the achievement of substantive equality need not be the only, or even the primary, purpose of the measures in question. Measures fall fairly within the section if the achievement of substantive equality was one of the purposes for which they were taken.

In Australia, a cautious stance has been adopted in respect of affirmative action initiatives of all kinds – by legislatures and courts as well as by employers. The *Equal Opportunity for Women in the Workplace Act 1999* (Cth), which replaced the *Affirmative Action (Equal Opportunity for Women) Act 1986* (Cth), is modest legislation.^[38] . Moreover, the very structure of anti-discrimination legislation in Australia is based on an individual complaint-based model where class-wide remedies have not been ordered by tribunals and courts. In this environment, s 7D provides a welcome opportunity to implement measures aimed at accelerating substantive equality. The section is of course limited in its terms by a test as to purpose and the choice of a particular measure may be restricted by reference to the particular goal sought to be achieved and considerations of proportionality. Nevertheless, the terms of the special measures provision are sufficiently broad to cover a range of actions and to accommodate both ‘soft’ and ‘hard’ forms of affirmative action. Section 7D should thus be seized as a vehicle to pursue the goal of substantive equality and to effect the structural and cultural changes necessary to correct past and current forms and effects of discrimination”.

O'Brien, Julie, "Affirmative Action, Special Measures and the Sex Discrimination Act" [2004] UNSWLJ 45; (2004) 27(3) University of New South Wales Law Journal 840

Reference <http://www.austlii.edu.au/au/journals/UNSWLJ/2004/45.html>

61 [NOM-Cr K Milne] Women in Senior Government Positions - Council Strategy

NOTICE OF MOTION:

Councillor K Milne moves that Council develops a comprehensive strategy to encourage and support female participation in local Council elections and in the Council workforce, particularly senior management roles.

62 [NOM-Cr K Milne] Community Consultation

NOTICE OF MOTION:

Councillor K Milne moves that Council seeks feedback from the Community on their satisfaction with Council's level of consultation on development applications and requests suggestions for improvement:

- Council to write to the Tweed Shire Community Residents Associations to seek their advice on this matter.
 - Council to provide possible options the community could indicate as their preference for various levels of notification that could be undertaken.
-

63 [NOM-Cr K Milne] Tweed Heads and Banora Point Community Facilities

NOTICE OF MOTION:

Councillor moves that Council brings forward a report in any inadequacies in the provision for community facilities for the large population centres of Tweed Heads, Tweed Heads South, Tweed Heads West Banora Point, and how these can be resolved.

64 [NOM-Cr K Milne] Outdoor Cinema Screen - Jack Evans Boatharbour

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on the potential for providing outdoor cinema at Jack Evans Boatharbour primarily to host local films and for community use.

65 [NOM-Cr K Milne] Airport Masterplan and Flight Path Consideration

NOTICE OF MOTION:

Councillor K Milne moves that Council writes to the relevant authorities to request the following information and actions and for these issues to be included in the assessment of the Airport Master Plan:

1. Request advice on the proportion of airport passengers that result from NSW compared to QLD.
2. Request that airport traffic be proportioned according to percentage of use by each State.
3. To request that noise monitors be installed at all of the areas affected by flight paths.
4. To request that health impact assessment reports and ongoing monitoring be undertaken for residents in flight paths, including impacts from noise disturbance and pollution.
5. To request that impacts on Tweeds recreational and tourism values be undertaken.
6. To request environmental impact reports for flora and fauna around Cobaki Lakes be undertaken.
7. To request environmental impact reports on potential conflict with the flight paths of migratory bird species and potential conflicts with Sibling values of World Heritage areas.
8. To provide alternative options and locations to provide for expansion of the airport activities.

66 [NOM-Cr K Milne] Mining Exploration in the Tweed

NOTICE OF MOTION:

Councillor K Milne moves that Council:

1. Seeks urgent advice and brings forward a report on any potential mining activities, applications or licences granted in the Tweed Shire.
2. Requests a meeting with all parties involved in any plans or proposals for mining in the Tweed, including the NSW Aboriginal Land Council and the Tweed Byron Local Aboriginal Land Council if appropriate.
3. Seeks advice from Council's Aboriginal Advisory Committee in relation to mining issues for the Tweed

Note: The Echo Net Daily (8/3/2012) reported on the granting of a Petroleum Mining Exploration Licence for 6 kilometres outside of Murwillumbah to the NSW Aboriginal Land Council.

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QUESTIONS ON NOTICE

67 [QoN-Cr K Milne] Cobaki Cumulative Impacts

QUESTION ON NOTICE:

Councillor K Milne asked:

1. Why was the impact of the Piggabeen Road works and services corridor, that has been identified by Council as required to service the Cobaki development, not included in the Cobaki Lakes application impacts reports, and will the developer be required to pay for this and provide off sets?
 2. Has Council adopted into their assessment requirements Section 3.1.2 of the Northern Rivers Biodiversity Management Plan which states, "A policy of net biodiversity conservation gain should be applied when assessing and approving applications for any development or activity"?
 3. Can Council advise on what is Council's position on engaging an Environmental compliance officer to protect this National Iconic Landscape and fulfil the recommendation of the Cobaki and Terranora Broadwater Management Plan?
 4. In relation to large and potentially dangerous potholes is it possible for Council to take interim measures until proper maintenance can be undertaken such as marking the individual potholes e.g. with a cross in white paint or to put up signposting to warn people of pothole damage at the start of a bad stretch?
-

68 [QoN-Cr K Milne] Impact of Coastal Development on World Heritage Sibling Areas

QUESTION ON NOTICE:

Councillor K Milne asked can Council provide preliminary advice on whether there may be concerns for the cumulative impact of coastal development on Council's World Heritage Areas in relation to coastal lowlands as World Heritage Sibling Areas?

69 [QoN-Cr D Holdom] Mayoral Term

QUESTION ON NOTICE:

Councillor D Holdom asked can the General Manager or his delegate provide Council with an update on the proposal to possibly implement a 2 year Mayoral term, rather than a 1 year councillor elected term and/or popularly elected term of 4 years?

70 [QoN-Cr D Holdom] Local Government Reform

QUESTION ON NOTICE:

Councillor D Holdom asked can the General Manager or his delegate provide an overview of what reforms have occurred in Local government between the release of the documents as shown:

"Structural Reform of Local Government in NSW Department of Local Government September 2004", and the Local Government discussion paper - "A New Direction for Local Government-Position Paper 2006", to the "Circular 11/28 September 2011 Destination 2036".

71 [QoN-Cr D Holdom] Clarrie Hall Dam Spillway Upgrade

QUESTION ON NOTICE:

Councillor D Holdom asked can the Director Community and Natural Resources please update Council on the progress of the upgrading of the Clarrie Hall Dam Spillway?

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

- 1 **[CNR-CM] Variation to EC2008-153 - Collection of Municipal Solid Waste, Collection and Processing of Recyclables, Collection of Bulky Waste and Collection of Public Place Bins - Option for the Provision of a 360L Recycling Bin**

REASON FOR CONFIDENTIALITY:

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

- (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



Supporting Community Life

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

- 2 **[EO-CM] Sale of Council Quarries by Public Tender**

REASON FOR CONFIDENTIALITY:

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business



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